

The June 9, 2010 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Chairman Susanne Murphy called the meeting to order at 6:30 P.M. with the following members present:

Susanne Murphy, Chairman
Ted C. Case, Vice Chairman (not present)
Daniel J. Cunningham, Jr., Clerk
James M. Stanton, Member
James S. DeCelle, Member

Meg Kundert, Associate Member
Matthew Zuker, Associate member

7:00 p.m. – William Carino – Case #08-10

Ms. Murphy read the public hearing notice for William Carino, Case 08-10, with respect to property located at 341 Stone Street, Walpole and shown on the Assessors Map as Lot No. 34-167, Residence B Zone.

The application is for:

A Variance from Section 6.B of the Zoning Bylaws to allow the addition of a porch to a single family dwelling currently in non-conformance with the bylaw. The porch will be setback approximately 13 feet from the street, requiring a 17 foot Variance from the bylaw; and

A Special Permit under Section 9.4.D.2 (or modification) of the Zoning Bylaws to allow the addition of a breezeway, storage area, carport and garage to an existing non-conforming single family structure and lot.

Richard Merrikin, Merrikin Engineering, represented the applicant and introduced Mr. Carino and explained the applicant would like to add a garage with a room above to be used for storage and recreation over the existing driveway. The addition would be no higher than the second floor of the existing house and with permission from the Conservation Commission will pave a new driveway. Furthermore, the applicant would like to add a porch to the front which would be consistent with the original building. Sometime in the past the original porch was enclosed to create another bedroom.

Ms. Kundert suggested that Section 9.4.A of the Zoning Bylaws seems to be more specific to this case than Section 9.4.D.2. The Board agreed.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to amend the application for a Special Permit from Section 9.4.D.2 to Section 9.4.A.

The vote was **5-0-0 in favor**; therefore the application is amended to request a Special Permit in Section 9.4.A. Murphy, Stanton, Cunningham, DeCelle, Kundert voting.

Ms. Murphy asked if there were any further comments from the public. There being none:

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

The vote was **5-0-0 in favor**. Murphy, Stanton, Cunningham, DeCelle, Kundert voting.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to approve the Variance from Section 6.B of the Zoning Bylaws to allow the addition of a porch to a single family dwelling currently in non-conformance with the bylaw. The porch will be setback approximately 13 feet from the street, requiring a 17 foot Variance from the bylaw, 30 feet required.

The vote was **(5-0-0) in favor**; therefore the application for a **Variance** is hereby **granted, subject to the following conditions**: Murphy, Stanton, Cunningham, DeCelle, Kundert voting.

CONDITIONS:

1. As stipulated by the applicant at the public hearing the addition will be constructed consistent with the plans submitted at the public hearing.
2. The height of the structure will be built as stated by the applicant at the public hearing to be consistent with the Zoning Bylaws.
3. There shall be no exterior flood lighting.
4. As stipulated by the applicant at the public hearing the use of the structure shall be consistent with the intent and purposes of the Zoning Bylaw.

REASONS FOR DECISION:

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.3 of the Zoning Bylaws.

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the appellant or petitioner.*

The Board finds that the land which is subject to this application is very unusual in the zoning district with respect to its small size, small depth and unusual shape. The existing house is non-conforming as to front setback, and was constructed over the rear property line onto Town Property. That portion over the property line will be removed in conjunction with case #10-09. The reduced structure footprint, after removing the portions extending over the property line, is very small, even with a proposed breezeway and garage addition. The proposed porch will provide a small amount of additional use area, even though it is outside the structure, and the lack of it will be a hardship to the owner. The porch addition will enhance the aesthetics of the structure, and will blend in with other houses in the zoning

district, many of which have front porches. The structure will remain a single family structure, consistent with the intent of the bylaw.

2. *Desirable relief may be granted without substantial detriment to the public good.*

Desirable relief may be granted without substantial detriment to the public good in that it is a pre-existing nonconforming lot.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The Board finds that the granting of this Variance with the above-imposed conditions does not substantially derogate from the purpose and intent of the By-law in that it is a pre-existing nonconforming lot.

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A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to grant a Special Permit under Section 9.4.A of the Zoning Bylaws to allow the addition of a breezeway, storage area, carport and garage to an existing non-conforming single family structure and lot.

The vote was **(5-0-0) in favor**; therefore the application for a **Special Permit** is hereby **granted, subject to the following conditions**: Murphy, Stanton, Cunningham, DeCelle, Kundert voting.

CONDITIONS:

1. As stipulated by the applicant at the public hearing the addition will be constructed consistent with the plans submitted at the public hearing.
2. The height of the structure will be built as stated by the applicant at the public hearing to be consistent with the Zoning Bylaws.
3. The siding shall be consistent with the existing structure.
4. There shall be no exterior flood lighting.
5. As stipulated by the applicant at the public hearing the use of the structure shall be consistent with the intent and purposes of the Zoning Bylaw.

REASONS FOR DECISION:

It is the finding of the Board that the applicant has met the requirements under Section 3G of the Zoning Bylaws in that:

- i. ***Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.***

The proposed additional construction will not change the structure from a single family dwelling, and will not increase expected vehicular and pedestrian traffic from the locus.

- ii. ***Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.***

The proposed additional construction will not change the structure from a single family dwelling, and will not increase the anticipated number of residents.

Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located .

The additional construction, proposed under this application will make the structure coverage 22%, and the impervious coverage 29.8%, both within the allowed coverage under the Zoning Bylaw in Residence B.

- iii. ***Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.***

Construction will be typical residential construction, and the use will remain single family, so the proposed work will not be dangerous to the neighborhood.

- iv. ***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 construction will be typical single family construction of limited duration which will not affect the immediate neighborhood.

- v. ***Shall not adversely effect the character of the immediate neighborhood.***

The proposed additional structure is typical to a single family home and will not adversely impact the character of the neighborhood.

- vi. ***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 structure will remain a single family dwelling consistent with the intent and purposes of the zoning bylaw and the zoning district.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

DISCUSSION:

Reorganization of Zoning Board

A motion was made by Mr. Cunningham, seconded by Ms. Murphy to nominate James Stanton as Vice Chairman of the Zoning Board.

The vote was **5-0-0 in favor.** Murphy, Stanton, Cunningham, DeCelle, Kundert voting.

A motion was made by Ms. Murphy, seconded by Mr. Stanton, to nominate Daniel Cunningham as Clerk of the Zoning Board.

The vote was **5-0-0 in favor**. Murphy, Stanton, Cunningham, DeCelle, Kundert voting.

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, to nominate Ms. Murphy as Chairman of the Zoning Board.

The vote was **5-0-0 in favor**. Murphy, Stanton, Cunningham, DeCelle, Kundert voting.

MINUTES

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to accept the minutes of April 14, 2010 as written.

The vote was **5-0-0 in favor**. Murphy, Stanton, Cunningham, DeCelle, Kundert voting.

There being no further business, the meeting was closed at 8:00 p.m.

Daniel J. Cunningham, Jr., Clerk

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Minutes were approved on August 8, 2010.