

Zoning Board of Appeals Minutes 01/13/2016

MASHPEE ZONING BOARD OF APPEALS JANUARY 13, 2016 MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, January 13, 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, Associate Members, Brad Pittsley and Jim Gould were present. Building Commissioner, Michael Mendoza was also present.

PLEGE OF ALLEGIANCE

Jonathan Furbush announced that Board Member, Richard Jodka has resigned from the Board effective December 23, 2015. He thanked Richard for his years of community service. Board Member, Ron Bonvie and Associate Member Scott Goldstein were absent. Sitting on the hearings will be three regular board members and Associate Members, Jim Gould and Brad Pittsley.

146 Ninigret Avenue: Owner, Geoffrey T. Wall, requests a Written Finding under §174-17 of the Zoning Bylaws to allow for construction of 10 ft. by 14 ft. deck on property located in an R-3 Zoning District, (Map 65 Parcel 79), Mashpee, MA.

Mr. Geoffrey Wall represented himself asking permission to construct a 10 ft. by 14 ft. deck on his non-conforming lot. He submitted a site plan dated 11/9/89 depicting his existing single-family dwelling, and tool shed. He wanted to locate the deck off his kitchen in the front of the house.

Mr. Furbush read the comments into the record from the Conservation Department and Inspection Department. He also read the comments from the Board of Health Agent who did not accept the outdated plan because the setbacks were incorrect.

Ms. Meredith Chadwick, an abutter spoke and was concerned with the esthetics of the lot. Mr. Furbush read a letter into the record from Carol Anne Olsen, an abutter who had concerns.

Mr. Wall asked the Board if he could construct a patio instead of the proposed deck. Chairman Furbush told him he could construct a patio as long as it met the proper setbacks and he would not need Zoning Board approval. Mr. Wall decided to withdraw his application request for the 10 ft. by 14 ft. deck. Mr. Blaisdell, Vice Chairman made a motion to accept Mr. Wall's withdrawal. Mr. Furbush seconded, yes, Mr. DeBarros, yes, Mr. Pittsley, yes, and Mr. Gould, yes. All were in favor of the owner's request to withdraw the application.

190 Monomoscoy Road: Owner, Kevin Cayer requests a Written Finding under §174-17 of the Zoning Bylaws to allow for construction of a 4 ft. wide walkway, wooden stairs, and a 4 ft. by 4 ft. wooden platform, on property located in an R-3 Zoning District, (Map 114, Parcel 41A), Mashpee, MA.

Mr. Kevin Cayer represented himself for the application to construct a wooden walkway on his vacant lot. He stated he currently has a mooring and would like to access his boat without having to row out to it. The plot plan he provided shows the vacant lot and his current residence down the causeway at 98 Bayshore Drive.

Mr. Furbush read comments from the Conservation Department into the record which requires onsite pre-work on the pathway with placement of hay bales. No comments were required from Board of Health. The comment from the Inspection Department; stated "the area is zoned R3 and is in the Pre-contact Archaeology Sensitivity area – listed as "High Sensitivity". The applicant is seeking a Written Finding under Article V §174-17 regarding a determination from the Board if the construction of a structure on a lot without a principal building on the same lot, is a permitted Use. This department does not support such situations within the Town of Mashpee."

Mr. Mendoza said that if the Board grants the dock, he would require the Board condition that the dock cannot be expanded upon or added onto without reapplying with the Zoning Board of Appeals. He said if the applicant decides to return to the Board for any reason, it would require more detailed information of ownership along the marsh.

Mr. Robert Delory, who resides at 3 Bay Road addressed the Board and stated he owns all the abutting marsh in front of the lot in question and upland by lot 44. He said he was not approached for permission to access his property.

Chairman Furbush told the applicant that a wide walkway and/or wooden stairs is considered an accessory structure, and is not allowed according to the Town bylaws unless a primary structure currently exists.

Mr. Cayer asked to withdraw his application. Mr. Blaisdell, Vice Chairman made a motion to accept Mr. Cayer's withdrawal for his proposed wooden walkway and stairs. Mr. Furbush seconded, yes, Mr. DeBarros, yes, Mr. Pittsley, yes, and Mr. Gould, yes. All were in favor to accept the applicant's withdrawal.

171 Uncle Percys Road: Owner, Eileen B. Ferrell, requests a Written Finding under §174-17 of the Zoning Bylaws to allow the extension of two bedrooms on the second floor, and extension of the kitchen/dining area on the first floor of a single-family dwelling on property located in an R-3 Zoning District, (Map 117 Parcel 371), Mashpee, MA.

171 Uncle Percys Road: Owner, Eileen B. Ferrell, requests a Written Finding under §174-33 of the Zoning Bylaws to determine if the extension of two bedrooms on the second floor, and extension of the kitchen/dining area on the first floor of a single-family dwelling is set back at least fifty (50) feet from any water or wetland as defined by MGL C. 131, §40, on property located in an R-3 Zoning District, (Map 117 Parcel 371), Mashpee, MA.

Mr. Tom Bunker, Engineer at BSS Design represented the applicant for the project located in the New Seabury Special Permit area. Mr. Bunker thought the project was exempt from the special permitted area, but according to the bylaws, the project is not exempt from the wetlands bylaw. Mr. Furbush said the specific setback requirements are 50 feet from the wetlands. The only exemptions in this area are lot coverage and setbacks from the property line, not encroaching on the wetlands or flood zone.

Mr. Bunker discussed the house plans with the Board and stated the addition and the deck are not moving any closer to the wetlands than what currently exists. He said the character of the house is similar to other homes in the neighborhood. The shed will be removed and the Conservation Commission approved the project at their last meeting.

Mr. Furbush read the Inspection Comments into the record; "The area is zoned R3 and is in the Pre-contact Archaeology Sensitivity area – listed as "High Sensitivity". The applicant is seeking a Written Finding under Article V §174-17 regarding a determination from the Board if the expansion of an addition, more into the 50 foot wetland buffer zone (§174-33) would increase the non-conforming nature of the home." Seeking a Variance, from §174-33, for encroaching more into the 50 foot wetland buffer zone."

Mr. Furbush read the Board of Health comments into the record; "The floor plans have been reviewed and are approved for three bedrooms. The change in footprint required a septic inspection. The septic inspection result was a "Needs Further Evaluation from the Local Approving Authority." The septic tank and leaching facility were identified as being within the driveway. The septic tank is not load rated to be in the driveway subject to vehicles. The leaching facility has no access manhole covers and was not inspected. As this was an inspection for a building permit and not for property transfer, the owner has until the time of property transfer to correct the identified issues with the septic system."

Mr. Furbush said the septic system is under the driveway and is not load rated. Mr. Bunker said the Board could condition to put a steel plate over the tank to protect it from heavy loads during construction. The Board of Health is not present at the meeting and not able to comment if the design of the tank is for everyday construction equipment.

Mr. Gould stated there are two issues; one is the integrity of the septic system and the other issue is the low bearing ability of the septic system. In terms of the integrity, that is fine. In terms of the low bearing maybe there is some clarification needed by the Board. Mr. Blaisdell suggested the project be continued until clarification is given by the Board of Health. What is his "further evaluation"?

Mr. Bunker asked the Board if they can condition the decision to install an H2O tank, and bring the manholes up to grade. He said the further evaluation are the two points, that the septic tank is not low graded and the leaching facility has no access manhole covers. Mr. Bunker said an H2O tank can carry heavy truck loads, and in this case would require removing the existing tank. If the home is sold then that job is done, and on the second point, the leaching facility is to install one or two covers to grade which is a Title 5 requirement.

Mr. Furbush said the Board will require clarification in writing by the next meeting.

Ms. Denise Bonoli, the Architect for the project approached the Board and said she knows the Board cannot use her recommendation.

However, she works with Tim Grey, the project manager who thought the project could move forward after speaking with the Health Agent. Her understanding was the project could continue, and that the septic could be upgraded if the owner transferred the property.

Mr. Gould asked Mr. Bunker if there were any time constraints. Mr. Bunker said no and Ms. Bonoli said it would be nice to have it done by summer.

Mr. Blaisdell made a motion to continue the petition until January 27, 2016. Mr. Furbush seconded, yes, Mr. DeBarros, yes, Mr. Pittsley, yes, and Mr. Gould, yes. All were in favor to continue the hearing until January 27, 2016 with revised Board of Health comments.

28 Elliot Road: Owners, Joseph A. and Lenora A. Sciacca, Trustees, request a Written Finding under §174-17 of the Zoning Bylaws to raze and replace a single-family dwelling on property located in an R3 Zoning District, (Map 118 Parcel 117), Mashpee, MA.

Mr. Kieran Healy, Land Surveyor with BSC Group represented the applicants for this project. Also present was Joe Colasuonno, the Builder on the project. Mr. Healy provided the Board with a detailed plot plan and house plans. He said the footprint is similar to the existing house and the lot coverage will be increasing from 18.9% to 19.9% lot coverage. The reason for the filing is that the current building is less than the existing setback measuring requirements from the street. The project consists of keeping the existing building setback to be less than the minimum requirement that is allowed by the Town. The plot plan depicts 21.9' of the existing and 21.9' on the proposed from the street, and the allowed setback is 25'. It's an existing 3-bedroom home and proposing a 3-bedroom home. Mr. Healy said an order of conditions was issued by the Conservation Commission, and plans submitted to the Board of Health were also approved. Mr. Furbush asked about the south side setback depicting 28' and increasing to 30'. Mr. Healy said that Conservation wanted it pulled back.

Mr. Furbush wants drywells to be installed because of the flooding issues. Mr. Healy said there are drywells being installed on the north side, and the other will be on the south side 15' from the septic.

Mr. Furbush read the Inspection Department comments into the record; "The area is zoned R3 and is in the Popponeset Overlay District and is also in the Pre-contact Archaeology Sensitivity area – listed as "Moderate Sensitivity". The applicant is seeking a Written Finding under Article V §174-17 regarding a determination from the Board if the removal of the existing home and replacing it with a new single family home would increase the non-conforming nature of the home.

Mr. Furbush read the Board of Health comments into the record; "The proposed floor plans have been reviewed and are acceptable for three bedrooms. The septic tank is proposed to be replaced with a variance that still makes the septic in more compliance than before. The leaching facility is to be inspected prior to building permit issuance. The demolition checklist will be required to be completed and submitted prior to demo permit issuance."

Mr. Blaisdell made a motion to approve the project with the following conditions;

- The Board has determined that the applicant meets all the conditions of a Written Finding under Mass General Law 40A Section 6.
- Plan of Land to Accompany a Finding of Fact Application at #28 Elliot Road, Mashpee, Massachusetts. Prepared For: Lee & Joe Sciacca, 11 Osceola Path, Arlington, MA 02474 Leesciacca@aol.com. BSC Group, 349 Route 28, West Yarmouth, Mass. Scale: 1" = 10', Date: 12/10/2015, File: P:\Prj\49972-SP.DWG, Dwg. No: 6314-04, Filed: FF, Sheet: 1 of 3, Job No.: 49957.00.
- Sciacca House Plans, 28 Elliot Rd., Mashpee, MA, DDB, Denise D'ambrosi Bonoli, A.I.A., PO Box 991, 469 Acapesket Road, East Falmouth, MA, 02536, First Floor Plan 1/4" = 1'0", Second Floor Plan 1/4" = 1'0", Lower Level Plan 1/4" = 1'0", Elliot Road Elevation, Side Elevation, Water Side Elevation, Driveway Side Elevation.
- Two drywells, one on the north side, and one on the south side of the property. This includes the comments read into the record by the Chairman relative to the Board of Health, Conservation and Inspection Departments.

Mr. Furbush, seconded, yes, Mr. DeBarros, yes, Mr. Pittsley, yes, and Mr. Gould, yes. All were in favor of the raze and replace project.

OTHER BUSINESS

58 Echo Road-Lou and Anne Seminara to address minor modifications to existing permit.

Mr. Mendoza explained to the Board and audience that there was a meeting at Town Hall with the owners to discuss the building project issues regarding the paving and stripping at the site. The owners posted a bond to the Town. Mr. Mendoza explained that he was not given any leeway to let the owners know if they could complete a portion of the project, and to follow the approval process.

Because this is outside of the Commissioner's ability to grant a certificate of occupancy, the Board needs to approve whether or not the Commissioner can grant a temporary certificate of occupancy. As a result of the meeting, the owners posted a bond to the Town. In the future, the Commissioner will be questioning the Board to grant him some leeway on these types of projects as not to delay projects, the applicants posted a bond to the Town.

Mr. Blaisdell made a motion to grant a minor modification to Anne and Lou Seminar, and allow the Building Commissioner to issue a temporary certificate of occupancy for an existing permit. Mr. Furbush seconded, yes, Mr. DeBarros, yes, Mr. Pittsley, yes, and Mr. Gould yes. All were in favor to allow Mr. Mendoza to issue a temporary certificate of occupancy to Lou and Anne Seminar. The check will be released back to the owners when the project is satisfied by the Commissioner and the Town Engineer.

65 Seconsett Point Road-Attorney Brian Wall requests an informal discussion for clarification of Variance-2013-62 and Variance-2013-63.

Mr. Wall approached the Board representing the Katharine F. and Brown Lingamfelter and got approval back in 2013 by the Zoning Board of Appeals to construct a boathouse with two bedrooms on the upper floor. The reason for the meeting was to satisfy the Building Department's questions of the minor changes to the building plans. The Board reviewed the plans and determined another hearing was not necessary. The Building Commissioner also stated that all documentation in petitioner files should be considered part of the records, and the Board's interpretation is only what is stamped as part of the records.

153 Commercial St. -Signatures required on voucher to return deposit balance to Capewide Enterprises.

All were in favor of Scott Goldstein becoming a full board member, and will require the Selectman to vote as well. The Board approved the December 9, 2015 Meeting Minutes, all were in favor. Mr. DeBarros made a motion to adjourn, all were in favor.

Respectfully submitted,

Mary Ann Romero
Administrative Secretary
Zoning Board of Appeals