

Zoning Board of Appeals Minutes 02/26/2014

MASHPEE ZONING BOARD OF APPEALS FEBRUARY 26, 2014 MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, February 26, 2014, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Board Members, Jonathan Furbush, William A. Blaisdell, Ronald Bonvie, James Reiffarth, Richard Jodka, Associate Members Domingo K. DeBarros and Scott Goldstein were present and acting throughout. Building Commissioner Richard Morgan was also present.

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

PLEDGE OF ALLEGIANCE

CONTINUED HEARINGS

Steven M. Waldstein: (Shirley Bernstein Katz as Trustee of SBK Realty Trust). Request a Variance under §174-31 of the Zoning By-laws (Land Space Requirement) and M.G.L. Chapter 40A §10 to vary the lot size requirements on property located in an R-3 Zoning District at 36 Fells Circle, (Map 122 Parcel 219), Mashpee, MA. (Continued from January 8, 2014 Hearings).

Mr. Jodka read a formal letter from Mr. Waldstein, dated February 20, 2014 stating he is voluntarily withdrawing without prejudice of his application/petition for a Variance for 36 Fells Circle, New Seabury and will refile his application at a future date when thoroughly completed.

Mr. Furbush made a motion to accept Mr. Waldstein's letter of withdrawal, yes. Vote: Mr. Blaisdell seconded the motion, Mr. Bonvie, yes, Mr. Reiffarth, yes, Mr. Jodka, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. All were in favor.

NEW HEARINGS

Alexander MacLellan: Requests a Variance under §174-31 of the Zoning By-laws (Land Space Requirement) and M.G.L. Chapter 40A §10 to deem lot buildable on property located in an R-3 Zoning District at 403 Great Oak Road (Map 126 Parcel 48), Mashpee, MA. Previous variance expired.

Alexander MacLellan: Requests a Variance under §174-33 of the Zoning By-laws to vary the setback at least fifty (50') feet from any water or wetland as defined by M.G.L. Chapter 131, §40 to deem lot buildable on property located in an R-3 Zoning District at 403 Great Oak Road (Map 126 Parcel 48), Mashpee, MA. Previous variance expired.

Alexander MacLellan: Requests a Variance under §174-85 of the Zoning By-laws and M.G.L. Chapter 21A, §2 (7), to vary the lot requirements of the ACEC area to deem lot buildable on property located in an R-3 Zoning District at 403 Great Oak Road (Map 126 Parcel 48), Mashpee, MA. Previous variance expired.

Mr. MacLellan approached the Board and introduced himself as the property owner stating he is in the process of selling his property on 403 Great Oak Road. He stated he has owned the property for 10 years hoping to build a home but did not have the resources to develop the lot during the "economic slowdown". He has a potential buyer for the lot and wants to reinstate his request for variances that expired due to non-recording at the Barnstable County Registry of Deeds when issued by the Zoning Board at past hearings dated June 27, 2007.

Mr. Furbush wanted to know if there were any changes to the plan that was approved in 2007. Mr. Goldstein wanted to confirm if the potential buyers were aware of the footprint should remain within the dimensions of the original approved plan. Mr. MacLellan stated there are no changes to the submitted plan and is the only footprint of the lot that he is selling. Mr. Goldstein stated that if the buyers change the plan they will have to appear in front of the Zoning Board of Appeals with an updated plan.

Mr. Reiffarth read a letter from the Architectural Review Committee from Frances Drew, ARC Administrator, New Seabury, dated June 30,

2008 to Mr. Alex MacLellan, 9 Seamist Drive, Orleans, MA, reference lot 154, 403 Great Oak Road. "Dear Alex; in response to your question is lot 154 part of Little Neck Bay Village, the answer is "yes". According to the Restated Master Declaration Document #469968 dated September 30, 1988 and Registered with the Barnstable Registry on October 13, 1988, Little Neck Bay Land Court Plan # 35464B Lot numbers 1-155 are covered under this restriction. See Exhibit A page 28."

Mr. MacLellan stated the dimensions are 30 feet by 70 feet. The lot is 19,176 square feet. He stated the potential buyer does not want to build the same house on the approved submitted plan.

Mr. Morgan stated that the proposed dimensions could conceivably be a little less but not more. Mr. Bonvie stated that if the size of the dwelling is reduced within the envelope, it will be acceptable. The proposed plan will need to be comparable or less.

Mr. Goldstein read a letter into the record from the Board of Health to Matt Costa dated February 7, 2014, stating "The Mashpee Board of Health approved the Variance relief and the installation of a single home for a FAST denitrification unit with documented specific conditions."

Mr. Furbush read an email into the record from Andrew McManus, Conservation Agent, dated February 14, 2014. "This property (403 Great Oak Rd) has been issued a total of 3 Orders of Conditions (aka, permits) from the Mashpee Conservation Commission since 1999- all of these permits were for the construction of a 3 BR single family home with Title V, utilities, etc. The first two permits expired (1999-permit # 43-1869/ 2004-permit # 43-2247) with no activity taking place on the lot, other than some periodic vegetation clearance/ mowing to maintain the approved work limit area.

The current Order of Conditions (43-2481) is open (valid) until August of 2014 and it can be extended for a maximum of 3 years at a time via a request for an extension permit through the Conservation Dept. This existing permit covers the same project as the previously expired permits (no changes). If there are any proposed changes to the existing plan of record that we have on file for the valid permit, it will require either an Administrative approval or Amended Order request to the conservation commission (depending on scope of changes proposed)."

Mr. Furbush read an email into the record from Glen Harrington, Health Agent. "403 Great Oak Road – The BOH has approved the septic plan with the condition of adding a denitrification system and ultra-violet light to the septic system. Testing of the denite and UV light is required for two years and a life-long O & M plan is required for the entire system."

Mr. Bonvie made a motion to approve a Variance of 20,824 square feet for Alexander MacLellan under §174-31 of the Zoning By-laws (Land Space Requirement) and M.G.L. Chapter 40A §10 to deem lot buildable on property located in an R-3 Zoning District at 403 Great Oak Road (Map 126 Parcel 48), Mashpee, MA. Referencing a Board of Health plan; "Proposed Sewage Disposal System", prepared for Seamist Builders, HSE No. 403 Great Oak Road, Mashpee, Mass. dated February 26, 2004, Revised June 5, 2007 Label HSE Corners, drafted by Cape & Island Engineering, 800 Falmouth Road, Suite 301C, Mashpee, MA. File No. 159MA. Included in this approval are the letters from both Conservation and Board of Health Departments.

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

Mr. Bonvie made a motion to issue a Variance to Alexander MacLellan under §174-33 of the Zoning By-laws to vary the setback at least fifty (50') feet from any water or wetland as defined by M.G.L. Chapter 131, §40 to deem lot buildable on property located in an R-3 Zoning District at 403 Great Oak Road (Map 126 Parcel 48), Mashpee, MA. Referencing a Board of Health plan; "Proposed Sewage Disposal System", prepared for Seamist Builders, HSE No. 403 Great Oak Road, Mashpee, Mass. dated February 26, 2004, Revised June 5, 2007 Label HSE Corners, drafted by Cape & Island Engineering, 800 Falmouth Road, Suite 301C, Mashpee, MA. File No. 159MA. Included in this approval are the letters from both Conservation and Board of Health Departments.

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

Mr. Bonvie made a motion to issue a Variance to Alexander MacLellan under §174-85 of the Zoning By-laws and M.G.L. Chapter 21A, §2 (7), to vary the lot requirements of the ACEC area to deem lot buildable on property located in an R-3 Zoning District at 403 Great Oak Road (Map 126 Parcel 48), Mashpee, MA. Referencing a Board of Health plan; "Proposed Sewage Disposal System", prepared for Seamist Builders, HSE No. 403 Great Oak Road, Mashpee, Mass. dated February 26, 2004, Revised June 5, 2007 Label HSE Corners, drafted by Cape & Island Engineering, 800 Falmouth Road, Suite 301C, Mashpee, MA. File No. 159MA. Included in this approval are the letters from both Conservation and Board of Health Departments.

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

Other Business:

Approve February 12, 2014 meeting minutes.

Mr. DeBarros made a motion to approve the February 12, 2014 meeting minutes, Richard Jodka, seconded, yes, Mr. Furbush, yes, Mr. Blaisdell, yes, Mr. Bonvie, yes, Mr. Reiffarth, yes, and Mr. Goldstein, yes. All were in favor.

Mr. Blaisdell made a motion to adjourn, yes, Mr. Jodka, yes, Mr. Furbush, yes, Mr. Blaisdell, yes, Mr. Bonvie, yes, Mr. Reiffarth, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. All were in favor.

Respectfully submitted,

Mary Ann Romero
Administrative Secretary
Zoning Board of Appeals