

The August 10, 2011 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
Daniel J. Cunningham, Jr., Clerk
Ted C. Case, Member
James S. DeCelle, Member

Matthew Zuker, Associate member

7:00 p.m. – Derba Construction – Case #18-11

Ms. Murphy read the public hearing notice for **DERBA CONSTRUCTION, Case #18-11**, with respect to property located at 26 Brown Drive, Walpole and shown on the Assessors Map as Lot No. 33-152, General Residence Zone.

The application is for:

A Variance from Section 6.B.1 of the Zoning Bylaws to allow construction of an addition with 16.46 foot rear setback where 30 feet is required, and 27.70 foot front setback where 30 feet is required.

Andrea Chamberlain, represented Derba Construction, introduced the owners of the property, Lee and Jim Kenny, and explained that the existing house does not meet zoning requirements and is therefore non-conforming. Because the lot is a V shape, the addition cannot be built to meet the zoning requirements. The owners are proposing to build a two-story addition that includes a basement. The existing deck will be razed.

Mr. Derba informed the Board that the driveway would be moved and submitted architectural drawings of the proposed construction.

The Board determined that the request should be for a special permit rather than a variance.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to amend the application from a Variance from Section 6.B.1 of the Zoning Bylaws to a Special Permit under Section 9.4.A of the Zoning Bylaws to allow construction of an addition with 9.48 foot rear setback where 30 feet is required, and 27.70 foot front setback where 30 feet is required.

The vote was **5-0-0 in favor**; therefore, the application is amended from a Variance from Section 6.B.1 of the Zoning Bylaws to a Special Permit under Section 9.4.A of the Zoning Bylaws to allow construction of an addition with 9.48 foot rear setback where 30 feet is required, and 27.70 foot front setback where 30 feet is required. (Murphy, Stanton, Cunningham, Case, DeCelle voting)

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

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 construction of an

addition with 9.48 foot rear setback where 30 feet is required, and 27.70 foot front setback where 30 feet is required.

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, Case, DeCelle voting)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, construction shall be pursuant to the plans submitted at the public hearing.
2. As stipulated by the applicant at the public hearing, there shall be no cone of light from the newly constructed premises shining into neighboring property.
3. 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 FOR DECISION:

It is the finding of the Board that the applicant has met the requirements under Section 2B of the Zoning By Laws in that:

- i. ***Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.***
The configuration of the existing house on the lot and the layout of the proposed floor plan 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 configuration of the existing house on the lot and the layout of the proposed floor plan 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 configuration of the existing house on the lot and the layout of the proposed floor plan 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 configuration of the existing house on the lot and the layout of the proposed floor plan 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 configuration of the existing house on the lot and the layout of the proposed floor plan 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 configuration of the existing house on the lot and the layout of the proposed floor plan 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 configuration of the existing house on the lot and the layout of the proposed floor plan 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.

DISCUSSIONS:

Hollingsworth and Vose Co. – Case #34-06 – request for extension

Attorney Phil Macchi, II, submitted a letter requesting a two-year extension for Hollingsworth and Vose to September 29, 2013.

A motion was made by Ms. Murphy, seconded by Mr. Case, on behalf of Hollingsworth and Vose Company to extend the time to make substantial use of the Special Permit for Case #34-06 to September 29, 2013.

The vote was **5-0-0 in favor**, Ms. Murphy, Mr. Stanton, Mr. Cunningham, Mr. Case, and Mr. Decelle voting; therefore, the Board hereby grants a **two-year extension** to September 29, 2013 for exercising the rights of the Special Permit.

REASONS FOR DECISION:

It is the finding of the Board that the applicant complied with the requirements for requesting an extension to exercise the rights authorized by a Special Permit as indicated in Section 9 of MGL c. 40A.

The applicant submitted a letter, dated July 27, 2011, and the Board duly acted on the request prior to the expiration of the extension date of September 29, 2011 for Case #34-06. Furthermore, it is the finding of the Board that the applicant was able to show justification for extending the time for the substantial use of the Special Permit and that there are no changes proposed with the request for extension for Case #34-06 and that all conditions imposed thereto shall continue to be adhered to.

The granting of said extension is consistent with the purpose and intent of the Zoning By-laws.

Zoning Board Reorganization

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

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

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

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

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

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

OTHER BUSINESS:

Decisions Pending:

Peter Alberini – Case #11-11 (Var. extended to 8/31/11) (Murphy, Stanton, Cunningham, DeCelle, Zuker voting)

A motion was made by Mr. Stanton, seconded by Ms. Murphy, on behalf of the applicant to grant a Variance from Section 6-B.1 of the Zoning Bylaws requiring frontage of 125 feet with 62.78 feet being provided.

The vote was **0-5-0 in favor;** therefore the application for a **Variance** is hereby **denied.** (Murphy, Stanton, Cunningham, DeCelle, Zuker voting)

REASONS FOR DECISION:

It is the finding of the Board that the applicant did not meet the criteria for a Variance. No hardship was shown on topography, soil conditions or shape of the lot.

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A motion was made by Mr. Stanton, seconded by Ms. Murphy, on behalf of the applicant to grant a Variance from Section 6-B.1 of the Zoning Bylaws requiring frontage of 125 feet with 62.78 feet being provided.

The vote was **0-5-0 in favor;** therefore the application for a **Variance** is hereby **denied.** (Murphy, Stanton, Cunningham, DeCelle, Zuker voting)

REASONS FOR DECISION:

It is the finding of the Board that the applicant did not meet the criteria for a Variance. No hardship was shown on topography, soil conditions or shape of the lot.

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A motion was made by Mr. Stanton, seconded by Ms. Murphy on behalf of the applicant to grant a Variance from Section 6-C.3 of the Zoning Bylaws requiring frontage of 125 feet with 62.78 feet being provided.

The vote was **0-5-0 in favor**; therefore the application for a **Variance** is hereby **denied**.
(Murphy, Stanton, Cunningham, DeCelle, Zuker voting)

REASONS FOR DECISION:

It is the finding of the Board that the applicant did not meet the criteria for a Variance. No hardship was shown on topography, soil conditions or shape of the lot.

Minutes for Approval:

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to approve the minutes of May 11, 2011, May 25, 2011, June 8, 2011, June 22, 2011, and July 20, 2011 as written.

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

Applicant Check List

The Board asked their secretary to create a ZBA Applicant Check List to be reviewed with applicant's when they submit an application. The list will include the necessary details that need to be included on their plans.

There being no further business, the meeting was closed at 1 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on October 26, 2011.