

The October 24, 2012 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 7:00 P.M. with the following members present:

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

Matthew Zuker, Associate member

7:00 p.m. – Walsh Brothers – Case #25-12

Ms. Murphy read the public hearing notice for **WALSH BROTHERS BUILDING COMPANY, Case #24-12**, with respect to property located at **10 Glendale Road**, Walpole and shown on the Assessors Map as Lot No. 13/7, Rural Zone.

The application is for:

Determination under Section 9.2.G.4 of the Zoning Bylaws to allow the existing dwelling to be demolished and reconstructed so that the use will not be considered “abandoned”, and

A Special Permit under Section 9.4.A of the Zoning Bylaws to allow the proposed reconstruction and expansion of an existing non-conforming single-family residence.

Richard Gallogly, Rackemann, Sawyer & Brewster, represented the applicant and explained the house was built approximately 52 years ago and was in disrepair, and introduced Rob Truax, GLM Engineering.

Mr. Truax referred to a plan showing the existing house and the proposed house. The applicant has an Order of Conditions from the Conservation Commission and a Variance from the Board of health for a septic system. The house is in disrepair and needs to be taken down. They went before the Willet Pond group regarding cleaning up the site and they concurred with the plan. The new house would be approximately 2,900 square feet. The applicant would conform to the height requirements.

Ms. Murphy asked if there any comments from the audience, there being none:

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

The vote was **5-0-0 in favor**. (Murphy, Cunningham, Case, DeCelle, Zuker voting)

A motion was made by Ms. Murphy and seconded by Mr. Cunningham on behalf of the applicant to grant a Determination under Section 9.2.G.4 of the Zoning Bylaws to allow the

existing dwelling to be demolished and reconstructed so that the use will not be considered “abandoned”

The vote was **5-0-0 in favor**; therefore the Determination under Section 9.2.G.4 of the Zoning Bylaws to allow the existing dwelling to be demolished and reconstructed so that the use will not be considered “abandoned” as presented at the public hearing **is hereby granted**. (Murphy, Cunningham, Case, DeCelle, Zuker voting)

A motion was made by Ms. Murphy and 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 proposed reconstruction and expansion of an existing non-conforming single-family residence.

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

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the structure shall be used as a single-family residence per the plans submitted at the public hearing.
2. As stipulated by the applicant at the public hearing, the structure shall meet all the Town of Walpole building requirements.
2. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS:

It is the finding of the Board that the applicant has met the requirements under Section 2B 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 construction shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.
- ii. ***Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.***
The construction shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.
- iii. ***Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).***
The construction shall not have a greater lot coverage than allowed in the zoning district in which the premises is located.
- iv. ***Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.***

The construction shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.

- v. *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 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.

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

The construction shall not adversely effect the character of the immediate neighborhood.

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

OTHER BUSINESS:

Decisions pending:

Evelina Gourdoukis – Case #21-12 (Murphy, Cunningham, Case, DeCelle, Zuker)

Attorney James Brady asked if the Board would reopen the case.

Mr. Case explained that if the case were reopened, the application would need to be refilled and the abutters notified.

The Board said it would allow the application fee to be waived, but that postage and advertising would have to be paid for.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to allow the applicant, Evelina Gourdoukis, Case #21-12, to refile the application with full notification to abutters, with a \$55 check for the Walpole Times, and postage, with no additional Zoning Board fees.

The vote was **5-0-0 in favor** to allow the applicant, Evelina Gourdoukis, Case #21-12, to refile the application with full notification to abutters, with a \$55 check for the Walpole Times, and postage, with no additional Zoning Board fees (Murphy, Cunningham, Case, DeCelle, Zuker voting)

7:30 p.m. – John Hasenjaeger – Case #23-12 (cont'd from 9/26/12) (Murphy, Stanton, Cunningham, Case, DeCelle, Zuker)

Ms. Murphy opened the continued hearing and read the public hearing notice from **JOHN HASENJAEGER, Case #23-12**, with respect to property located at **3 Pinnacle Drive**, Walpole and shown on the Assessors Map as Lot No. 19-183-3, General Residence Zone.

The application is for:

An Appeal from action taken by the Building Inspector, Jack Mee, with respect to the side yard set back on engineering plans has been questioned due to the odd shape of the lot.

A Variance from Section 6.A, B, C of the Zoning Bylaws to allow that the right side yard is confirmed or granted a Variance to status of a side yard (if determined side yard is a rear yard). Further to provide 20 foot frontage Variance where 30 feet is required, allowing aesthetic and conforming positioning of the home on the lot.

Mr. Hasenjaeger explained reiterated some of the details on how the lot was initially created.

John Glossa, Glossa Engineering, presented the plan to the Board and explained that he has never seen a lot shape quite like this one. The Building Inspector looked at the plans and decided there were enough questions regarding setbacks to revoke the building permit. The applicant and Building Department could not agree on the issue, therefore, it has come before the Zoning Board for a decision on what would be the front, side and rear setbacks. The position of the house is not being dictated by the side line, but by the sewer easement which is more than the 10 feet that is required. The lot is fairly level in the front and drops off in the rear, which makes the front of the lot the best place to put a building. It is in an area of single family house. The house would not look out of the ordinary, and would look the same as the other houses in the area. The garage is built at an angle because of the side yard. The applicant is requesting a finding that the plan shows the set back lines, and a Variance allowing the garage at 21.21 feet. The lot meets the Zoning requirements and is a buildable lot.

Mr. Case said that it is approximately 100 feet along the 30 foot set back along the front of the yard, and asked how long the rear yard set back is?

Mr. Glossa said about 60 feet in the rear and 92 feet in the front.

Mr. Case said he believes the front of the lot should be more like the dimensions of the back.

Mr. Zuker questioned whether or not the shape of the lot is or is not a hardship due to the subdivision.

Mr. Glossa explained the lot was created by Mssrs. Viano and Wakefield in order to preserve the zoning. At one time, there was a cul de sac, long before Mr. Hasenjaeger purchased the property.

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

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

The vote was **5-0-0 in favor.** (Murphy, Cunningham, Case, DeCelle, Zuker voting)

MINUTES

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to accept the minutes of October 20, 2012, September 12, 2012, February 4, 2012, and August 15, 2012 as written.

The vote was **5-0-0 in favor.** (Murphy, Cunningham, Case, DeCelle, Zuker voting)

There being no further business, the seminar was closed at 9:00 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on November 28, 2012.