

Zoning Board of Appeals Minutes 02/12/2014

MASHPEE ZONING BOARD OF APPEALS FEBRUARY 12, 2014 MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, February 12, 2014, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Board Members William A. Blaisdell, James Reiffarth, Richard Jodka, Associate Members Domingo K. DeBarros and Scott Goldstein were present and acting throughout. Building Commissioner Richard Morgan was also present. Board Members Jonathan Furbush and Ronald Bonvie were absent.

Vice Chairman, William Blaisdell opened the meeting at 6:00 p.m. and announced that the meeting was being televised live on local Mashpee television.

PLEDGE OF ALLEGIANCE

NEW HEARINGS

Michael E. and Alycia Markowski: Request a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of an existing deck and garage addition on property located in an R-5 Zoning District at 47 Redwood Circle and 51 Redwood Circle, (Map 27 Parcel 98 & 99), Mashpee, MA.

Attorney, Kevin Kirrane represented the homeowners of the referenced property 47 and 51 Redwood Circle. Mr. Kirrane presented plot plans, building plans, and photographs of the dwelling located in the Mashpee Shores subdivision situated off Route 130. This subdivision was approved by the Planning Board back in the 1970's at the time when the minimum lot size was 12,500 square feet and there was no Mashpee and Quashnet River protective zoning district.

The current lot requirements are now 80,000 square foot, 40 feet to the front, 15 feet along the sides and rear. As a result, the structure at this site constitutes a non-conforming structure. The Wetlands Protection Act had a substantial impact on what can and cannot be placed on the lot. This lot is actually two building lots which have been combined into one single building lot. Mr. Kirrane provided the Board with a copy of the land court plan that depicts lots 14 and 15 originally approved by the Mashpee Planning Board. This lot, based upon the plans submitted, is approximately 28,145 square feet and within 50 feet of resource areas which is also a non-conforming aspect of the structure.

Section 174-17 of the Bylaw permits additions to pre-existing, non-conforming structures. In this particular case, the two proposed modest additions consist of a 151 square foot living space over a portion of the existing deck and reconstruction of the garage that will consist of 581 square feet and needs serious repair.

The topography of Redwood Circle drastically drops about 20 feet to the Mashpee River. As a result, the concrete paved driveway has encountered significant problems over the years from flowing water down the driveway and has created a great deal of rot causing the concrete floor to crack as well as cracking the foundation of the dwelling. The new renovations will consist of installing drainage equipment that will cure the runoff issues and provide a solution. The Conservation Commission approved the proposal because of the action being taken to deal with water runoff, and will also eliminate the condition of runoff toward the Mashpee River.

Mr. Kirrane stated the Board is familiar with an alteration or change of a pre-existing non-conforming structure, and must determine whether or not the proposed is substantially more detrimental to the neighborhood than what currently exists. The entire new footprint being added to the site is approximately 261 square feet. When the Markowski's bought the property, the basement area had already been improved so there is a significant storage problem in the dwelling and the addition of the garage will help create needed storage space. The proposal does not create a condition that is more substantially detrimental to the neighborhood than what currently exists, will provide positive results to the conditions of the site, and will have adequate parking.

Mr. Reiffarth read the Board of Health comments into the record; "The proposed room over the garage is considered a bedroom. The septic is large enough for four bedrooms and the property is not in Zone II. A septic inspection is required to be performed prior to building permit sign-off by Board of Health."

Associate Board Member, Scott Goldstein stated he spoke to Glen Harrington, Health Agent regarding the plot plan depicting the deck placed partially over the septic tank. This is acceptable as long as it's not placed over covers. Keep in mind the footings cannot be built over the tank.

Mr. Jodka read a letter into the record received by David and Karen Wolf, 37 Redwood Circle stating they support the project.

Mr. Blaisdell read a letter into the record received by Gloria and Steven Stewart, 42 Redwood Circle stating they support the project.

Mr. Goldstein read a letter into the record received by Robert J. Bortolotti, 39 Redwood Circle stating he is not in favor of the project.

Mr. Kirrane commented on Mr. Bortolotti's letter and pointed out that there is a substantial distance between his structure and the Markowski's structure they are improving and the garage addition. There will be no impact on Mr. Bortolotti's view.

Mr. Blaisdell read an email dated February 10, 2014 submitted by Andrew McManus, Conservation Agent: "The project at 47 & 51 Redwood Circle was approved by the Conservation Commission. The project met the performance standards for riverfront and bordering vegetated wetlands. All proposed work is taking place in previously disturbed (developed) areas of the property, with the exception of the removal of some hazardous trees behind the existing shed."

Mr. Reiffarth made a motion to approve Michael E. and Alycia Markowski's request for a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of an existing deck and garage addition on property located in an R-5 Zoning District at 47 Redwood Circle and 51 Redwood Circle, (Map 27 Parcel 98 & 99), Mashpee, MA. This motion is based on a plan prepared by Racken Engineering, Inc., 49 Herring Pond Road, Buzzards Bay, MA, Proposed Site Plan in Mashpee, MA prepared for: Michael E. Markowski and Alycia Markowski, 47 & 51 Redwood Circle, Parcel ID: 27 99 0 (#47), Parcel ID: 27 98 0 (#51), dated November 5, 2013, Job No. 410-40, Drawn by: JRL/DLH, Checked by: AMG, Scale: as noted. This motion is also contingent upon approval by Board of Health as indicated by Glen Harrington, Health Agent.

Mr. Blaisdell, seconded, yes, Mr. Jodka, yes, Mr. Goldstein, yes, Mr. DeBarros, yes. All were in favor.

Michael E. and Alycia Markowski request a Variance under Article XII §174-72 of the Zoning By-laws to vary the front, rear and side setbacks of an existing deck and garage within the zoning requirements of the Mashpee River on property located in an R-5 Zoning District at 47 Redwood Circle and 51 Redwood Circle, (Map 27 Parcel 98 & 99), Mashpee, MA.

Mr. Kirrane stated the reason he applied for the Variance is due to the provision in the zoning bylaw regarding the Mashpee and Quashnet River districts that you can repair, remodel and renovate but cannot enlarge an existing structure. He stated the project area will be increasing by 265 square feet to the existing structure. The deck will be removed to reduce the increase in the footprint to less than 100 square feet. He stated there is a significant hardship due to the typography layout but will have a positive impact for the resource area.

The Board determined the Variance is not required since approving the Written Finding and suggested Mr. Kirrane withdraw the Variance because the proposed minor renovations are well under the 20% lot coverage.

Mr. Blaisdell made a motion to withdraw Michael E. and Alycia Markowski's request for a Variance under Article XII §174-72 of the Zoning By-laws to vary the front, rear and side setbacks of an existing deck and garage within the zoning requirements of the Mashpee River on property located in an R-5 Zoning District at 47 Redwood Circle and 51 Redwood Circle, (Map 27 Parcel 98 & 99), Mashpee, MA. Mr. Jodka seconded, yes, Mr. Reiffarth, yes, Mr. DeBarros, yes, Mr. Goldstein, yes. All were in favor.

Mashpee Commons: To discuss civil engineering review of Phase 1 40B Project.

John Connell and Tom Feronti from Mashpee Commons, and Charlie Rowley were present to continue their discussion of the civil engineering and site work review. Charlie Rowley spent the last month reviewing the work of Horsley Witten Group, Inc., and has communicated with them over various site work that needed correcting. There are two minor situations to address; primarily the intersections of Job-Fishing Road and the traffic island between Benefit and Common Streets, and the parking situation at the elbow of Benefit Street. Mr. Connell stated the funds from the grant will not be awarded until these items are approved.

Mr. Rowley stated he met initially with Mashpee Commons last summer to go over the basic items with Horsley Witten, and met with Mr. Feronti and members of Horsley Witten last Friday to go over the plans he was handed a month ago. He said that most of what he encountered in the plans were in the form of some engineering details that don't have a lot to do with the design or concept of the project. He gave Brian Kuchar of Horsley Witten a summary via email and had a two hour discussion over small items on the plans which he is in the

process of changing.

The Board should be informed of two or three important design items as part of his review discussed last Friday. The plans brought to the hearings can conclude that Mashpee Commons has resolved the issues with some exceptions. The middle of the plan is divided into two phases, Phase 1A which is to the right half of the dashed line and the left is Phase 1 B. There are four circles on the plan, the two circles on the left hand side of the dashed line at the intersection of Common Street and the other at Jobs Fishing Road. The plans showed substantial flare for the pavement that goes out to Jobs Fishing Road. He agreed to pull back so the pavement lines were parallel and didn't see the need for that additional pavement and would provide more green space and landscaping opportunity for the corner. It was agreed to reduce the lines in the pavement to be parallel. Phase 1B has a traffic circle in the middle of the road and Charlie has not seen all the detailed plans. The main thrust of what Mashpee Commons needs approval is Phase 1A because they initially want to construct Market and Benefit Street. The traffic circle in Phase 1B needs more study because he didn't get enough information to make a determination on this particular item.

The other two items on the right hand side of the dashed line of Benefit Street and Job Fishing Road are the same scenario to make the street lines parallel rather than flare out. There's no logical reason to have extra pavement. The Phase 1D label circle edge has a very sharp bend in the pavement. Although it's not obvious on this plan, the contours are such that travelling downhill toward that corner from Jobs Fishing with the grades of the pavement is not only downhill, but on a slope which has a pitch to the outside. The original plan had two parking spaces right at the corner and it was agreed after discussion to relocate those parking spaces which was done and is a lot safer.

Those particular items were the only outstanding issues for the Board's review. However, talking with Mashpee Commons last week, he asked if they would consider waiting until the next hearing date but could possibly lose some funding in the grant to build Market Street. He stated these changes made for Phase 1 and Jobs Fishing and Common Streets are recommended for the Board's approval and at the same time would be acceptable to continue to work with Horsley Witten just to get the fine details cleaned up on the plans.

These details include the Village Green to be constructed at the same time with Market Street. There were elevations missing on the road profiles. There were a couple of places with potential conflicts between sewer lines and drainage lines. There were drain manholes with several dead-end lines and it was determined these are root drains to clean up on the plans. There's a sewer line from Jobs Fishing across the larger amount of green space toward Route 28, and there were limits of clearing that he felt needed to be widened because the depth of the excavation they will require. Those changes will not impact the design and he is comfortable with everything so far and would like to see more study on the circle area of Phase 1 B which is not a critical concern at this point.

Tom Feronti stated after discussions last Friday, Charlie has done a great job. He agreed that Charlie's review covered the particular items discussed at the meeting and can be finalized.

Charlie needs to receive the final plans from Brian Kuchar before submitting a final letter. Once complete he will forward the billing as well. To be in compliance with the Special Permit, comments need to be received within 45 days a vote can be made. A revised full set of plans need to be submitted for approval of Phase 1 A.

Bill Blaisdell made a motion to approve the preliminary plans for Mashpee Commons and is contingent upon receiving a set of the final plans by Wednesday, February 19, 2014. Mr. Reiffarth, yes, Mr. Jodka, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. All were in favor.

Bill Blaisdell made a motion to approve the January 22, 2014 Meeting Minutes. Mr. Jodka seconded, yes, Mr. Reiffarth, yes, Mr. DeBarros, yes, and Mr. Goldstein, yes. All were in favor. Mr. Blaisdell made a motion to adjourn, Mr. Jodka, seconded, yes, Mr. Reiffarth, yes, Mr. DeBarros, yes, Mr. Goldstein, yes. All were in favor.

Respectfully submitted,

Mary Ann Romero
Administrative Secretary
Zoning Board of Appeals