

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

Susanne Murphy, Chairman
Ted Case, Vice Chairman – not present
Daniel J. Cunningham, Clerk – not present
James M. Stanton, Member – not present
James S. Decelle, Member

Meg Kundert, Associate Member
Matthew Zuker, Associate member

7:00 p.m. – John Desmond – Case #03-10

Ms. Murphy read the public hearing notice for **JOHN DESMOND, Case #03-10**, with respect to property located at 1342 Main St., Walpole and shown on the Assessors Map as Lot No. 41-148, LM Zone.

The application is for:

Special Permit under Section 9.1.A of the Zoning Bylaws to allow an expansion of an existing non-conforming structure to improve interior flow and improve code compliance.

Ms. Murphy informed Mr. Desmond that there was a four-member Board present and that he is entitled to a five-member Board and that this hearing can be postponed until a five-member Board is present. 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.

John Glossa represented Mr. Desmond and Dr. Poor who chose to go forward with the four-member Board. Mr. Glossa explained that the plan before the Board has a slight revision from the plan submitted in 2007. The Special Permit has lapsed from the Board's previous decision, however they have an Order of Conditions that is valid until June 20, 2010 and submitted a copy for the Board. He also informed the Board that due to changes in the Zoning Bylaws; the site is no longer in the Flood Plain. The minimum number of parking spaces is 3 and the maximum is 7 according to the new Bylaw.

Mr. Zuker pointed out according to the Bylaws the veterinarian office does have adequate parking spaces.

Mr. Glossa explained the applicant is requesting a Special Permit in order to expand a non-conforming structure under Section 9.C of the Zoning Bylaws. It is also a non-conforming lot. The proposed addition is 16 feet by 24 feet. It will not increase the number of customers or employees. The purpose of the addition is to correct inefficiencies in the building, including access between the two floors and storage of supplies. There will be no additional pavement, no change in grade, no change in parking. The building was connected to the municipal sewer, but

the abandonment of the old septic system was not filed with the Board of Health. The applicant will make this filing. Neither the basement nor attic will be used for the public.

Mr. Desmond explained they will be adding a handicap ramp and bathroom.

Ms. Murphy read the memo from Conservation Agent, Landis Hershey, requesting that the applicant meet with her.

Mr. Desmond said he met with Ms. Hershey and they are all set.

Mr. DeCelle asked for a copy of the amended plan that includes the parking spaces on the lot.

Mr. Glossa said he would submit a plan that reflects the Order of Conditions, the parking spaces and the changes in the Bylaws.

Ms. Murphy asked for comments from the public.

Mr. Gilmartin said he was there to make sure that a kennel was not part of the plan; it is not, and therefore, he has no problem with the proposal.

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

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

A motion was made by Ms. Murphy, seconded by Ms. Kundert, on behalf of the applicant to grant a Special Permit under Section 3-G of the Zoning Bylaws to allow expansion of a non-conforming structure, and any other relief required. The proposed extension shall not be more detrimental than the existing non-conforming use to the neighborhood.

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

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the revised plans will be submitted to the Zoning Board of Appeals office for the file. The plan to indicate all parking contained on the lot and the revised footprint of the addition to reflect architectural plans submitted at the public hearing.
2. As stipulated by the applicant at the public hearing, the applicant must present a full set of architectural drawings to the Board prior to approval of the Building Department.
3. As stipulated by the applicant at the public hearing, neither the basement nor the attic will be used to service the public.

REASONS FOR DECISION:

It is the finding of the Board that with the above imposed conditions, the applicant has met the requirements under Section 3B 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 applicant is not expanding the business and it is on Rt. 1A in an LM Zone and has heavy vehicular traffic. The addition will not increase pedestrian traffic.
- ii. ***Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.***
The expansion will not create more employees or customers; the expansion is to make the business more efficient by supplying storage and treatment areas.
- 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 lot coverage is 35% and the applicant is proposing 10%, and the allowed impervious cover is 60% and the applicant is proposing 45%.
- iv. ***Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.***
The animal hospital has been in existence for many years and is not 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 animal hospital is a very quiet use. The animals are treated and given back to their owners.
- vi. ***Shall not adversely effect the character of the immediate neighborhood.***
The immediate neighborhood has many abutting businesses.
- 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 animal hospital is an allowed use in an LM Zone.

7:30 p.m. – Mary Pat Uzoma – Case #01-10 (cont'd from 2/24) (Murphy, Cunningham, Stanton, DeCelle, Kundert, Zuker)

Ms. Murphy informed the applicant that there was a four-member Board present and that she is entitled to a five-member Board and that this hearing can be postponed until a five-member Board is present. 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.

Ms. Uzoma agreed to the four-member Board.

Ms. Murphy read a letter from Building Commissioner, Jack Mee, dated March 22, 2010, informing the Board that the angle of the property is 38 degrees which falls within the Zoning

Bylaw Section 6C-6, “Sideyard Exception at Corner Lots”. He also informed Ms. Uzoma that she needs to get a review from the Conservation Commission prior to receiving a Building Permit.

Ms. Uzoma informed the Board that she met with Landis Hershey, the Conservation Agent, at her property and Ms. Hershey said she is not within the wetlands. Ms. Uzoma informed the Board that she wants to put an all season porch on the upstairs of the garage.

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

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

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

A motion was made by Ms. Murphy, seconded by Ms. Kundert, on behalf of the applicant, **Mary Pat Uzoma**, to grant a request to withdraw without prejudice Case # 01-10.

The vote was **5-0-0 in favor**; therefore the application for Case #01-10 is hereby **withdrawn without prejudice.** (Murphy, DeCelle, Kundert, Zuker)

REASONS FOR DECISION:

It is the finding of the Board that the applicant requested withdrawal without prejudice at the hearing on March 24, 2010 and the Board had no reason to deny the request.

This decision is consistent with the purpose and intent of the Zoning By-Laws.

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 9:00 p.m.

Daniel J. Cunningham, Jr.
Clerk

ev

Minutes were approved on April 14, 2010.