

The October 29, 2014 of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of the Town Hall.

Chairman Matthew Zuker called the meeting to order at 7:00 p.m. with the following members present:

Matthew Zuker, Chairman  
James, DeCelle, Vice Chairman  
Craig W. Hiltz, Clerk  
Mary Jane Coffey, Member  
Susanne Murphy, Member  
Timothy Foley, Associate Member

**7:00 p.m. – Michael Roof – Case #14-15**

Mr. Zuker read the public hearing notice for **MICHAEL ROOF – Case #14-15**, with respect to property located adjacent to #49 & #51 Spring Street, Walpole, MA and shown on the Assessors Map 33 and Lot No. 396-1, General Residence District.

The application is for:

A SPECIAL PERMIT under Section 5-B of the Zoning Bylaws to allow construction of a Two-Family residential dwelling on a Lot having an area of at least 20,000 SF, and connected to public sewer.

Mr. Rob Truax from GLM Engineering, the applicant's engineer was present and explained that the applicant is proposing to construct a two-family residential dwelling. The applicant has already filed an ANR plan with the Planning Board and filed a Notice of Intent with the Conservation Committee. Mr. Truax mentioned that the property abuts Swan Pond and that the applicant plans to connect to Town Sewer at Spring Street. The proposed two-family fits in with the neighborhood. The applicant is requesting to construct a two-family residential dwelling like he did previously to the dwelling next door.

Mr. Zuker wanted to know if all of the requirements were met.

Mr. Truax stated that yes all of the requirements, setbacks, impervious coverage are met.

Mr. Zuker asked if the ANR plan was recorded.

Mr. Truax explained that the ANR plan had not been recorded yet but they will record it as soon as possible.

Mr. Zuker read comment letters into the record from the Board of Sewer & Water, Police Department, Board of Health, Fire Department, Conservation Commission and the Town Engineer. He noted that the Engineer stated: 1.) It is requested that the Board inform the applicant that a recorded copy of the ANR plan which will be creating this Lot A and provide it to the Engineering Department prior to building permit application, without this recorded plan this lot does not exist and the Building Permit application cannot be signed off by Engineering.

2.) The applicant will be required to provide a plan showing the layout and design of the proposed sewer/water service. 3.) In addition, before the Building Permit application can be signed off by Engineering, a written recorded easement and easement plan for the sewer easement on Lot B must be presented. Without this, the applicant does not have permission to install their proposed sewer. Mr. Zuker also noted that the Conservation Commission stated: In response to your request for comments on the above referenced project, the Conservation Commission has approved and issued an Order of Conditions with special conditions for this property.

Mr. Zuker asked if any members of the public wished to comment on the proposal. There were no comments from the public.

A motion was made by Ms. Murphy, seconded by Mr. DeCelle, to close the public hearing.

The vote was **5-0-0 in favor** (Zuker, DeCelle, Hiltz, Coffey and Murphy voting)

A motion was made by Mr. Hiltz, seconded by Mr. DeCelle, on behalf of the Applicant, to grant a **Special Permit** under Section 5-B.1.3.b of the Zoning Bylaws to allow construction of a Two-family residential dwelling on a Lot having an area of at least 20,000 SF, and connected to public sewer.

The vote was **(5-0-0) in favor** (Zuker, DeCelle, Hiltz, Coffey and Murphy voting); therefore the application for a **Special Permit** is hereby **GRANTED, subject to the following conditions:**

#### **CONDITIONS:**

1. As stipulated by the applicant at the public hearing, all concerns must be addressed per the comments from Town Engineer Margaret Walker, dated September 18, 2014 which states: It is requested that the Board inform the applicant that a recorded copy of the ANR plan which will be creating this Lot A be provided to the Engineering Department prior to Building Permit application, without this recorded plan this lot does not exist and the Building Permit application cannot be signed off by Engineering. The applicant will be required to provide a plan showing the layout and design of the proposed sewer service. In addition, before the Building Permit application can be signed off by Engineering, a written recorded easement and easement plan for the sewer easement on Lot B must be presented. Without this, the applicant does not have permission to install their proposed sewer.
2. As stipulated by the applicant at the public hearing, the dwelling must be connected to the municipal sewer system at the time of construction.
3. As stipulated by the applicant at the public hearing, the applicant shall conform to all of the Board Department Comments including the Sewer and Water Commission.
4. As stipulated by the applicant at the public hearing, the ANR must be filed and recorded before the applicant can build.

#### **REASONS FOR DECISION**

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.2.B of the Zoning Bylaw, which requires that:

***(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:***

***(a) Does and shall comply with such criteria or standards as shall be set forth in in the section of this Bylaw which refers to the granting of the requested special permit;***

As discussed above, the proposed work complies with the special permit provisions of Section 5-B.1.3.b of the Zoning Bylaw.

***(b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;***

The Board finds that the proposed construction of a two-family dwelling will not significantly increase vehicular or pedestrian traffic and this requirement is therefore met.

***(c) Shall not have a number of residents, employees, customers, or visitors so as to adversely affect the immediate neighborhood;***

The Board finds that the proposed construction of a two-family dwelling will not result in a significant increase in the number of residents or visitors that would adversely affect the immediate neighborhood (employees and customers do not apply to this residential site) and this requirement is therefore met.

***(d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;***

The Board finds that the proposed structure meets the various dimensional requirements of the Zoning Bylaw including lot coverage and that this criterion is therefore met. There are no buffer zone requirements associated with this use.

***(e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;***

The Board finds that two-family residential uses are not known to be dangerous due to fire, explosion, emission of wastes, or other causes. As such, the Board finds that this criterion is met.

***(f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;***

The Board finds that two-family residential uses are not known to be typically associated with noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard which would adversely affect the immediate neighborhood. As such, the Board finds that this criterion is met.

***(g) Shall not adversely effect the character of the immediate neighborhood; and***

The Board finds that the property in question lies within an area with other two-family residential houses and that the proposed structure is reasonable for the neighborhood. The Board therefore finds that this criterion is met.

***(h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.***

The Board finds that the proposed two-family residential structure is appropriate for the General Residence zone, where two-family residential uses are allowed by Special Permit. As such, the Board finds that this criterion is met.

**7:00 p.m. – Paul Alexander – Case #15-14**

Mr. Zuker read the public hearing notice for **PAUL ALEXANDER, Case #15-14**, with respect to property located at 9 Fairmont Avenue, Walpole, MA and shown on the Assessors Map 18 and Lot No. 143, General Residence District.

The application is for:

A SPECIAL PERMIT under Section 9.4.A. of the Zoning Bylaws to allow construction of a deck on a house located on an existing non-conforming lot.

The applicant Shanthi Paul of 9 Fairmont Avenue stated that her family has lived in this house for 9 years. They would like to have a deck added to their house to be able to spend time with family outside.

Mr. DeCelle wanted to know who took the pictures that the applicant submitted.

The applicant stated that she took the pictures to show there was no deck on the house.

Mr. DeCelle wanted to clarify if any of the houses shown with decks attached are the applicant's house.

Ms. Paul stated that the pictures showing different decks are not her house. She used those pictures to show what other people in her neighborhood had in terms of a deck.

Mr. Zuker read Section 9.5.B of the Zoning Bylaw which states: A one-family or two-family dwelling shall not be deemed a nonconforming building or use solely due to the lot's deficiency in area or frontage, and the dwelling may be changed, extended, or altered by right (but a single-family dwelling use may not be changed as of right to a two-family use) if otherwise in conformity with the dimensional requirements in section 6-B. In all other cases, the change, extension, or alteration of a building on nonconforming lot shall require a Special Permit under Section 9.4.A. Mr. Zuker then mentioned that the lot was non-conforming.

Mr. Hiltz read Section 9.4.A of the zoning bylaw which states: One-family or two-family dwelling. An existing nonconforming one-family or two-family dwelling which is nonconforming with respect to a minimum yard setback may be enlarged or extended in any

other direction in compliance with this Bylaw by the issuance of a building permit as provided in §3.1. Any other change, extension, or alteration of an existing nonconforming one-family or two-family dwelling may be permitted provided the Board of Appeals grants a special permit including a determination that such enlargement or extension will not increase the nonconforming nature of the structure, or that such enlargement or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Mr. Hiltz then stated that the board has to follow the same process.

Mr. Zuker mentioned that the Board cannot accept a plan from 2005. The Board will need a signed plot plan.

The Board stated that they need a current, stamped plan from 2014 done by a professional with more detail of what the Applicant is proposing.

Mr. Zuker asked if anyone from the public would like to comment on the proposal.

Jack Lynch of 60 Federal Street an abutter to the Applicant stated that, Ms. Paul's back yard is connected to his side yard. He would like to go on record stating that he has no problem with this addition of a deck. He is in favor of this project.

Mr. Zuker thanked Mr. Lynch for his comments.

A motion was made by Ms. Murphy, seconded by Mr. DeCelle, to continue the hearing to November 12, 2014 at 7:00 p.m. in the Main Meeting Room of the Town Hall.

The vote was **5-0-0 in favor**. (Zuker, DeCelle, Hiltz, Coffey and Murphy voting)

### **Application Package**

The Board looked over the application changes that were proposed.

The Board had a couple of changes they would like to see implemented as well.

The Board wanted to wait to vote on the new application until they see the changes.

### **Minutes**

A motion was made by Mr. Zuker, seconded by Mr. Foley to approve the July 21, 2014 meeting minutes as written.

The vote was **3-0-0 in favor**. (Zuker, Coffey and Foley voting)

A motion was made by Mr. Hiltz, seconded by Mr. DeCelle to approve the June 25, 2014 meeting minutes as written.

The vote was 4-0-0 in favor. (Zuker, DeCelle, Hiltz and Coffey voting)

A motion was made by Mr. Zuker, seconded by Ms. Coffey to approve the May 21, 2014

meeting minutes as written.

The vote was **3-0-0 in favor**. (Zuker, Coffey and Foley voting)

A motion was made by Ms. Coffey, seconded by Mr. Foley to approve the May 8, 2014 meeting minutes as written.

The vote was **3-0-0 in favor**. (Zuker, Coffey and Foley voting)

A motion was made by Mr. Hiltz, seconded by Mr. DeCelle to approve the August 13, 2014 meeting minutes as amended.

The vote was **5-0-0 in favor**. (Zuker, DeCelle, Hiltz and Coffey voting)

A motion was made by Mr. Hiltz, seconded by Mr. Zuker to approve the August 20, 2014 meeting minutes as written.

The vote was **5-0-0 in favor**. (Zuker, DeCelle, Hiltz, Coffey and Foley voting)

A motion was made by Ms. Coffey, seconded by Mr. Hiltz to approve the September 3, 2014 meeting minutes as written.

The vote was **5-0-0 in favor**. (Zuker, DeCelle, Hiltz, Coffey and Foley voting)

A motion was made by Ms. Coffey, seconded by Mr. DeCelle to approve the September 10, 2014 meeting minutes as written.

The vote was **5-0-0 in favor**. (Zuker, DeCelle, Hiltz, Coffey and Murphy voting)

### **2015 Meeting Schedule**

The Board had no comments on the proposed 2015 Meeting Schedule.

A motion was made by Mr. DeCelle, seconded by Mr. Zuker to approve the 2015 Zoning Board of Appeals Meeting Schedule as written.

The vote was **5-0-0 in favor**. (Zuker, DeCelle, Hiltz, Coffey and Murphy voting)

Ms. Murphy left the meeting at 8:35 p.m.

### **Executive Session Minutes**

A motion was made by Mr. Hiltz, seconded by Ms. Coffey to approve the September 2, 2014 Executive Session meeting minutes as amended.

The vote was **4-0-0 in favor**. (Zuker, Hiltz, Coffey and Foley voting)

A motion was made by Mr. DeCelle, seconded by Mr. Foley to approve the September 3, 2014

Executive Session meeting minutes as written.

The vote was **5-0-0 in favor**. (Zuker, DeCelle, Hiltz, Coffey and Foley voting)

A motion was made by Mr. Zuker, seconded by Mr. DeCelle to approve the September 10, 2014 Executive Session meeting minutes as written.

The vote was **5-0-0 in favor**. (Zuker, DeCelle, Hiltz, Coffey and Foley voting)

A motion was made by Mr. Hiltz, seconded by Ms. Coffey to approve the September 16, 2014 Executive Session meeting minutes as written.

The vote was **3-0-0 in favor**. (Hiltz, Coffey and Foley voting)

There being no further business, a motion was made by Mr. Foley, seconded by Ms. Coffey, to adjourn the meeting at 8:46 p.m.

The vote was **5-0-0 in favor**. (Zuker, DeCelle, Hiltz, Coffey and Foley voting)

Craig W. Hiltz  
Clerk

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Minutes were approved on December 10, 2014.