

The August 15, 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
Daniel J. Cunningham, Jr., Clerk
Ted C. Case, Member (not present)
James S. DeCelle, Member

Matthew Zuker, Associate member

7:00 p.m. – Jon Tillinghast – Case #19-12

Ms. Murphy read the public hearing notice for **JON TILLINGHAST, Case #19-12**, with respect to property located at 16 Clark Ave., Walpole and shown on the Assessors Map as Lot No. 33-182, General Residence Zone.

The application is for:

A Special permit under Section 6.B.1 of the Zoning Bylaws to allow reconstruction of a garage with a 3 foot side setback, where 10 feet is required and a 3 foot rear setback, where 10 feet is required.

Mr. Tillinghast explained that the existing garage is unsafe including the foundation. The plan is to remove the existing garage and foundation and rebuild it all on the same spot. The owner of the property has six children and a small yard which is why he would like to keep the garage in its present location.

The Board reviewed the plans.

Ms. Murphy asked if there were any plans from 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, Stanton, Cunningham, 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 6.B.1 of the Zoning Bylaws to allow reconstruction of a garage with a 3 foot side setback, where 10 feet is required and a 3 foot rear setback, where 10 feet is required.

The vote was **5-0-0 in favor**; therefore the application for **Special Permit is hereby granted**, subject to the following conditions:

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the structure shall be built as shown on the plan dated July 7, 2012 submitted at the public hearing.
2. As stipulated by the applicant at the public hearing, the structure shall be used as a garage as shown on the plan dated July 7, 2012 submitted at the public hearing.
3. As stipulated by the applicant at the public hearing, there shall be no cone of light shining onto abutting properties.
4. 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 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 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.

7:30 p.m – Timothy and Theresa Duffy – Case #03-12 (Stanton, Cunningham, Case, DeCelle, Zuker) (cont'd from 7/18/12)

Ms. Murphy recused herself from the hearing.

Mr. Stanton read the public hearing notice for **TIMOTHY AND THERESA DUFFY, Case #03-12**, with respect to property located at 30 Edgewood Ave., Walpole and shown on the Assessors Map as Lot No. 42-138, Residence B Zone.

The application is for:

A Variance from Section 6.B dimensional regulations of the Zoning Bylaws to allow an above ground pool with a 15 foot front setback where 30 feet is required.

Mr. Stanton read the letter from Christopher Charette, Charette Land Surveying, written at the request of the applicant, stating that the pool could not be constructed behind or on the side of the house without a variance due to the configuration of the lot and location of the existing dwelling and the location of a 6 foot way running across the lot.

Discussion ensued regarding the existing location of the pool and the possibility of another location for the pool, but because there was no plan included with the letter showing the topography of the lot, the Board could not see that there was or was not another location for the pool.

Mr. Stanton asked if there were any comments from the public, there being none:

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, on behalf of the applicant to grant a Variance from Section 6.B dimensional regulations of the Zoning Bylaws to allow an above ground pool with a 15 foot front setback where 30 feet is required.

The vote was **0-4-0**; therefore the application for a **Variance** is hereby **denied**. (Stanton, Cunningham, DeCelle, Zuker opposed)

REASONS FOR DECISION:

It is the finding of the Board that the material that was submitted by the applicant was insufficient to meet the burden based on topography, shape of the lot or soil conditions required for the granting of a Variance.

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MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO SECTION 17 OF C. 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

OTHER BUSINESS

Decisions Pending: John Lubold – Case #18-12

Mr. Stanton read the email from Attorney Schneiders granting the Board a continuance of the Variance decision to October 13, 2012.

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, on behalf of the applicant, to accept the extension of the Variance decision from September 13, 2012, to on or before October 13, 2012.

The vote was **4-0-0 in favor.** (Stanton, Cunningham, DeCelle, Zuker 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 October 24, 2012.