

The October 26, 2011 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 (not present)
Daniel J. Cunningham, Jr., Clerk
Ted C. Case, Member
James S. DeCelle, Member

Matthew Zuker, Associate member

7:00 p.m. – Kilani Bros., Inc. – Case #20-11

Ms. Murphy read the public hearing notice for **KILANI BROS., INC., Case #20-11**, with respect to property located at 215 Main St., Walpole and shown on the Assessors Map as Lot No. 19-61, Business Zone.

The application is for:

A Special Permit under Section 5.B.4.e of the Zoning Bylaws to allow sales up to six (6) cars, all used vehicles, in a sales room/office to conduct business.

Tom Kilani explained that he is now running a gas station and would like to add a used car sales office in the existing building with used cars parked outside. He submitted a plan showing proposed used car sales parking spaces.

Mr. Case pointed out that the plan does not show the location of the gas traps, and requested the applicant return with a plan showing their present location. The traps are necessary in order to have a used car sales business on the property.

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

Kathleen and Robert Hellion, 225 Main St., abut the property. They were concerned that the additional business would decrease the value of their abutting property, and create more traffic. Also, there is an easement between the two properties. They informed the Board that there is an easement which does not allow them to plant trees or install a fence larger than 3 feet high, in order to block their view of the gas station.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to continue the hearing for Case #20-11 to November 9, 2011 at 7:00 p.m.

The vote was **5-0-0 in favor.**

7:30 p.m. – Michael Magane – Case #21-11

Ms. Murphy read the public hearing notice for **MICHAEL MAGANE, Case #21-11**, with respect to property located at 135 Pleasant St., E. Walpole and shown on the Assessors Map as Lot No. 20-192, General Residence Zone.

The application is for:

A Variance from Section 6.B.1 of the Zoning Bylaws to allow replacement of existing 7 foot by 28 foot deck with a 6 foot by 8 foot deck with a roof. The location is the front of the dwelling. The proposed deck has a 13.46 foot set back, where 30 feet is required.

Mr. Magane explained the existing deck collapsed over the summer due to the heavy snows in the winter. He is requesting to remove the existing deck and build a smaller deck with a roof. It would be less non-conforming than the existing deck and would improve the appearance of the dwelling.

Ms. Murphy asked if there were any comments from the public. There being none:

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to grant a Variance from Section 6.B.1 of the Zoning Bylaws to allow replacement of existing 7 foot by 28 foot deck with a 6 foot by 8 foot deck with a roof. The location is the front of the dwelling. The proposed deck has a 13.46 foot set back, where 30 feet is required.

The vote was **5-0-0 in favor**; therefore the application for a **Variance** is hereby **granted, subject to the following conditions:** (Murphy, Cunningham, Case, DeCelle, Zuker voting)

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 in that the proposed construction makes the impervious cover on the lot less intrusive than the existing deck.

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

The Board finds that relief may be granted without substantial detriment to the public good in that the construction reduces the degree of the non-conformity and is in keeping with the harmony of the rest of the neighborhood.

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

The Board finds that the construction reduces the degree of the non-conformity and is in keeping with the harmony of the rest of the neighborhood.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

DISCUSSION

Jack Mee – re: Above Ground Pool

Mr. Mee sent the Board a memo regarding the installation of a 20 foot above ground pool and an addition request from the resident to build a deck. The front yard setback may or may not be clear because of the shape of the lot.

The Board advised that the Building Inspector that the homeowner needs to come before the Zoning Board for a Variance.

MINUTES

September 14, 2001 and August 10, 2011

A motion was made by Ms. Murphy. Seconded by Mr. Cunningham, to accept the minutes of August 10, 2011 and September 14, 2011 as written.

The vote was **5-0-0 in favor.**

There being no further business, the meeting was closed at 8:30 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on December 15, 2011.