

The July 20, 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 (not present)  
Ted C. Case, Member  
James S. DeCelle, Member

Matthew Zuker, Associate member

**7:00 p.m. – Sharon Credit Union – Case #16-11**

Ms. Murphy read the public hearing notice for Sharon Credit Union, Case #16-11, with respect to property located at 2 Union Street, E. Walpole and shown on the Assessors Map as Lot No. 20-34 & 20-35, Business Zone.

The application is for:

A Special Permit under Section 4.Q.ii of the Zoning Bylaws to allow a drive thru on an existing building.

James Dubois, Bertin Engineering, represented the applicant explained the request for an additional drive thru which would leave 14 parking spaces, which is more than the required amount.

Mr. Case referred to the bylaws and did not believe Section 4.Q.ii was necessary because no goods are sold at the credit union.

Ms. Murphy read comments from the following: Planning Board dated July 14, 2011; Traffic Safety Officer, Christopher Musick, dated June 28, 2011; Jack Mee, Building Commissioner, dated June 21, 2011; Michael Laracy, Deputy Fire Chief, June 22, 2011; Conservation Commission, dated June 23, 2011, and Margaret Walker, Town Engineer, dated July 5, 2011.

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

A motion was made by Mr. Case and seconded by Mr. Zuker on behalf of the applicant the Board found that, in respect to the Special Permit under Section 4.Q.ii of the Zoning Bylaws to allow a drive thru on an existing building, no zoning relief is required.

The vote was **5-0-0 in favor**; therefore it is the finding of the Board that no zoning relief is required. (Murphy, Stanton, Case, DeCelle, Zuker voting)

**REASONS:**

It is the finding of the Board that after reviewing the new Zoning Bylaws, revised through October 18, 2010, that no zoning relief is required.

**OTHER BUSINESS****Decisions Pending: Peter Alberini – Case #11-11**

Ms. Murphy read a letter from Attorney Philip Macchi, representing the applicant, requesting an extension on the decision to August 31, 2011 because there would be a 4-member board making the vote because Mr. Cunningham would not be present and Mr. Case was not present for their hearing.

A motion was made by Ms. Murphy, seconded by Mr. Zuker, to extension the decision date on Case #11-11 to August 31, 2011.

The vote was **40-0 in favor**. (Murphy, Stanton, DeCelle, Zuker voting)

**7:30 p.m. – Ralph and Diane Campbell – Case #17-11**

Ms. Murphy read the public hearing notice for **RALPH AND DIANE CAMPBELL, Case #17-11**, with respect to property located at 6 Garfield St., Walpole and shown on the Assessors Map as Lot No. 40-237, Residence B, Water Protection Overlay District Area 3 Zone.

The application is for:

A Variance from Section 6.B.1 of the Zoning Bylaws to allow a rear deck with a 26.5 foot rear setback where 30 feet is required and a side setback of 10 feet where 15 feet is required.

Diane Campbell presented the request and explained they want to expand the existing dwelling and add a deck that, because of the sloping topography of the rear of the lot, requires special footings. Also an issue is the placement of the dwelling on the lot.

Ms. Murphy asked for 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 Variance from Section 6.B.1 of the Zoning Bylaws to allow a rear deck with a 26.5 foot rear setback where 30 feet is required and a side setback of 10 feet where 15 feet is 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, Case, DeCelle, Zuker 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 Variance shall lapse within one year, 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 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 applicant has shown substantial hardship due to the topography of the rear of the lot and the general placement of the existing dwelling on the lot.

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

The Board finds that the construction of an addition to the single-family home on a lot in the Residence B Zone will not be a detriment to the public good.

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

The Board finds that the construction of an addition to the single-family home on a lot in the Residence B Zone will not nullify or derogate from the intent or purpose of the Zoning Bylaw.

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

**8:00 p.m. – Sean and Jessica Dacey – Case #15-11 (cont'd from 6/22/11) (Murphy, Stanton, Cunningham, DeCelle, Zuker)**

Ms. Murphy read the public hearing notice for **Sean and Jessica Dacey, Case #15-11**, with respect to property located at 31 Chandler Ave., Walpole and shown on the Assessors Map as Lot No. 39-35, Residence A Zone.

The application is for:

A Variance from Section 6.B.1 of the Zoning Bylaws to allow for a front entrance mud room, to be built at 20.4 feet where 30 feet is required.

Ms. Murphy informed the applicant that there are only four members present and the petitioner is entitled to a five-member Board and that this hearing can be postponed until a five-member Board is present. Further, with a four-member Board, there can be no negative votes in order for a motion to carry; however, a five-member Board can have one negative vote and four positive votes.

Mr. Dacey chose to go forward with the four member board. He submitted a letter from his neighbors speaking in approval of the construction. He, further, submitted a drawing of the actual floor plan that included the jog in the proposed construction. He submitted an overview drawing showing the setbacks of the two abutting houses.

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 Variance from Section 6.B.1 of the Zoning Bylaws to allow for a front entrance mud room, to be built at 20.4 feet where 30 feet is required.

The vote was **4-0-0 in favor**; therefore the application for a **Variance** is hereby **granted, subject to the following conditions**: (Murphy, Stanton, DeCelle, Zuker voting) (Mr. Cunningham not present)

### **CONDITIONS:**

- 1 As stipulated by the applicant at the public hearing, construction of the entrance, mud room shall be pursuant to the plans submitted at the continued public hearing on July 20, 2011.
- 2 This Variance shall lapse within one year, 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 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 applicant has shown substantial hardship due to topography of the lot and the location of the septic system.

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

The Board finds that addition is in keeping with the homes in this residential area.

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

The Board finds that relief may be granted without nullifying or derogating from the intent or purpose of this bylaw in that the applicant was able to show appropriate hardship and that the addition is in keeping with the residential area.

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

There being no further business, the meeting was closed at 10:00 p.m.

Daniel J. Cunningham, Jr.

Clerk

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Minutes were approved on August 10, 2011.