

The May 15, 2013 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. – James J. Clarkin, Case #08-13

Ms. Murphy read the public hearing notice for **JAMES J. CLARKIN, Case #08-13**, with respect to property located at 67 Washington St., Walpole and shown on the Assessors Map as Lot No. 20-19, Limited Manufacturing Zone.

The application is for:

A Variance from Section 6.B of the Zoning Bylaws to allow construction of a garage 24 feet by 28 feet located 15 feet from the side yard where 40 feet is required, and

A Special Permit under Section 9.3.A of the Zoning Bylaws to allow expansion of a nonconforming use.

Mr. Clarkin explained his application; his home is across the street from Hollingsworth and Vose and is in the Limited Manufacturing zone. He submitted a picture of the proposed garage, which will be painted white, not the barn red as shown on the picture. He also submitted photographs of the abutting properties. The garage will be located back from the street because of the steep grade of the existing driveway. The house sits on a hill.

Ms. Murphy asked why the garage could not be closer to the house than the neighboring property; possibly attached.

Mr. Clarkin explained that in order to attach the garage to the house, the foundation would have to be 10 feet in order to reach the house, because of the slope.

Ms. Murphy read comments from Town Engineer, Margaret Walker, dated April 2, 2013; Lt. Joseph Spaghetti, Police Dept., dated April 2, 2013; Conservation Agent Landis Hershey, dated May 14, 2013; and asked for comments from the public.

Mr. Keller, 79 Washington St., explained he lives to the left of this lot. The garage would not be in front of them and the smaller house in front of them has a yard and fence between them and the proposed garage. They have no problem with the proposal.

Ms. Murphy asked if there were any further comments, 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, seconded by Mr. Cunningham, on behalf of the applicant, to approve a Variance from Section 6.B of the Zoning Bylaws to allow construction of a garage 24 feet by 28 feet located 15 feet from the side yard where 40 feet is required.

The vote was **5-0-0 in favor**; therefore, the application for a Variance is hereby approved with the following conditions: (Murphy, Stanton, Cunningham, DeCelle, and Zuker)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, construction shall be pursuant to the plans submitted at the public hearing.
2. As stipulated by the applicant at the public hearing, there shall be no cone of light from the newly constructed premises shining into neighboring property.
3. This Variance shall lapse within one year, 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 FOR DECISION:

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.3 of the Zoning Bylaws.

1. ***Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the appellant or petitioner.***

The Board finds that the applicant has shown substantial hardship due the topography, i.e., the slope of the land.

2. ***Desirable relief may be granted without substantial detriment to the public good.***

The Board finds that due to the location of the house on the lot and the location of the abutting properties, the location of the newly constructed garage will not be detrimental to the public good.

3. ***Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.***

The Board finds that the residence is located in a Limited Manufacturing Zone, and therefore, the Variance may be granted with out nullifying or derogating from the intent or purpose of this bylaw.

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A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant, to approve a Special Permit under Section 9.3.A of the Zoning Bylaws to allow expansion of a nonconforming use.

The vote was **5-0-0 in favor**; therefore, the application for a Special Permit is hereby approved with the following conditions: (Murphy, Stanton, Cunningham, DeCelle, and Zuker)

1. As stipulated by the applicant at the public hearing, the approved structure shall be used as a two-car garage.
2. As stipulated by the applicant at the public hearing, the approved structure shall be consistent with the design presented at the public hearing.
3. As stipulated by the applicant at the public hearing, there shall be no cone of light from the newly constructed garage shining into neighboring property.
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 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 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 greater lot coverage than allowed in the zoning district in which the premises are 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 affect the character of the immediate neighborhood.***
The construction shall not adversely affect 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.

REASONS FOR DECISION:

The Board finds that this decision is consistent with the purpose and intent of the Zoning By-Laws, i.e., the residence is located in a Limited Manufacturing Zone.

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. – Hill Family Trust – Case #04-13 (Murphy, Stanton, Cunningham, Case, DeCelle, and Zuker

Ms. Murphy read the public hearing notice for **Hill Family Realty Trust, Case #04-13**, with respect to property located at 24 Pilgrim Way, Walpole and shown on the Assessors Map as Lot No. 27-59 & 27-86, Residence B Zone.

The application is for:

A Variance from Section 6-B of the Zoning Bylaws to allow the applicant to create a new buildable Lot 2 with a total of 60.01 feet of frontage (in two locations), where 125 feet is required; and

A Variance from Section 6-B of the Zoning Bylaws to allow the applicant to create a new buildable Lot 2 with a “circle” of less than the required 100 foot-diameter.

Attorney James Brady, represented the applicant, informed the Board that he and the applicant’s engineer has met with the neighbors and have submitted the resulting plans, and draft of the decision. They are meeting with the Planning Board for an ANR on the lot and requested the Board continue the hearing in order for that to happen prior to the Zoning Board’s vote.

Daniel Merrikin, Merrikin Engineering, informed the Board that the Fire Dept. has approved the location of the existing hydrant that is approximately 100 feet away from this lot, which will be confirmed in writing in time for the next hearing. A series of conditions have been added, which are included in the draft decision for the Board's approval. He went on to explain each of those conditions as stated in his correspondence to the Board dated May 15, 2013.

Attorney Brady one of the issues was screening and tree plantings have been added to the plan.

Ms. Murphy asked if there were any comments from the public.

Bob Durant, 25 Pilgrim Way, asked if the driveway has been moved.

Brian Cotter, 8 Eastland Circle, informed the Board that he approves of the request and appreciated the applicant meeting with the abutters.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to continue the hearing to June 12, 2013 to 8:00 p.m.

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

There being no further business, the meeting adjourned at 9:30 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on September 4, 2013.