

WALPOLE ZONING BOARD OF APPEALS MINUTES OF JULY 13, 2016

A regular meeting of the Walpole Zoning Board of Appeals was held on Wednesday, July 13, 2016 at 7:00 p.m. in the Main Meeting Room, Town Hall. The following members were present: Matthew Zuker, Chairman; James DeCelle, Vice Chairman; Craig Hiltz, Clerk; Mary Jane Coffey, Timothy Foley, associate member.

Mr. Zuker opened the meeting at 7:03 p.m.

7:03 p.m. Neves, 31 Neponset Street, Case No. 09-16 Continued Hearing: The applicant was represented by Mr. Whelan, Whelan Engineering, 481 Mt. Hope Street, N. Attleboro. He stated he met with Margaret Walker and she stated they have less than what is the maximum in the WRPOD as they are only proposing 44%. Therefore, they do not need a special permit. The use is still a single family house and the way the driveway is shown on the plan is correct. They are still looking for a variance. Mr. Zuker as the final number on the variance and Mr. Whelan stated 34%. They are 6% below what is allowed.

Mr. DeCelle questioned Section 12-3-d. Mr. Whelan stated they are below what is listed. Mr. DeCelle asked if Ms. Walker questioned ground water recharge. Mr. Whelan stated she said if they go over that figure they would need to address it. Mr. DeCelle asked if they have investigated whether or not the town will let them take down the wall and trees or will you be moving the driveway closer to the lot line. You could possibly save a tree if you move the driveway. Mr. Whelan stated he will check into that. Mr. DeCelle stated the opening could be narrower and then they could leave the big tree. Mr. Whelan stated that single family homes are exempt from conforming to recharge. Mr. DeCelle thinks we should ask Ms. Walker about the recharge for new construction. Mr. Hiltz questioned if they were referring to the 15% and Mr. Whelan stated whichever is larger. They are still below that and therefore they are in compliance because of the underlying district. Mr. Hiltz state you are saying none of Section 3-D applies because of these requirements apply only to a residential development.

Mr. Zuker asked if they are on sewer and Mr. Whelan stated yes. Mr. Zuker stated it has to be an allowed use in an overlay district. He feels this could be addressed as a condition. He feels we should move onto the other dimensional things necessary for the house. There is no one from the public here tonight to object. He feels this is a voluntary demolition which doesn't constitute an abandonment. Section 9-G-4 addresses voluntary demolitions. The front yard is improved, the side yard remains the same and the rear yard is enlarged. This is unique as it is such a small lot. They are not expanding too much. Mr. Foley stated he walked the neighborhood and there is new construction across the street. He feels this will fit right in better than what is presently there. Ms. Coffey stated this will raise property values; therefore, it is not detrimental. Mr. Zuker stated two more feet in the rear yard won't make it detrimental. Mr. Hiltz questioned the recharge and asked if it will have an effect on the ability to rebuild this. Mr. DeCelle stated no. Mr. Zuker thinks there is an increase in the impervious cover. The existing is 21% and you are

proposing 34%. Mr. Hiltz stated they are expanding a pre-existing non-conformity. Mr. Zuker stated one thing is what is allowed by right and what requires a special permit. We just want to make sure this is treated universally across the board. He stated we are trying to accommodate both Mr. Whelan and his client and we can do that with conditions. Mr. DeCelle stated we need the plan in the file that is going to be built. If Ms. Walker states that it is not required, then this plan is okay. If not, they should come back. Ms. Coffey questioned the big tree out front and stated they can't take down a tree on town property. Mr. Foley stated it might be okay where it is. Mr. DeCelle has no problem with the house, but he does have an issue with the tree. Ms. Coffey feels the tree is a separate issue from tonight's hearing. Mr. Zuker stated they may want to move the driveway and keep the tree. Mr. Foley asked how we know the tree is on town property and Mr. DeCelle stated by looking at the drawings. Mr. Foley stated maybe we need a determination from the town engineer, either with a continuance tonight or a contingency. Mr. Zuker stated they could wait until the middle of August as he feels Maggie needs to review this. Mr. Hiltz stated this is not relief from us, it is a matter of right. Maggie can't allow a building permit to be issued. Plans could be amended to satisfy this condition with Maggie's approval.

Mr. Zuker stated he is comfortable with this either way. Mr. DeCelle stated if Maggie says it is required, he will have to do it. This is not a special permit. Mr. Hiltz stated you can't increase the impervious surface or the rear yard setback. You have to meet all conditions of approval without increasing the impervious or the rear yard setback that is being granted. Any alterations to the plan that have been presented at the public hearing have to be approved by Ms. Walker. Any other changes would also have to be approved by Ms. Walker to ensure that we are not increasing the impervious surface or the setbacks. Mr. Hiltz asked what would be the approximate cost to recharge the first inch of run off. Ms. Whelan stated it is not that difficult.

There were no further questions.

Mr. Zuker moved to close the public hearing. Motion seconded by Mr. DeCelle and voted 5-0-0.

The Board discussed conditions of approval and findings.

A motion was made by Craig Hiltz to grant the Special Permit under Section 9.4.A of the Zoning Bylaws to allow for an expansion, enlargement and extension of a single family dwelling with respect to the minimum front and rear yard setbacks as show on the plan of record. Motion seconded by James DeCelle. The vote was 5-0-0 (Zuker, Hiltz, DeCelle, Coffey, Foley voting); therefore the Special Permit under Section 9.4.A of the Zoning Bylaw is granted.

REASONS FOR DECISION

It is the finding of the Board that the since the Lot was a single family lot, insufficient in regards to lot size, the Applicant was able to meet the requirements of Section 9.4.A of the Zoning Bylaw to allow the expansion, enlargement and extension of his existing non-

conforming one family dwelling and a non-conforming lot with respect to minimum yard setback or any other direction such that it will not be substantially more detrimental to the neighborhood than the existing structure. The Board found that such extension was not substantially more detrimental to the neighborhood than the existing nonconforming structure. The Board notes that there were abutters in favor of the Application and none opposed. The Board finds that the resulting house is in character with, and follows the intent of the Residence B Zoning District. Accordingly, the Board has determined that the Special Permit requested is warranted. Further, the Board determined that the building, which is a pre-existing single family house, could be rebuilt because what is being proposed is not substantially larger than the existing house footprint and the proposed structure is in harmony and character of the neighborhood.

A motion was made by Craig Hiltz and seconded by James Decelle that the Board grant a Variance from Section 6.B.1 of the Zoning Bylaw to allow an expansion of a single family dwelling in the rear as shown on the plan of record as may be amended. The vote was 0-5-0 (Zucker, DeCelle, Hiltz, Coffey, Murphy voting); therefore, the Variance under Section 6.B.1 is denied.

REASONS FOR DECISION:

- 1) The relief sought has been provided by the Special Permit;
- 2) The Board determined the Variance was no longer necessary due to the granting of the Special Permit.

CONDITIONS OF APPROVAL:

- 1) Construction will be completed in accordance with the plans submitted at the public hearing;
- 2) The driveway on the right hand side of the house will be made pervious;
- 3) The applicant provided information that shows they are in conformance with Section 12 of the Zoning Bylaw;
- 4) Prior to the issuance of a building permit, final plans are to be approved by the town engineer to assure compliance with Section 12 of Zoning Bylaw as the property is in the WRPOD.

Mr. Zuker moved to adjourn. Motion seconded by Mr. DeCelle and voted 5-0-0. The meeting adjourned at 8:25 p.m.

Respectfully submitted,

Craig Hiltz, Clerk

Accepted 10/26/16

