

WALPOLE ZONING BOARD OF APPEALS MINUTES OF NOVEMBER 18, 2020

A meeting of the ZONING BOARD OF APPEALS was held remotely via Zoom on WEDNESDAY, NOVEMBER 18, 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, Dave Anderson, Ashley Clark (Community Development Director); Mike Yanovitch (Z.E.O.); James Crowley (Deputy Building Commissioner)

Lee opened the meeting at 7:00 PM

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

Lee opened the hearing, the applicants attorney explained to the board that directly behind property is Cobbs Pond, and the existing home was built in 1969 is 26.8 ft. back from the front property line. The home is existing and nonconforming, and an appropriate finding of relief would be either a determination that only a special permit is needed vs. a variance, which was the original relief requested by the applicant. The proposed garage would be 23.8 ft. of a setback, and will be connected to the house by a 12'x12' deck. The applicant requested that the board accept a request to amend the relief to seek a Special Permit under Section 9.4.A. of the Zoning Bylaw to allow the enlargement or extension of the applicants existing nonconforming single-family dwelling by construction of a 24' x 24' garage to have a 23.8 ft. front yard setback, where a thirty (30) ft. setback is required. Based on the plans submitted at the public hearing, the Board finds that the proposed garage is in character with the neighborhood, and further noted that the surrounding single-family dwellings within the neighborhood have existing garages with similar architectural features. The nonconformance requiring this special permit is due to the existing single-family dwelling that was constructed in 1969 being already within the thirty (30) ft. front yard setback. Accordingly, the proposed garage is not substantially more detrimental to the neighborhood than the preexisting nonconforming building. Lee opened the hearing up to the public for comment, which there wasn't any. Murphy motioned to close the hearing, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, the motion carried 5-0-0. Murphy motioned to grant a Special Permit under Section 9.4.A. with the observation that the proposal is not recognized as being substantially more detrimental to the neighborhood, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, the motion carried 5-0-0.

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

Lee opened the hearing, Attorney Thomas Brady was present on behalf of the applicant and reiterated that the applicant is seeking a Variance under Section 9.4.A. of the Zoning Bylaw to allow the construction of an attached 20' x 32' garage to have a 5.8 ft. side yard setback, where a twenty-five (25) ft. side yard setback is required. Brady stated that 524 Elm Street is a 16,949 square foot narrow rectangular lot with 79.5 feet of frontage and lies within the Rural Zone, which requires 40,000 square feet of land and 200 feet of frontage. The building as erected on the lot is a pre-existing non-conforming structure. The shape of the lot is narrow and long. The narrow shape of the lot specifically affects the existing structure but does not generally affect the zoning district it is located. There is an in-ground swimming pool in the back of the property with a concrete slab around it. The septic system servicing the home is directly behind the home adjacent to the swimming pool. As of right, the proposed garage can be constructed as an accessory building on the back yard of the property or attached to the back of the building. The driveway would be extended to the back of the property along the left side of the house along the property line and would cost substantially more money to construct. The surrounding houses have existing garages, however, they do not go within such close proximity to their setbacks. Letters of support were submitted at the public hearing from surrounding neighbors to the property stating that they are in favor of the granting of the Variance, so that the applicant can construct her garage as depicted on the plans submitted with the application. Murphy and other members of the board reiterated that the substantial deviation from the required setback is uncommon for this neighborhood, and that a garage already exists on the property. Furthermore, the applicant and her representative

have previously mentioned that she can by-right construct a garage on the property in a different location along with the applicant making the choice to not make use of said garage. Board members stated that this garage proposal is due to the applicant creating a self-imposed hardship. Building Inspector Mike Yanovitch was present and explained to the board that the entire addition on the house was built without a permit, and when confronted with the violation, was when the applicant and their contractor/builder were notified that they require a variance. The Board was not persuaded that an undue hardship exists, primarily because there is an existing garage on the site that could be used by the applicant. While the applicant alleged specific safety concerns associated with the use of existing garage for purposes of accessing the home by her elderly parents, the Board does not find that this type of safety concern is of the type that may justify a variance (i.e., where the safety concern is created at an off-site location which necessitates a deviation from otherwise applicable requirements on site). Granting relief by a Variance for this proposal would derogate from the intent and purpose of this bylaw due to the applicant failing to meet the stringent standards for granting a Variance that is required. Lee opened the hearing to the public for input, which there was none. Murphy motioned to close the hearing, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, the motion carried 5-0-0. Murphy motioned to grant the Variance under Section 9.4.A. of the Zoning Bylaw to allow the construction of an attached 20' x 32' garage to have a 5.8 ft. side yard setback, where a twenty-five (25) ft. side yard setback is required in Zoning District R, seconded by Coffey, roll call vote: Lee-opposed; Murphy-opposed; Fitzgerald-aye; Coffey-opposed; Delaney-opposed, The vote was 1 - 4 - 0, therefore, the motion did not carry, and the Variance is hereby denied.

Case No. 20-31, Alexander Ponomarenko, 2210 RTE.1, Special Permit Request:

Lee opened the hearing, the applicant was present, along with this representative, Shawn McCormick. McCormick explained to the board that the applicant is proposing to convert the empty building at 2210 Rte 1. into a used car dealership, along with repairs, located within the HBD. The lot and structure on the lot are conforming, with the parking area being the only nonconforming element, with existing excess parking than what is currently allowed. There is a provision in the Bylaw that allows specifically for preexisting nonconforming parking area to continue its excess parking, and this specific relief is what the applicant is requesting from the board. Lee expressed concern about the number of parking spots and the observation of the parking spots that are right up to the property line based on the plan submitted during the hearing. McCormick stated that all proposed parking is to be on already existing asphalt surfaces, with no proposal to expand the asphalt area or impervious surface. Previous use of this lot was for retail, and existing parking is approximately double of what is allowed for the proposed use of a used car dealership/repair. Lee mentioned that there have been multiple issues brought up in comments from town boards/ departments that need to be further addressed (septic; parking space placement; site line views; water recharge/source; vehicle access; drainage; location of where repairs of being done; safety hazards). With more information needed and outstanding concerns, Murphy motioned to continue the hearing to 1/6/2021 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.

Case No. 20-21, Wall Street Development Corp, 48 Burns Avenue (Parcel 20-136)/ Union Street (Parcel 20-119)/ Brook Lane (Parcel 20-115/ Burns Avenue (Parcel 20-137), Request for Substantial Project Change/ Amendment:

Lee opened the hearing, the applicant was present, and explained to the board the proposal of a substantial project change to a previously approved Comprehensive Permit (#05-19), which included the following;

1. acquired a parcel of land off of Brook Lane for a safer and more convenient access (two way access) to the development; access drive would have an entrance and exit from Burns Ave and Brook Lane (was previously a single access)
2. 8 additional units proposed to the project (32 units to 40); units along Burns Ave. have increased in width

Present with the applicant was Rob Truax of GLM Engineering Consultants Inc. for the engineering aspect, and Bill Scully of Green International Affiliates Inc. for the traffic aspect. Truax mentioned the following;

1. utilities are being tied into Brook Ln. vs. the previous Burns Ave., which is moved away from the Brook.

2. same drainage system with minor edits, open drainage basin still in place, with some additional recharge areas, currently before Conservation for these changes.

Town Engineer Carl Balduf stated that the new changes to the project do encompass elements that the Engineering Dept. have recommended, however the configuration currently proposed on Brook Lane needs to be further addressed regarding problems relating to municipal vehicle access. Clark stated that the ZBA will be seeking a recommendation from the Select Board regarding recommended conditions of the road.

Bill Scully gave a power-point traffic summary with focus on the change in trip generation for the modification as well as with the new connection off of Brook Lane, and the intersection off of Union St. A letter summarizing the data was submitted earlier in the week to the ZBA, and has circulated to necessary departments and placed online for viewing. Scully went over existing conditions of Union St. and Brook Ln. (posted speed limits; peak hr. trip generation; points of access; site visibility; trip distribution patterns; safety mitigation options; parking spaces per units). Clark showed a visual of the existing conditions site plan vs. the proposed site plan to enable toe board and public to gain a sense of the differences. Pucci recommended that a discussion focused on peer review for engineering and traffic should be the next step, along with providing time for public comment in the near future. Petrozzi stated that he insists on the ZBA using BETA to peer review the change of project since they were previously used on the approved Comprehensive Permit. Lee and Clark reiterated that the ZBA is the ultimate authority regarding the choice of which company will peer review the project. Clark will reach out to Tetra Tech and BETA for peer review scopes at the direction of the chair. Delaney raised questions regarding site control due to current issues that remain unclear on Burns Avenue. Clark stated that the issue of site control is within the subsidizing agency's purview. Lee opened the hearing up to the public for comment, which included the following;

Cheryl Hayes –Monteville (Brook Ln.): concern w. traffic impacts; stormwater; E-911 vehicle impacts

Scott M. (Brook Ln.): share Cheryl's concerns; safety concerns for children; physical mitigation for safety to be installed

Cathy Campbell (Burns Ave): Burns Ave. access and site control

Murphy motioned to continue the hearing to 11/30/20 at 7PM via Zoom for the purpose of discussion on peer review scopes, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye; Anderson-aye, the motion carried 6-0-0.

Case No. 05-20, Wall Street Development Corp., Dupee Street (Map 35; Parcel 380-1), Comprehensive Permit:

Lee opened the hearing, the applicant was present, Lee explained that the purpose of tonight's meeting is to hear input from the public, which included the following;

Janis Selett: concern abt. excess number of units; soil conditions; traffic

Lee stated that the hearing should be continued to 12/2/20 with revisions based on peer review comments to be submitted beforehand and reviewed at the next hearing. Murphy motioned to continue the hearing to 12/2/20 at 7PM via Zoom, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, Anderson-aye, the motion carried 6-0-0.

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, Anderson-aye, the motion carried 6-0-0.

The meeting adjourned at 9:45 PM

Accepted 1/13/21