

WALPOLE ZONING BOARD OF APPEALS MINUTES OF APRIL 7, 2021

A meeting of the ZONING BOARD OF APPEALS was held remotely via Zoom on WEDNESDAY, APRIL 7, 2021 AT 7PM. The following members were present on the Zoom Webinar:

John Lee (Chair), Susanne Murphy (Vice-chair), Bob Fitzgerald (Clerk), Jane Coffey, Drew Delaney, Dave Anderson, Patrick Deschenes (Community Development Director)

**Case No. 21-3, Glen & Nicole Perlman, 24 Jorie Lane, Variance Request:**

Mr. Lee opened the hearing, present were the applicants Glen and Nicole Perlman. Mr. Perlman explained that he is proposing to enlarge and reconfigure the western side of his single-family home to meet the needs of his family which is the only part of the home that can be enlarged. Mr. Perlman explained that the house was sited so that the NW corner of the home is right on the 25 ft. setback line, which was likely done due to the property being very rocky, and stated that there are large retaining walls on property, with the septic system being adjacent to the driveway behind the garage. Mr. Perlman stated that the current proposal is the only way to feasibly expand their home without completely reconfiguring the entire footprint of the home, or to move out of the home and relocate. Mr. Perlman stated that the proposal shows an expansion going back of approximately 12 ft., which would enable his family to add a bathroom on the second floor for his daughter, enlarge the two bedrooms for his sons, which in turn would create a living area below for the kitchen, great room, and basement, where an office is proposed. Mr. Perlman reiterated that due to the way the house was sighted, the only portion of the home that is feasible to expand will cause two triangular shaped portions of the house and the deck to encroach approximately 5 ft. into the setback. Mr. Lee stated that the threshold for a variance is extremely high, and reiterated that the location of the septic system is on the right side of the home. Mrs. Murphy asked about the number of existing bathrooms in the home, in which Mr. Perlman stated that there are currently 3 and a half bathrooms. Mr. Perlman reiterated that he plans to add one full bathroom, an office, and enlarge two bedrooms, without adding any additional bedrooms than what exists. Mr. Perlman stated that the neighbor on the side of the proposed addition is more than 150 ft. away, therefore the addition will not cause any detriment. Mr. Fitzgerald pointed out that on the plot plan that the deck is already encroaching within the 25 ft. setback, in which Mr. Perlman stated that the deck existed prior to him and his wife purchasing the home, and that it's allowed to encroach up to 4 ft. according to the Building Commissioner. Mr. Perlman stated that a number of different placements and reconfigurations were drawn up and reviewed by him and his architect, and any other placement of the addition would be odd, uncharacteristic and impractical due to the creation of angular walls, room reconfigurations and would require the relocation of the fireplace. Mr. Lee asked the board members what their thoughts were on the proposal before them, in which Mrs. Coffey and Mrs. Murphy agreed that judging by the existing layout, and taking into account the placement of the home on the property, the rocky topography of the property, location of existing septic system, financial feasibility, and practicality of the location of the addition, the proposal makes sense and is well thought out. Mr. Lee opened the hearing up to the public for comment, which included the applicants abutter, Mr. McKeever, who expressed his support.

Mrs. Murphy motioned to close, seconded by Mrs. Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye. The motion carried 5-0-0.

Mrs. Murphy motioned to grant the Variance based on the lot configuration, soil, geology of site, and the hardship based on the position of the septic system with standard conditions and with the condition that the home shall remain a 4 bedroom home, seconded by Mrs. Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye. The motion carried 5-0-0.

**Case No. 21-4, Aristides Cruz, 4 Brown Drive, Special Permit:**

Lee opened the hearing, present was the applicant Mr. Cruz. Mr. Cruz explained that he is seeking a Special Permit under Section 9.4.A. of the Zoning Bylaw to allow the construction of an attached two-car garage (22'x24') to the left of their home that is within the rear-yard setback and is preexisting nonconforming. Mr. Cruz stated that the placement of the proposed garage will coincide well with the existing driveway, and that the proposal is no more nonconforming than the previously issued variance given for the back porch through the past owners of the home. Mr. Cruz stated that the proposed garage could theoretically be constructed to the right side of their property, however, that would require the relocation of the driveway onto Oak Hill, removal of shrubbery and cause loss of yard space. Mr. Cruz stated that the height of the proposed 2-car garage will be the same as the single-family home, and that the space located above the garage (2<sup>nd</sup> story) will be utilized as additional storage space, that is not directly accessible or connected to the great room, unlike the first floor garage space. Mrs. Murphy stated that if the driveway were to be relocated onto Oak Hill it would be very dangerous to pull in and out, and therefore thinks that the existing driveway and location of the proposed 2-car garage is practical from a safety standpoint. Mrs. Coffey echoes Mrs. Murphy's comments. Mr. Lee opened the hearing up to the public for comment, which included the following;

Mr. & Mrs. Ford of Oak Hill Dr.: expressed their support of the project

Mr. & Mrs. McGourty of Oak Hill Dr.: expressed their support of the project

Mrs. Murphy motioned to close the hearing at the applicants request, seconded by Mrs. Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye. The motion carried 5-0-0.

Mrs. Murphy motioned to grant the Special Permit with standard conditions and the condition from the Engineers letter that all excavated material not used to backfill should be removed offsite, seconded by Mrs. Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye. The motion carried 5-0-0.

**Case No. 21-1, Robert Carnes, 1049 Main Street, Variance Request:**

Mr. Lee opened the hearing, present was applicant Robert Carnes. Mr. Carnes explained to the board that he is seeking a Variance for the placement of a storage container/shed on the rear-left lot line of the property located at 1049 Main St. Mr. Lee gave a brief overview of the last hearing, and explained that clarification of the size of the storage contained/shed was needed. Mr. Carnes explained that the proposed storage structure is a non-permanent Rubbermaid shed with a 6x8 footprint that will be used as extra storage for property items and spillover, such as tools, gas powered appliances, and paper items that cannot fit into storage space within the building. Mr. Lee asked the applicant what his hardship was since the threshold for a Variance is greater than that of a Special Permit. Mr. Carnes stated that his hardship was that the Building Dept. noted during the inspection that the interior space of the store was too congested, and the applicant stated that the business has outgrown the footprint of the store. Mr. Carnes stated that in order to help alleviate the storage issue he has installed shelving in the interior of the store, and that last year he added an addition to the back of the building. Mr. Carnes also stated that due to the shape of the lot and the limited amount of useable space, the only practical placement of the storage shed is the rear-left corner on the lot line. Mr. Lee stated that the proposed placement of the shed is right up against the property line, and the small yard space that currently exists is already crowded. Mr. Lee asked the board members if they had any questions or comments, which included the following:

Murphy asked where the dumpsters will be placed on the property, in which Mr. Carnes stated that the three dumpsters were remaining where they are currently placed. Mrs. Murphy asked Mr. Carnes how tall the fence between where the dumpsters are (that are not shown on the plan) next to the apartment building, in which Mr. Carnes stated that it is a standard 6 ft. fence.

Mr. Fitzgerald asked Mr. Carnes what the height of the shed will be, in which the Mr. Carnes stated that he believes it is 7 or 8 ft., and would most likely be about a foot or so taller than the existing 6 ft. tall stockade fence. Mr. Fitzgerald acknowledged the patio, dumpsters, and parking on the property and asked the applicant if there's any other place the storage shed could be located, in which Mr. Carnes stated that it could possibly fit up against the rear-left of the building, however he is unsure if the Fire dept. would have

an issue with that placement relating to their ability to have access to the rear of the building in an emergency situation.

Mrs. Coffey stated that she feels that the information from the applicant is vague relating to the placement and height of the shed, how much taller the shed may be relating to the stockade fence, and the lack of clarity regarding the Fire Dept. and their access to the rear of the building/ property.

Mr. Delaney stated that that he is hesitant relating to the full transparency of the application itself due to driving by the property recently and remarked that the configuration of the property is different than the undated plot plan that was submitted at the public hearing relating to pillars and the location of outside seating.

Mr. Lee opened the hearing up to the public for comment, which there was none.

Mrs. Murphy motioned to close the hearing, seconded by Mrs. Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Delaney-aye; Coffey-aye, the motion carried 5-0-0.

Mrs. Murphy motioned that the Board deny the applicant a Variance under Section 9.4.A. of the Zoning Bylaw to allow the placement of a storage container or shed on the property that is closer to the lot line than what is allowed within the Central Business District, at 1049 Main Street, Walpole, MA 02081, seconded by Mrs. Coffey, roll call vote: roll call vote: Lee-aye; Murphy-aye; Fitzgerald-no; Coffey-aye; Delaney-aye, The vote was 4 - 1 - 0, the Variance was hereby denied.

#### **Case No. 20-24, Radke Associates, LLC, 270 Moosehill Road, Comprehensive Permit:**

Lee opened the hearing and read a letter from the applicant requesting to continue the public hearing without testimony due to needing additional time to address comments from peer review and the Fire Department. Mr. Lee stated that since this hearing is for a Comprehensive Permit, the board has only 180 days to complete the hearing from the time that it was opened, which was 12/20/20. Mr. Lee voiced his concern of approaching the 180 day deadline with the minimal amount of information that has been presented this far. Mr. Fitzgerald suggested that the board ask the applicant to grant an additional 60-90 days from the 180 day deadline to allow for more information to be presented and reviewed. Mrs. Murphy motioned to continue the hearing to 4/14/21 at 7PM via zoom, seconded by Mrs. Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye. The motion carried 5-0-0. Mrs. Murphy motioned to ask the applicant for a 90 day extension of time beyond the 180 day deadline to keep the public hearing open, seconded by Mrs. Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye. The motion carried 5-0-0.

#### **Case No. 05-19-02, Wall Street Development Corp, 48 Burns Ave., Request for Project Modification No. 2:**

Mr. Lee opened the hearing, applicant Lou Petrozzi of Wall Street Development Corp. was present. Mr. Petrozzi explained to the board that he is seeking a modification to his Comprehensive Permit for several conditions that are either left open or need to be changed due to other administrative proceedings that have occurred since the issuance of the Comprehensive Permit. The board reviewed the following Conditions that were being requested to be modified: C.1.a.; C.1.c.; C.2.h.; C.2.i.; D.1.e.; H.9.a.; H.9.b. Mr. Lee reiterated that the board has discussed these requests and staff has commented with recommendations, and the next step is to draft a decision and have Town Counsel review the draft so that it can be voted on at the next hearing. Mr. Lee opened the hearing up to the public for comment, which included the following;

Cathy Campbell: question relating to Conditions 1 & 4 relating to the bonding mechanism; clarification on plans being referenced

Melissa Paquette: question relating to set of plans being referenced

Board members expressed their confusion over the original Comprehensive Permit that was granted, the current Request for Modification and the first Request for Modification. Mr. Lee clarified that the first Request for Modification was denied by the board, and that the second Request for Modification that is before the board is based on the original Comprehensive Permit that was issued by the ZBA. Mr. Lee suggested keeping the public hearing open, and continuing it to a later date in order to allow time for Town Counsel to draft a decision and be reviewed and voted on by the board, and to also have Town Counsel present at the next hearing. Mr. Petrozzi

agreed to submit a written extension of time to keep the public hearing open until 5/6/21. Fitzgerald motioned to continue the public hearing to 5/5/21 at 7PM via zoom, seconded by Delaney, roll call vote: Lee-aye; Fitzgerald-aye; Delaney-aye; Murphy-abstained; Coffey-abstained, the motion carried 3-0-2.

**Minutes:** No minutes were accepted at this time.

Murphy motioned to adjourn, seconded by Coffey, roll call vote: Lee-aye, Fitzgerald-aye, Coffey-aye; Murphy-aye, Delaney-aye, the motion carried 5-0-0.

**The meeting adjourned at 9:15 PM**

Accepted 7/14/21