

ZONING BOARD OF APPEALS MINUTES OF SEPTEMBER 16, 2015

The September 16, 2015 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of the Town Hall.

Chairman Matthew Zuker called the meeting to order at 7:02 p.m. with the following members present:

Matthew Zuker, Chairman  
James DeCelle, Vice Chairman  
Craig Hiltz, Clerk  
Mary Jane Coffey, Member  
Susanne Murphy, Member (not present)  
Timothy Foley, Associate Member

**7:00 pm – Daniel Cummings – Case #11-15 (cont'd from 9/2/15) (Zuker, DeCelle, Hiltz, Coffey and Foley)**

Mr. Zuker read the public hearing notice for **DANIEL CUMMINGS, Case #11-15** with respect to property located at 11 Old Farm Road, Walpole, MA and shown on the Assessors Map 53 and Lot No. 9, Residence A Zoning District.

The application is for:

A SPECIAL PERMIT from Section 5.D of the Zoning By-Laws to allow removal of fill, grading to match remaining contours.

Mr. Zuker stated that the Applicant has submitted a letter to the Board asking for a continuance to the October 14, 2015 meeting. The letter states: To Whom It May Concern, I am requesting a continuance for the Special permit hearing regarding property 11 Old Farm Road, Daniel Cummings until Wednesday October 14, 2015. Sincerely Catherine Cummings (the letter can be found in the Case folder)

Mr. Zuker then mentioned that the Applicant has signed a Time Extension which states: I Catherine Cummings, Hereby agree to an extension of the deadline for the Zoning Board of Appeals to make its decision in this matter to (date) November, 30, 2015 and an additional 14 days beyond that date to file the decision with the Town Clerk's Office. (The signed Time Extension can be found in the Case folder)

A motion was made by Mr. Zuker, seconded by Mr. DeCelle to accept the Applicant's request for a continuance to the October 14, 2015 meeting date and have Mr. Hiltz sign the Time Extension form on behalf of the Zoning Board of Appeals.

The was **5-0-0** in favor (Zuker, DeCelle, Hiltz, Coffey and Foley voting)

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**7:00 pm – Stephen J. Townsend – Case #12-15**

Mr. Zuker read the public hearing notice for **STEPHEN J. TOWNSEND, Case #12-15** with respect to property located at 321 East Street, Walpole, MA and shown on the Assessors Map 27 and Lot No. 19, Residence B Zoning District.

The application is for:

A VARIANCE from Section 14, Definitions of the Zoning Bylaw, “Structure, Accessory”.

The Applicant Mr. Stephen Townsend stated that the purpose of the structure is to prepare his residence for his retirement. Currently it is hard for him to remove snow. He is proposing a garage and a heated driveway. He has a hard time entering his driveway from East Street in the winter months.

Mr. DeCelle wanted to know what would be on the second floor of the garage.

The Applicant stated that he is struggling with finding enough storage in his current home so he would be using the second floor of the garage to help with excess storage.

Mr. Zuker asked if it was going to be a 2 car garage or a 3 car garage.

The Applicant stated it would be a 3 car garage.

Mr. Zuker said that in order to be granted a variance the Board needs to have a plan that shows the grade

Mr. DeCelle stated all of these things including the new driveway should be on the plans. The Board needs all of the calculations for storm water management and other purposes. Mr. DeCelle also asked if the applicant thought about attaching the garage to the house.

The Applicant said that he did not want to do that because he did not want to redo his current kitchen or bathroom. If he attached it to the house then he would have to repair those.

Mr. DeCelle wanted to know if there would be a bathroom in the new garage.

The Applicant stated he would like to have a bathroom. He would like for his driveway to be heated and would also like to have a heated slab in the garage.

Mr. DeCelle asked why the applicant had a deck on the second floor of the garage.

The Applicant stated it would be used for exterior storage.

Mr. Hiltz asked what about the lot makes the applicant need to ask for a variance.

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The Applicant said that his house is currently 800 square feet. According to the Town Bylaw he would not be able to build a structure to house even 1 vehicle. He would like to have all of his vehicles in the garage.

Mr. DeCelle said your house is 800-900 square feet and you are proposing 2000 square feet for a garage.

Mr. Zuker said that what the Applicant has asked for is an accessory structure. The structure cannot be more than 40%. If it over 40% he would need a variance. He asked the applicant if he added in the basement (vs. a cellar) in the calculations. There might be a way to do this without needing a variance. Unfortunately we don't have that information. We need everything shown on the plan.

Mr. Zuker read the Board comments: Maggie Walker the **Town Engineer** stated that: Reference has been made to a Plan entitles East Street Plot Plan in Walpole, MA, by Charrette Land Surveying, dated October 4, 2014, from which the following comments are made: 1) The applicant should indicate whether or not the construction of this garage will require a new curb cut/driveway. If so, a Curb Cut Permit and Street Opening permit for this work will be required. 2) The applicant, in their submission, indicated that there is a substantial vertical drop on the property, however, there are no contours shown on the plan. The applicant should be requested to indicate for the Board how this was determined, and it is recommended that contours be shown on the plan, for verification. The **Board of Health** stated: The Walpole Board of Health at its September 8, 2015 meeting voted that they have concerns that the size of the proposed structure would indicate the ability to potentially store more vehicles, fuels, oils, chemicals, etcetera, and would want to be sure any such storage is done appropriately with proper double walled construction if there are significant quantities of such chemicals and oils. **Board of Sewer & Water Commissioners, Walpole Fire Department and Conservation Commission** all had no comments regarding this request.

Mr. DeCelle advised the applicant to show the utilities on the plan as well.

Mr. Zuker said that the Board would have to make sure the decision included something about bedrooms and a kitchen not being allowed in the garage since that was a concern of the Board.

Mr. Hiltz wanted to know what about the lot required a variance. The plans are not showing the nature of the lot and explaining why you would not be able to attach the garage to your house. Again you might not want a bigger house but these plans are not explaining why the Board should approve this request.

The Applicant asked if the garage was attached to the house would there be a different set of rules to abide by.

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Mr. Zuker explained that the Applicant would still have a set of requirements but it would take away the accessory building issue. It's not the land that he wants the variance for it is the size of the house.

The Applicant said financially he could not afford to renovate his house. If he added the garage to the house he would have to renovate both the kitchen and a bathroom.

Mr. Hiltz said that he did not see the necessity of the large boiler in the garage to just heat the driveway.

The Applicant explained that it is because of the grade.

Mr. Hiltz said that the applicant would need to show that on the plan. The Board needs to see the grade.

Mr. DeCelle said the floor plan should show what you are planning to build. What is going in the garage? What is the grade, the contours with the square footage?

Mr. Zuker said it is hard to get a variance in a Town. Giving the Board as much information as possible would be very helpful. You need to meet the requirements of the Walpole Bylaw.

The Applicant asked if the Bylaw was available to view online.

Mr. Zuker said it was.

Mr. Hiltz wanted to know what the garage would be storing.

The Applicant explained that he would store his car, truck, 2 motorcycles as well as his girlfriend's car and motorcycle.

Mr. Hiltz advised the applicant to look at Section 5B in the Walpole Bylaw which explains maintaining materials on the premises.

Mr. Foley asked if the Applicant would be working on other people's vehicles.

The Applicant said no he would just be working on his vehicles.

Ms. Coffey stated her concern was in 5B it mentions something about housing more than 3 vehicles.

Mr. DeCelle said that is true, you might need to get a Special Permit

Mr. Hiltz said that the applicant should really look over bylaw over. Make sure he is familiar with everything.

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Kim James of 321 East Street, the Applicant's girlfriend, wanted to add that the garage would not be for a business it is just for her boyfriend to putter. The workshop would be for personal use not business.

Mr. Zuker said that the Zoning Board's job is to interpret and apply the bylaw to the cases that come before them. He mentioned that the applicant might want to go speak with the Building Commissioner to get additional information. Also show everything on the plan submitted. You need an existing plan and a proposed plan. He asked the applicant how long he thought he would need to get all of this together. The Board has a meeting on October 14<sup>th</sup> and again on October 28<sup>th</sup>.

The Applicant felt that the October 28<sup>th</sup> meeting would work for him.

A motion was made by Mr. Hiltz, seconded by Ms. Coffey to continue this public hearing to October 28, 2015 at 7:00 pm here in the Main Meeting Room of the Town Hall.

The vote was **5-0-0 in favor**. (Zuker, DeCelle, Hiltz, Coffey and Foley voting)

A motion was made by Ms. Coffey, seconded by Mr. Zuker to close the public hearing at 7:38 p.m.

The vote was **5-0-0 in favor** (Zuker, DeCelle, Hiltz, Coffey and Foley voting)

Craig W. Hiltz  
Clerk

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Minutes were approved on 10/28/15.