

WALPOLE ZONING BOARD OF APPEALS MINUTES OF JUNE 22, 2016

A regular meeting of the Walpole Zoning Board of Appeals was held on Wednesday, June 22, 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; Susanne Murphy, Mary Jane Coffey, and Timothy Foley, Associate Member (7:05 p.m.).

Mr. Zuker opened the meeting at 7:00 p.m.

7:01 p.m. Rachel Wassel, 71 Pocahontas Street Continue Hearing, Case No. 04-16: Mr. Zuker moved to continue to August 17, 2016 as requested. Motion seconded by Mr. DeCelle and voted 5-0-0.

7:03 p.m. McSharry Bros., Inc. Off Pleasant Street Continue Hearing, Case No. 03-16: Mr. Zuker moved to accept an extension of time up to and including September 30, 2016 as requested by the applicant's attorney, Philip Macchi, 1256 Washington Street, Norwood, MA. Motion seconded by Mr. DeCelle and voted 5-0-0. Mr. Zuker moved to continue this hearing to August 17, 2016 at 7:00 p.m. as per request of the applicant's attorney, Philip Macchi, 1256 Washington Street, Norwood, MA. Motion seconded by Mr. DeCelle and voted 5-0-0.

7:05 p.m. Christopher and Jennifer Malinn, 49 Morningside Drive, Case No. 05-16 Continued Hearing: Mr. Zuker opened the public hearing and read the public hearing notice. Ms. Malinn stated they are looking to expand an additional 18'x18' and also to make an existing deck a three-season room within the existing floor plan. Mr. Zuker stated they are presently in an overlay district, so they have to meet the impervious cover requirements. He asked if they have done architectural yet and Ms. Malinn stated no. Mr. Zuker stated this is a one story addition and the existing setback is non-conforming. Mr. DeCelle stated as per Section 5-9-5-b of the Zoning Bylaws, he is not sure why they are here. Mr. Zuker stated he feels a special permit would be more appropriate as per Section 9-4-a, not a variance. The impervious cover is increasing a little over 2%.

Mr. Zuker read comments from Walpole Fire, Walpole Police, Planning Board, Engineering, Board of Health and Conservation. He asked if the Malinn's talked to their neighbors and Ms. Malinn stated yes. Mr. DeCelle agrees with Mr. Zuker that this should be a special permit.

Mr. Hiltz moved to amend the application to a request for a special permit for a pre-existing nonconforming lot and for a pre-existing nonconforming setback. Motion seconded by Mr. DeCelle and voted 5-0-0. Mr. Zuker stated we now have an amended application before us seeking a special permit for lot coverage under Section 12-C-1 and a nonconforming structure.

There were no public comments. Mr. Zuker moved to close the hearing. Motion seconded by Mr. DeCelle and voted 5-0-0. Mr. DeCelle moved to grant a Special Permit under Section 12-C-1 of the Zoning Bylaw with increased impervious area of about 2-1/2% as shown on the plan.

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Motion seconded by Mr. Hiltz and voted 5-0-0 subject to the following conditions: 1) all construction will be completed in accordance with the plan submitted at the public hearing; and, 2) no permits shall be issued until the town engineer approves the recharge system.

Mr. Zuker moved to grant a special permit under Section 9-4-a of the Zoning Bylaw. Motion seconded by Mr. Hiltz and voted 5-0-0 subject to the following conditions: 1) all construction to be completed according to plans; 2) no additional relief is being granted; 3) the addition shall be a one story and shall conform to Section 6-C-2 of the Zoning Bylaw.

7:45 p.m. Neves, 31 Neponset Street, Case No. 09-16: Ms. Murphy recused herself. Mr. Zuker read the public hearing notice. The applicant was represented by William Whelan, Whelan Engineering, Mt. Hope Street, North Attleboro. He stated this lot is severely undersized with regard to today's zoning. The lot is well over 50 years old. They don't believe this proposal will be detrimental to the neighborhood as the applicant wants to add up but stay within the existing footprint. He submitted pictures of the existing house to the board. The applicant needs more living space and all the other houses in the neighborhood are much larger than this one.

Mr. Zuker stated the lot size is 5940 s.f. and they want to knock down what is there and rebuild. Mr. Whelan stated that is correct. Mr. Zuker stated this is a voluntary demolition and in the end this will be a new house, not abandonment. Mr. Whelan stated they don't comply now and they want to make the improvement in the front. Mr. DeCelle stated they may have an issue under Section 6-C-2 of the zoning bylaws as they are going up to the second floor. They were originally going to request a variance.

Mr. Zuker asked for public comments.

Bernie Goba, 1871 Washington Street stated he has been at this address since 1969 and this house was built before that. This area has new houses, multi-family houses, old houses, a post office, a fire station and a school. This lot is undersized and what they are planning on doing will be a vast improvement to the neighborhood and will fit in more with the neighborhood. He is impacted the most and is comfortable with what they are going to do and he supports this petition.

Murray Thompson, 1873 Washington Street stated his property extends from Washington Street to Neponset Street and his sideyard is adjacent to theirs. Their driveway will be on the north side of the house. What they are proposing will be an enhancement of the area. He doesn't object, but requests that all details be worked out so they can move forward. Mr. DeCelle asked if the driveway will remain where it is now and Mr. Whelan stated he believes so, but had discussed about putting a garage on the other side. Mr. Neves stated his driveway is on the right side and wants to move it to the left side.

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Cindy Hoag, 1865 Washington Street and 6 Willow Street stated that twenty five years ago they did the same thing and therefore she supports this.

Mr. Zuker asked if the house plan that is before the board is accurate and Mr. Whelan stated the garage is not shown. Mr. DeCelle stated this is not a rehab, it is a complete teardown. Mr. Hiltz stated it would be an alteration of a pre-existing nonconforming, not a variance. Mr. Zuker stated this request doesn't seem unreasonable. Mr. Hiltz stated we have to issue a special permit to allow the alteration. Mr. Zuker believes they need a variance and Ms. Coffey agrees.

Mr. Zuker read board comments and questioned Ms. Walker's comments with regard to impervious cover and WRPOD. Mr. Whelan stated there is already a concrete patio in the yard. Mr. Zuker feels they need to review this further with the building inspector and town engineer. Mr. DeCelle asked what the driveway will be made of as it is now gravel. Mr. Whelan stated pavement. Mr. Zuker stated they have the rear yard, but not the front yard. Mr. Hiltz stated they may want to continue because of the impervious cover. Mr. Zuker stated the comment from Ms. Walker may change and have an adverse impact if we grant this. Mr. DeCelle stated he feels that Section 12-C-1 needs to be included. Mr. Zuker asked if they looked at the WRPOD. Mr. Whelan stated he doesn't think they are in it. If the driveway stayed where it was there would be no impact, but they are moving it. Mr. Zuker wants Ms. Walker to weigh in. Mr. DeCelle would like to see plans showing the way it is going to be built. Mr. Foley if what we have before us is the same lot and same building and Mr. Zuker stated it is a whole new section of the bylaw. Ms. Coffey feels it would be cleaner to start over. Mr. DeCelle feels the applicant should continue to July 13 and meet with Ms. Walker, then modify the plans to reflect her observations. Mr. Zuker stated they filed for a special permit and variance. We received a comment from Ms. Walker stating this is in the WRPOD, which requires a special permit and also requires information on how the applicant would deal with run off and recharge, which may impact the final design of the house. If we went forward with what we have tonight, it could impact how the recharge would be designed. He stated he will continue this hearing to July 13th and then will continue again if they are not ready. It is more procedural than anything else. Mr. Neves asked if there is an issue about the driveway and Mr. Zuker stated no, it is about something you didn't ask for relief from, which is lot coverage in the overlay district. We will continue this hearing so we can add this to the application and deal with all of it at once. We are trying to do this as quickly as we can. We will allow you to continue to July as we need clarity. If you do need more, we will continue this to another hearing to allow notice to go out and we would waive any filing fees that would be necessary for the special permit.

Mr. Zuker moved to accept an extension of time up to and including August 31, 2013. Motion seconded by Mr. DeCelle and voted 5-0-0 (Zuker, DeCelle, Hiltz, Coffey, Foley).

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Mr. Hiltz moved to continue this public hearing to July 13, 2016 at 7:00 p.m. Motion seconded by Mr. DeCelle and voted 5-0-0.

Susanne Murphy returned at 8:45 p.m.

8:46 p.m. Kearns, 2 Adams Road, Case No. 10-16: Mr. Zuker opened the public hearing and read the public notice. The applicant was represented by Philip Macchi, 1256 Washington Street, Norwood. He stated they submitted multiple memorandums with the application and would like it to be part of the record. Mr. Zuker agreed. Mr. Macchi stated this project is an expansion of an existing non-conforming house that was built in 1952. At that time there was no frontage requirement. They submitted this application under Section 9-4-a of the Zoning Bylaw, and could include Section 9-5-a if the board wants. They are completely within the character of the neighborhood and submitted pictures to the board. Mr. Macchi stated they want to add a garage off to one side in line with the house. It will be approximately 20' and they are proposing to put on a second story. It is their intent to comply with Section 12-C-2 of the Zoning Bylaws. They also want to add a porch. Nothing is going to be closer to the side line than the existing 12'. Mr. Macchi stated that Mr. Kearns would like to keep his family in Walpole, but right now one child is sleeping on the couch. They need more room. This is a GR zone and they are within the purpose of the zoning bylaw. Mr. DeCelle asked if they are in the WRPOD and Mr. Macchi stated no. Mr. Zuker asked if the proposed driveway is coming in from Adams Street and Mr. Macchi stated yes. He asked if the rear yard will remain at 12' and Mr. Macchi stated yes and the frontage is okay also.

Mr. Zuker read comments from town boards and committees. Mr. Zuker read a memo dated June 7, 2016 from Margaret Walker, Town Engineer with five concerns she has. Mr. Macchi stated he would accept those five items as conditions of approval.

Mr. Zuker asked for comments from the public.

Karen Scott, 26 Adams Road stated she has no problem with the addition.

Mr. Zuker read a letter dated June 6, 2016 from Robert Bevilacqua, 20 Adams Road, stating he supports the project at 2 Kearns Road.

There were no further board comments or public comments.

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

Mr. Macchi requested that the board add "non-conforming lot and non-conforming dwelling" to the decision.

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Ms. Coffey moved to grant a special permit to Stephen Kearns, 2 Adams Road subject to two special conditions as recommended by Ms. Walker, Town Engineer. Motion seconded by Ms. Murphy and voted 5-0-0.

Minutes: Ms. Murphy moved to accept the minutes of April 13, 2017; April 27, 2016; May 11, 2016; May 25, 2016; and, June 8, 2016. Motion seconded by Mr. DeCelle and voted 5-0-0.

Mr. Zuker moved to adjourn. Motion seconded by Mr. DeCelle and voted 6-0-0. The meeting adjourned at 10:30 p.m.

Respectfully submitted,

Craig Hiltz, Clerk

Accepted 10/26/16