

## WALPOLE ZONING BOARD OF APPEALS MINUTES OF OCTOBER 7, 2020

A meeting of the ZONING BOARD OF APPEALS was held remotely (via Zoom Webinar) on WEDNESDAY, OCTOBER 7, 2020 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, Amy Messier (Community Development)

Lee opened the meeting at 7:06 PM

### **Case No. 20-29, Christine Goodrich, 9 Ginley Rd., Variance Request:**

Lee opened the hearing, the applicant was present, along with their Attorney, Ed Cannon. Cannon stated that him and the applicant are planning to revise the original application, and are therefore requesting a continuance to 11/18/2020 at 7PM via ZOOM. Murphy motioned to accept the continuance on behalf of the applicant and continue the hearing to 11/18/20 at 7PM via Zoom webinar, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Delaney-aye; Coffey-aye. The motion carried 5-0-0.

### **Case No. 20-30, Phil Macchi, 979 Main St., Special Permit Request:**

\*Murphy recused herself of this hearing\*

Lee opened the hearing, and explained to the applicant that for this hearing he will have a 4-member board. Applicant Sean Murphy present, along with Attorney Phil Macchi or Macchi & Macchi. Macchi explained to the board that they are seeking a Special Permit under Section 9.4.C. of the ZBL to allow the enlargement or extension of the existing nonconforming property. It was stated that the lot started out as a conforming 5,000 sf lot that did not require any relief with a conforming building, and in 2001 the Town created the municipal parking lot behind the building, and 1,250 sf was removed from the lot, and in 2007/2008, when bylaw was rewritten, Section 9.2. F was added, which stated that if a lot becomes nonconforming by way of public taking or noncompliant, it will be treated as a nonconforming lot. After the other Special Permit for this property was granted in September, the Zoning Enforcement Officer directed the applicant to additionally file an application for a Special Permit under Section 9.4.C., with the main finding for the board to determine is whether or not the proposed changes to the building located at 979 Main Street are substantially more detrimental to the neighborhood than what is currently existing. Macchi respectfully submitted that the building as proposed by the applicant is not more substantially detrimental to the neighborhood, due to the fact that the proposed building is smaller than the two comparable buildings within the immediate neighborhood (one bldg. houses condominiums that are fifty ft. in elevation with no architectural design; the other bldg. houses apartments that is fifty-seven ft. in elevation and 5 stories tall). Macchi explained that the proposal remains as previously mentioned, with eight 1-bedroom units, with only one car per unit is allowed, therefore no significant increase in parking or traffic. Plans have been reviewed by the BOH and the Fire Dept. and there were no new comments or areas of concern expressed. Macchi mentioned that the purpose of the ZBL regarding the CBD is to provide for central business activity, successful pedestrian travel and municipal and cultural activities. Macchi stated that the 1<sup>st</sup> floor is still intended to be a restaurant, with residential units located on the 2<sup>nd</sup> and 3<sup>rd</sup> floors. Lee asked about parking, in which the applicant stated that there is a permanent easement over 8 parking spots in the municipal parking lot located to the rear of the building. Fitzgerald recommended that documentation of the easement be submitted to the board to be included in the record and also referenced in the decision, should the Special Permit be granted. Fitzgerald asked about the outside architecture and design of the building, along with the sizing and layout of the proposed restaurant on the first floor, Macchi stated that the details of the restaurant space has not yet been finalized. Fitzgerald asked about public parking for the restaurant, in which the applicant replied they could either park in the public parking lot located to the rear of the property or across the street. Delaney asked if there is a plan for exterior lighting on Glenwood and Main St., the applicant stated the parking lot to the rear will be well lit for the patrons walking into

the building, along with potential sconces on the outside of the building, and all lighting will be in compliance with all required guidelines. Lee listed conditions that should be included in the decision, which include the following: adequate lighting; eight 1-bedroom units; 8 stall bicycle rack to be placed on the property; Copy of the deed of the easement showing that the applicant has 8 parking spaces within the municipal lot; in compliance with limited site plan review; Project to be done per the plans submitted at the public hearing; all of the conditions outlined in the previous decision (#26-20). Lee opened the hearing up to the public for comment, which there was none. Coffey motioned to close the hearing, seconded by Fitzgerald, roll call vote: Lee-aye; Coffey-aye; Delaney-aye; Fitzgerald-aye. The motion carried 4-0-0. Fitzgerald motioned to grant the Special Permit under 9.4.C. with conditions specified above, seconded by Coffey, roll call vote: Lee-aye; Coffey-aye; Delaney-aye; Fitzgerald-aye. The motion carried 4-0-0.

**Case No. 20-32, Thomas Brady, 524 Elm Rd., Variance Request:**

Lee opened the hearing, present was the applicant; Thomas Brady, along with the property owner; Lisa Tierney. Brady explained to the board that Tierney is seeking a variance for the construction of an attached garage on a lot that's nonconforming. The proposed garage as shown on the plan has a setback of 5.8 ft. where a 25 ft. setback is required in the Rural Zoning District, with the lot being 16,000 sf, where 40,000 sf is required, and the size of the proposed garage is 640 s.f. Letters of support from all of the abutters was submitted prior to the hearing. Brady stated that the literal enforcement of the ZBL would be a substantial hardship to the neighborhood since all of the abutters are in favor of the project due to the increased value of the all of their, and the applicants' property, should the garage be constructed. Lee stated that he visited the property, and that other work is being done on the property, including renovations and a farmers' porch, however, the addition of the attached garage is the only structure that requires zoning relief by a variance. Brady stated that the hardship for the applicant, should it not be granted, would be that applicants' parents would be unable to enter/exit the home due to them needing wheelchair access. Tierney stated that the home was originally a 3-bedroom ranch, which has since been renovated to a 2-bedroom home, with fewer, larger rooms. Coffey expressed that she feels the hardship mentioned above does not constitute the need for a variance since it's been relayed as solely based on the unanimous support of the abutters, and also noted that a garage is not necessarily needed for handicap access, and handicap access can be created in other ways. Brady argued that for the common good of the applicant and the neighborhood, that the variance should be granted. Murphy questioned why the applicant cannot use her existing garage, in which Tierney stated that it is not a functional garage due to the steep angle, and stated that this also creates a hardship to her due to the lack adequate placement for her car during the winter months. Lee stated that the applicant was aware of the setback requirements in place when purchasing the property. Tierney clarified that the garage will be one story, with no other bedrooms to be added. Fitzgerald suggested that the board hear from the Building Commissioner since the applicant stated that he has visited the property and assured her that there were hardships that meet the criteria of a variance on this property. Fitzgerald also stated that due to the narrow shape of the lot, and placement of the existing pool, that the placement of the proposed garage on the plans may reflect the only feasible placement. Delaney stated that it would be beneficial to hear from the Building Commissioner. Brady expressed that he would like to continue the hearing to 11/18/20 at 7PM via Zoom, in order to gather more information due to the suggestion of the board. Lee opened the hearing up to the public, which there was none. Murphy motioned to continue the hearing to 11/18/20 at 7PM via Zoom, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye. The motion carried 5-0-0.

**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 8:50 PM**

