



**MASHPEE ZONING BOARD OF APPEALS  
MAY 11, 2016  
MINUTES**

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, May 11, 2016, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Board Members Jonathan D. Furbush, William A. Blaisdell, Dom DeBarros, Scott Goldstein, and Associate Members, Brad Pittsley and Norman J. Gould were present. Board Member, Ron Bonvie was absent.

**PLEGE OF ALLEGIANCE**

**NEW HEARINGS**

**341 Great Neck Road North:** Owner, Leonard Mendes requests a Variance under §174-31 of the Zoning By-laws for relief from lot size requirements to deem lot buildable on property located in an R-5 Zoning District, (Map 60 Parcel 60-13-0-R), Mashpee, MA.

Chairman Furbush addressed the audience stating that he was stepping down from the first hearing. Board Member, Dom DeBarros said that he was also stepping down from the first hearing. Chairman Furbush told the first applicant that there would only be four (4) board members voting on his petition, and that the petition would require a positive vote from all four members in order for the petition to pass. Chairman Furbush said that all applicants have a right to request a continuance with five (5) Board Members present, or he could move forward with the presentation with only four (4) members present.

Mr. Blaisdell asked Mr. Mendes if he understood his choices to present his petition. Mr. Mendes said he would move forward with his petition.

Mr. Mendes presented a plot plan that was hand-drawn by L. T. Hammond, dated September 11, 1953. It depicted three lots; Lot #2, Lot #3, and Lot #4. Mr. Mendes owns Lot #3. He said that both Lot #2 and Lot #4 were owned by different families and did not appear to be held in ownership together. He believes he can be granted relief by the Zoning requirement.

Mr. Gould read an email from Tom Fudala, Town Planner dated May 5, 2016 into the record regarding Variances. It basically states that unless and applicant can meet all three (3) Variance criterion, than Variances should not be granted.

Mr. Blaisdell read the Inspection Department comments dated May 4, 2016 into the record, and the Board of Health comments into the record.

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Mr. Blaisdell and Mr. Goldstein had a discussion regarding similar variance petition requests on Wheeler Road that were presented to the Board last December and were denied by the Board vote. They said that the Zoning Bylaws and Zoning Board members have changed over the past 20-30 years making these type of variance requests stricter.

Mr. Goldstein read the first paragraph of Variance requirements under M.G. L. Section 10 into the record. Mr. Blaisdell said that he could not find a good reason to grant a variance because it did not meet any of the criteria required under the bylaw.

Mr. Goldstein made a motion to approve the request for Variance relief at 341 Great Neck Road North. Mr. Pittsley, seconded. Mr. Blaisdell took a voice vote and he voted, no, Mr. Goldstein voted no, Mr. Pittsley voted no, and Mr. Gould voted no. The petition was denied because it did not meet the Variance criteria under the Zoning Bylaws.

Mr. Mendes asked if he could re-apply at another time. The Board explained that there's a 20-day appeal period, and that he has the right to appeal the Board's decision within the timeframe the decision is filed with the Town Clerk.

**45 Coombs Lane**: Owner, David Mousette requests a Variance under §174-31 of the Zoning By-laws for relief from lot size requirements to deem lot buildable on property located in an R-3 Zoning District, (Map 44 Parcel 28), Mashpee, MA.

Mr. David Mousette represented himself stating he bought the property in August 2015. He provided a plot plan dated January 5, 2006, and a recorded Variance decision dated 3/15/2007 requesting to deem the lot buildable. He is requesting to reinstate the Variance so he can build a house. He said he has elderly parents and would like to build a ranch style home that is wheelchair accessible. He said that the Variance met the requirements for the septic system and he removed the deck on the side of the house.

Chairman Furbush said he was on the Board at the time the Variance was issued. He said he received several comments from different departments especially from the Town Planner which were previously read into the record for the first hearing. He said that all three criteria under the Variance bylaw must be met in order for relief to be issued. These house lots were created many years ago, and the bylaws have changed by a Town vote. Homeowners were given a grace period to act upon these "grand-fathered" restrictions. For example; if you owned a 20,000 sq. ft. lot in an R-3 Zone, and later the zoning changed by the Town vote, it should have been "grand-fathered", but must have been acted upon within the seven (7) year grace period. Chairman Furbush said that the Town Planner didn't voice his opinions back in 2007, but unfortunately this isn't the case today.

Chairman Furbush said to the applicant that he might be able to combine the two lots, and might possibly be able to add onto the existing home. He suggested he speak with the Building Department and/or Building Commissioner.

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Bill Blaisdell read the Conservation Comments into the record; “property is not within the wetlands jurisdiction”.

Mr. Goldstein read a letter into the record from Todd Bialas dated May 6, 2016 who resides at 70 Quashnet Road stating he opposes the variance request.

Chairman Furbush read the Inspection Department and Board of Health comments into the record.

Mr. Blaisdell made a motion to approve the request for Variance relief at 45 Coombs Lane, Scott seconded. Chairman Furbush did a voice vote, he voted no, Mr. Blaisdell, voted no, Mr. DeBarros, voted no, and Mr. Gould voted no.

**23 Cordwood Road:** Owner, Jane H. Egasti, Trustee requests a Written Finding under §174-17 of the Zoning Bylaws to raze and replace an existing garage on property located in an R-3 Zoning District, and within the (Popponeset Overlay), (Map 112 Parcel 83), Mashpee, MA.

**23 Cordwood Road:** Owner, Jane H. Egasti, Trustee requests a Variance under §174-31 of the Zoning Bylaws to raze and replace an existing garage on property located in an R-3 Zoning District, and within the (Popponeset Overlay), (Map 112 Parcel 83), Mashpee, MA.

Mr. Doug Mullen, Mullen Building represented the homeowner who is requesting to raze and replace a small detached garage. Doug presented this petition project back in February to modify the existing garage by extending it and realized that the foundation could not support the expansion, so the homeowner decided to raze and replace instead. The 4 foot Variance of the 15 foot side yard setback was approved at the meeting on March 9, 2016. Mr. Mullen said he is putting a second floor in the structure, and it will be mainly storage, and the first floor will be used as an art studio.

Mr. Goldstein read the Board of Health comments and conditions into the record.

Mr. Pittsley read the Conservation Comments into the record for both petitions.

Mr. DeBarros read the Inspection Department comments into the record.

The Board had a conversation regarding the distance from the side lot line to be 10.9, so they need a 4.1 Variance which will be within the 15 ft. side yard setback.

Chairman Furbush read the homeowner letter into the record dated 3/28/16.

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Mr. Blaisdell made a motion to approve the Written Finding to raze and replace a garage. The Board has determined that the applicant meets all the conditions of a Written Finding under Mass General Law 40A Section 6. Based on a plan titled; Applicant: Jane H. Egasti, 715 13<sup>th</sup> Avenue NE, St. Petersburg, FL 33701, Owner of Record: Jane H. Egasti, Trustee, Jane H. Egasti Trust Agreement, 715 13<sup>th</sup> Avenue NE St. Petersburg, FL 33701. Sewage Disposal System Design, 23 Cordwood Rd., in Mashpee, MA, Sheet No. 1 of 1 Date: 1/12/16, DWG File: Cordwood 23, Scale: As Noted, Approved by: MC, Checked By: MC, Drawn by: WD, Prepared by Cape & Islands Engineering, Summerfield Park, 800 Falmouth Road, Ste. 301C, Mashpee, MA 02649, Drawing Title: Septic Design Plan, Assessors Information 112-83-0, **Revision:** #1, 2/2/16: Removed Proposed Addition from rear of building, WD, MC, #2, 3/30/16: Revised Garage Location, WD, MC.

Mr. Pittsley seconded. Mr. Furbush, voted yes, Mr. Blaisdell, yes, Mr. Goldstein, yes, and Mr. Pittsley, yes. All were in favor of the Written Finding to raze and replace a garage.

Mr. Blaisdell made a motion to approve the Variance. Mr. Goldstein seconded. Mr. Furbush, voted yes, Mr. Blaisdell, yes, Mr. Goldstein, yes, and Mr. Pittsley, yes. All were in favor to grant a 4.1 Variance from the side yard setback of the 15 ft. requirement.

**91 Edgewater Road:** Zoning Board of Appeals to re-open hearing of a Variance that was granted on March 23, 2016 on property located in an R-5 Zoning District, (Map 23 Parcel 119), Mashpee, MA, Owner of record: Joseph H. Appleman.

Mr. Appleman represented himself and said he didn't understand why he was asked to attend this meeting and wanted an explanation.

Chairman Furbush read an email sent to Joseph Appleman from Michel Mendoza, Building Commissioner dated Wednesday, May 4, 2016 into the record. He also read an email sent to the Board from the Conservation Agent dated April 29, 2016.

Chairman Furbush addressed the audience and applicant stating that the Board had a meeting on April 5, 2016 to discuss the previously issued Variance for a deck project that Mr. Appleman requested. He said the Board voted unanimously to not issue or sign the Variance decision based on the comments submitted by the Conservation Commission. The Board decided to continue and re-open the hearing of the original petition and discuss the Variance request for the deck addition. Chairman Furbush asked Mr. Appleman if he wanted to submit a continuance, and move forward with the petition, or withdraw the application.

Mr. Appleman said he met with the Conservation Agent and apologized to the Commission. He was given a mitigation plan and when he completes the plan, he will make a decision whether or not it is worth his time to re-establish the Variance for the deck addition.

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Chairman Furbush explained a few of his options; first will the Board accept a continuation until another date, or move forward with the request, or agree to withdraw the application and re-apply after Conservation is satisfied.

Mr. Appleman decided to withdraw the application for his Variance request to extend his deck. The Board stated that he would have to submit a whole new application when and if he decides to re-apply for the project.

Mr. Goldstein made a motion to accept the withdrawal requested by Mr. Appleman for a Variance that was originally granted on March 23, 2016, and re-opened by the Zoning Board of Appeals, regarding the property located at 91 Edgewater Road in an R-5 Zoning District, (Map 23 Parcel 119), Mashpee, MA, Owner of record: Joseph H. Appleman.

Mr. Blaisdell seconded. Mr. Furbush, yes, Mr. Blaisdell, yes, Mr. Goldstein yes, Mr. DeBarros, yes, and Mr. Gould, yes. All were in favor of accepting the withdrawal of the Variance request to extend the deck.

**OTHER BUSINESS**

Approve the Meeting Minutes dated April 27, 2016.

Mr. Gould made a motion to accept the April 27, 2016 meeting minutes. Mr. Blaisdell, seconded. Mr. Furbush, yes, Mr. Blaisdell, yes, Mr. DeBarros, yes, Mr. Pittsley, yes, and Mr. Gould, yes. All were in favor.

Mr. DeBarros made a motion to adjourn. Mr. Gould seconded. Mr. Furbush, yes, Mr. Blaisdell, yes, Mr. Goldstein, yes, Mr. Pittsley, yes. Meeting adjourned at 7:30 pm.

Respectfully submitted,

Mary Ann Romero  
Administrative Secretary  
Zoning Board of Appeals