



**MASHPEE ZONING BOARD OF APPEALS
MEETING MINUTES
SEPTEMBER 28, 2016**

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, September 28, 2016, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Chairman, Jonathan D. Furbush, Board Members William A. Blaisdell, Ronald Bonvie, Dom DeBarros, Scott Goldstein, and Associate Members, Brad Pittsley and Norman J. Gould were present. Building Commissioner, Michael Mendoza was also present.

PLEDGE OF ALLEGIANCE

NEW HEARINGS

388 Mashpee Neck Road: Town of Mashpee requests a Special Permit under §174-25 I (9) of the Zoning Bylaws to replace the dock, pier, ramp and float at (Edward A. Baker Boat Ramp at Pirates Cove) located in an R3 Zoning District, (Map 96 Parcel 1), Mashpee, MA.

Catherine Laurent, DPW Director represented the Town requesting a Special Permit to replace the wooden dock system at the Pirates Cove Boat Launch. She supplied the Board a photo of what currently exists, and a plot plan that depicts the new construction and decking materials that will be used to upgrade the dock and float. She said that the dock will not be extending any further into the water than what currently exists. They will be extending the dock landward, and also installing a small ramp from the landing platform to make the facility more accessible. An Order of Conditions was issued by the Conservation Commission, and there is a Chapter 91 License in place which does not require any amendments because there are no major dimensional changes. She said there will be dingy racks constructed to facilitate the dinghies and remove them off the beach area. The Board had a discussion that it would be nice to receive comments from the Harbormaster and Shellfish Warden for these types of applications because it's a Town requirement under the Bylaw.

Mr. Bob Courtemanche, who is a resident at 386 Mashpee Neck Road approached the Board and is in favor of the new boat ramp but is concerned with the erosion that is happening to the left of the steps of the beach area. He was glad to hear that there will be racks constructed for the dinghies to control the erosion problem.

Mr. Bonvie made a motion to approve the special permit request. Mr. Blaisdell seconded. All were in favor of the proposal to construct a new boat and ramp complex.

**MASHPEE ZONING BOARD OF APPEALS
MEETING MINUTES
SEPTEMBER 28, 2016**

CONTINUED HEARINGS

86 Uncle Percys Road: Owner, Roger Brooks requests a Written Finding under §174-17 of the Zoning By-laws to allow for construction of an addition and new deck on property located in an R-3 Zoning District, and the Popponesset Overlay District, (Map 117 Parcel 181), Mashpee, MA. *(Continued from August 24, 2016 hearings at the request of the applicant).*

Chairman Furbush announced the four regular Board members and Associate Brad Pittsley were sitting in on this hearing.

Mr. Brooks returned to present his revised plans and calculations to the Board for his bedroom addition project. His existing lot coverage is 22.9%, and he is reducing it to 22.1% without the steps on the deck. His house plan depicted the 129 sq. ft. new addition, and the existing foundation to remain. He asked if the stairs coming off the deck are included in lot coverage. He said that the stairs on the deck would make the lot coverage 22.6%.

Chairman Furbush read the Board of Health comments into the record dated August 22, 2016. Mr. Brooks said that an inspection was done. He said that the existing foundation is a slab above grade. The new addition will be built on sonotubes, so there will be no basement or crawl space closer to the septic system.

Chairman Furbush asked if the shed was remaining. The Board had a conversation regarding the position of the shed and would like it moved to comply with the zoning requirements to be 5 ft. from the property line.

Mr. Bonvie made a motion to issue a Written Finding. He conditioned this motion to include; the proposed site plan that needs to depict the proposed lot coverage as 22.6%, instead of 22.1%, and should include a revision date on the site plan. Conditioned on the Board of Health comments that there is no foundation, and that the applicant can utilize the use of a “diamond pier” foundation that is not considered a full foundation. The shed shall be moved prior to occupancy to meet the existing zoning by law regulations which is 5 ft. off the property line. Mr. Pittsley seconded. All were in favor of the new bedroom addition.

16 Papnomett Road: Owner, Kathleen J. MacRoberts requests a Special Permit under §174-45.4 of the Zoning By-laws to allow for construction of an accessory apartment on property located in an R-5 Zoning District, (Map 61 Parcel 46), Mashpee, MA. *(Continued from September 14, 2016 hearings at the request of the Board).*

Mr. Joe Butler, returned to represent the homeowner who is requesting to build an in-law apartment on the left side of the existing home for her parents. The septic will be upgraded to a four bedroom, with a full basement attached through to the existing home.

Chairman Furbush told the applicant that he and Mr. Blaisdell, met with Town Counsel to discuss the particulars of the accessory apartment bylaw. There were two specific questions that were brought to the Board’s attention at the last hearing.

**MASHPEE ZONING BOARD OF APPEALS
MEETING MINUTES
SEPTEMBER 28, 2016**

The first item was the fact if the foundations of the existing house and the new accessory structure were connected, and that the basements were accessible through to the accessory apartment. The other item that was discussed was the letter submitted by the homeowner explaining her detailed situation. Town Counsel explained that the word in the bylaw stating “incidental” means “related to” and referring to family members, and is not intended as a rental or rooming house. The area is not zoned for a two family, or a rooming house, and should only have one meter, no separate utilities.

Chairman Furbush read the Board of Health comments into the record. “Septic shall be upgraded prior to occupancy.”

Mr. Bonvie made a motion to approve the accessory apartment with the following conditions under the bylaw special permit: The basement of the accessory apartment when constructed has to connect to the existing home, and one has to have the ability to walk to and from each section of the new home into the existing home through the basement below grade. Said pathway is to remain open to both foundations. A Board of Health comment that the septic system shall be upgraded prior to the occupancy of the apartment. The accessory apartment shall not be a rental or rooming house. The area is not zoned as two-family, or for a rooming house, and should only have one meter; no separate utilities.

Mr. Blaisdell seconded. All were in favor of the accessory apartment.

79 Cayuga Avenue: Petitioner, David J. Rivera requests a Variance under §174-31 from the front and side yard setbacks, and lot coverage requirements to allow for construction of a garage and porch on property located in an R-3 Zoning District, Map 58 Parcel 12, Mashpee MA. (Owner of Record: Kristen E. Ferguson). (*Continued from September 14, 2016 hearings at the request of the Board*).

Mr. David Rivera returned to discuss his project. At the last hearing the Board requested he provide a revised plot plan because it was over the percent lot coverage. The Board also requested that he provided letters from the neighbors for the record. He provided two plot plans, one that depicted 16’ foot wide garage and a 14’ foot wide garage. He would prefer the 16’ foot wide garage. He would consider removing the shed to lower the lot coverage.

The Board discussed the location of the shed, and that they would prefer the shed be moved 5 feet from all property lines. They also would prefer the 14 foot wide garage rather than the 16 foot wide garage. The lot coverage is 17.6% with the 14 foot wide garage. The applicant said he will remove the shed.

Chairman Furbush read an abutter letter from Lynne Catarius, at 85 Cayuga Ave., Mashpee, MA. He also read an abutter letter from Mina Greene and Doug Fribush, at 80 Cayuga Ave., Mashpee, MA. He read the Board of Health comments into the record, and the DPW comment regarding a curb cut permit.

**MASHPEE ZONING BOARD OF APPEALS
MEETING MINUTES
SEPTEMBER 28, 2016**

Mr. Bonvie made a motion to issue a side yard Variance in the amount of 5.2 feet to allow for a garage and porch, as noted on the plot plan that depicts a 14 foot wide by 36 foot long garage. This motion is conditioned upon the following; the floor plan to be amended to clearly state that the garage will be 14 foot wide by 36 feet long, and will need to be submitted as such when applying to the building department. The shed needs to be relocated at a minimum of 5 ft. from all property lines, or it needs to be removed. The Board of Health comment that the entrance to the study needs to be a minimum 6 foot wide cased opening, and prior to the building department a curb cut permit needs to be obtained, and the existing rear deck needs to be removed that is located in the rear of the house.

Mr. Blaisdell seconded. All were in favor of the 14' foot wide garage addition, and porch addition.

13 Compass Circle: Owners, Paul S. and Margaret K. Hovsepien request a Variance from the side-yard setback, and lot size requirements under §174-31 and §174-33 of the Zoning Bylaws to raze and replace a single-family home and garage on property located in an R-3 Zoning District, Map 105 Parcel 257-0-R, Mashpee, MA. (*Continued from September 14, 2016 hearings at the request of the Board*).

Jonathan announced that he and Scott Goldstein were stepping down from this hearing.

Attorney, Brian Wall returned to present a revised building plan for the new dwelling and garage. He also provided a Form "A" plan of the properties that were approved by the Planning Board. He said two weeks ago, that the house and garage have a benefit of variances, and he presented to the Board either to modify the past variances, or apply for new variances. The Board through the last hearing indicated that they was more inclined to grant new variances, and was ready to grant that relief when it was opened up to the public and his client had spoken to the neighbor. The owner of the property indicated that they did not oppose to the project, and when it was opened to the public hearing, Mr. Stone expressed some concern that if the second floor of the garage were to be made for storage, he did not want to see a "bank of windows" or a sliding door to a deck because it might infringe on his privacy.

The architect was also present at the last hearing and the Board reviewed his rough draft of the house plan. Mr. Stone was essentially satisfied with what he saw, and the Board said that the matter should be continued and to return with a finalized plan, and have the neighbor approve it. Attorney Wall provided a revised plan that depicted the elevation to the back of the garage with two double hung windows, and it was also signed by the neighbor, Mr. Stone.

Mr. Bonvie read a letter dated September 10, 2016, into the record from Nicholas Nardone, at 11 Compass Circle.

Attorney Brian Wall said the driveway material will be impervious with either crushed stone or crushed shells. The homeowner plans to install landscaping along northerly lot line of the driveway.

**MASHPEE ZONING BOARD OF APPEALS
MEETING MINUTES
SEPTEMBER 28, 2016**

Mr. Blaisdell read the Board of Health comments into the record that were submitted for the previous hearing on September 14, 2016, “a demo permit checklist to be completed prior to issuance of demo permit.”

Mr. Bonvie made a motion to issue a Variance in the amount of 8 ft. to the wetlands, and 6.6 ft. from the side yard lot line to the garage, and 20,600 sq. ft. lot size, with the following conditions; The plot plan read into the record as noted, the hand-drawn house plan, titled A6, drawn by Harold Capone, with a note hand-written by David M. Stone, 17 Compass Circle, New Seabury, MA, depicting “we have no objection to the back garage elevation, and we agree to the overall concept of the project.” Also conditioned upon a planting plan to be submitted to the Building Inspector prior to occupancy, which clearly depicts a screening commencing at the concrete bound of the intersection of Compass Circle, and the lot line abutting Lot 294 starting at that point for a distance of 105 ft. and this plan will depict screening of arborvitaes or something to that nature that is appropriate for the diffusion of light and privacy. The driveway will either be made out of either crushed shells or stone gravel, the Board of Health Comments to address that were read referencing the house is limited to five (5) bedrooms, and the cupola will have no lighting, a demo permit from Board of Health.

Mr. Pittsley seconded. All were in favor of the raze and replace project.

OTHER BUSINESS

-65 Seconsett Point Road- Attorney, Brian Wall to discuss the existence of a kitchen in the boathouse.

Attorney Brian Wall addressed the Board to try and resolve an issue that has risen. Two years ago, the Board issued a new written finding and allowed to have a porch built on the primary dwelling. Also, variances were issued by the Board for the boat house and the matter is that it is in a flood zone, so the first floor cannot be habitable, and it’s used for storage of boats and other types of equipment. The second floor of the boat house has proposed bedrooms as well as an open common area, and a wet bar with a counter top, and refrigerator. The boat house is substantially completed and the owners were seeking to get a certificate of occupancy, but when the building department inspected the property, the builder, under the owner’s approval, decided that the living quarters above the boat house was more suitable than the cottage, and so they took the kitchen out of the cottage and they put a kitchen in the boat house. The Building Department said this is not approved, and the issue becomes where’s the dwelling? Attorney Wall viewed that this could be granted because there can only be one primary dwelling on the property.

Attorney Wall was asking if the Board agrees that by removing the kitchen from the cottage and putting it into the boat house that there is only one dwelling on the property, and secondly, how can this be straightened out so his client can get a certificate of occupancy, or does the Board disagree and does the kitchen need to be removed.

**MASHPEE ZONING BOARD OF APPEALS
MEETING MINUTES
SEPTEMBER 28, 2016**

Chairman Furbush read the bylaws regarding accessory dwellings; under Sections 174-46 Page 93, and 174-25 A 12, Page 27, Principal Residential uses. “Open Space Incentive Development” (OSID) allowed under a Planning Board Special Permit subsection H, at least 20 acres.

Mr. Bonvie stated that the Board specifically made a decision that the boat house as permitted today cannot have a kitchen; no cooking facility.

Mr. Mendoza said that in his opinion that the kitchen is to be removed, and to get the proper permits to remove it, and also get the proper permits to get it reinstalled where it belongs. He stated that a certificate of occupancy will be issued, but if the owner plans to modify the conditions, they would have to return to the Board.

58 Echo Road- Board to vote to release the bond to the owner of the property.

The Board read a letter dated September 27, 2016 from Charles Rowley, Consultant Engineer for the Town that he inspected the paving and landscaping at 58 Echo Road. In his letter he recommended the release of the \$20,150 bond based on the evidence that the paving has been completed in conformance with approved site plans and the recommendations made by Dan Ojala, PE of Down Cape Engineering.

Chairman Furbush read a letter dated September 27, 2016 from Anne Seminar, the property owner into the record regarding the update on the landscape repairs and asphalt.

Chairman Furbush asked Charles Rowley how much it would cost to finish the landscape work, and he said a rough estimate of \$2,500.

The Board had a discussion to determine if the bond was held for just paving or did it include landscaping. If in fact the bond includes both landscaping and paving, the Board can release \$17,650, or if it just includes the paving, the entire bond amount of \$20,150 can be released.

Mr. Bonvie made a motion assigning the Zoning Enforcement Officer to look into the basis of the bond whether it was just for paving or additional work beyond the paving, i.e. site work, and if it was just for paving, than per Charles Rowley’s inspection the paving is complete and approved, a motion to release the \$20,150 bond. But if in fact, that the Zoning Enforcement Officer finds out that the bond is being held for issues above and beyond paving, i.e. site work or other items, than he recommends that the Board hold \$2,500 and release the \$17,650 of the \$20,150 for the items outlined in Mr. Rowley’s report, dated September 27, 2016 for 58 Echo Road, Mashpee, MA.

**MASHPEE ZONING BOARD OF APPEALS
MEETING MINUTES
SEPTEMBER 28, 2016**

Mr. Blaisdell seconded. All were in favor of releasing the bond as motioned.

Mr. Gould made a motion to approve the September 14, 2016 meeting minutes. Mr. Goldstein seconded. All were in favor.

Mr. DeBarros made a motion to adjourn. Mr. Blaisdell seconded. All were in favor. The meeting adjourned at 8:05 pm.

Respectfully submitted,

Mary Ann Romero
Administrative Secretary
Zoning Board of Appeals