

## Zoning Board of Appeals Minutes 06/24/2015

### MASHPEE ZONING BOARD OF APPEALS JUNE 24, 2015 MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, June 24, 2015, 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, Richard Jodka, Domingo K. DeBarros and Associate Member, Scott Goldstein were present. Also present was Building Commissioner, Michael Mendoza. Board Member, Ron Bonvie was absent.

Mr. Furbush announced the meeting is televised live on Mashpee TV.

#### **PLEDGE OF ALLEGIANCE**

**266 Monomoscoy Road:** Owners, Thomas F. and Bonnie Ann Smith request a Special Permit under §174-25 (I) (9) of the Zoning By-laws to allow for construction of a 12 foot ramp and an 8' x 25' float on property located in an R-3 Zoning District. Assessors Map 120 Parcel 57B, Mashpee, MA.

Mr. Thomas Smith, property owner stated he had an amended order regarding a 15 foot setback to a 25 foot requirement from the State Regulation. He added a float that was not on the original plan and was recommended by the Harbormaster.

Mr. Furbush asked the applicant if the approved January 2014 wooden walkway was constructed. Mr. Smith said; "No". Mr. Furbush stated there was an outstanding violation issued by the Board of Health regarding the innovative septic system, and an \$800 fine that was not paid. Mr. Smith said; "It was done". Mr. Furbush did not receive any record that it was done. Mr. Smith said that he will get that." He also wanted to know if there were any other outstanding issues from other departments.

Mr. Furbush read an email dated June 6, 2015 into the record; "The owner of 266 Monomoscoy Road, Tom Smith was fined \$800.00 for failing to maintain a contract to service his innovative/alternative septic system back in May of 2012. No payments have been made towards that fine." Thanks, Glen, Health Agent.

Mr. Furbush stated to Mr. Smith that he will continue the hearing until July 8, 2015 with proof of a contract for the septic, and that the fine of \$800 was paid upon confirmation from Glen Harrington. He also needs something in writing from the Harbormaster and Conservation.

Mr. Jodka made a motion to continue the hearing until July 8, 2015 pending the clarification of the outstanding bill. Mr. Blaisdell, seconded, yes, Mr. Furbush, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. All were in favor.

**4 Waterline North Drive:** Owners, Donald and Milica Pogorzelski request a Variance under §174-33 to vary the setbacks from water and wetlands to allow for construction of an in-ground pool and shed on property located in an R-3 Zoning District (Little Neck Bay). Assessors Map 120 Parcel 174, Mashpee, MA.

Mr. Kevin Kirrane, Attorney represented the applicants regarding installation of an in-ground pool and shed. He provided a plot plan that shows the existing conditions and the proposed conditions for the 16' x 34' swimming pool and a 10' x 10' shed. The property is located in the Little Neck Bay subdivision, and the lot is approximately 19,200 square feet with 88 feet of frontage along Waterline North Drive. The existing lot coverage of the dwellings, and pier/float complex consists of 21.8%, but up to 30% lot coverage is allowed in this specific area.

The existing dwelling is on a non-conforming lot and the 50 foot setback line from the wetland runs through a portion of the dwelling. However, because the pool and shed are separate structures, and are not part of the pre-existing non-conforming dwelling, the requested Variance relief would require locating the shed and pool within the 50 ft. setback from the wetland resource area of the coastal bank. The Conservation Commission issued an Order of Conditions on April 27, 2015. Mr. Kirrane concluded that that there is a hardship due to the shape, size and topography, and the fact there were no setbacks required at the time when this development was created.

Mr. Furbush read the Conservation Comments into the record; “Yes, Conservation approved 4 Waterline Dr. North”.

Mr. Furbush read the Inspection Department comment into the record; “The area is zoned R3 and the property is in the AE Flood zone. The property is also in the Pre-Contact Archaeology Sensitivity area listed as “High Sensitivity”. Because the shed will be placed within the AE Zone, it will need to be secured to site, secured to the site with sono-tubes or any other method approved by either FEMA and or the Massachusetts State Building Code for building in an AE Zone.”

Mr. Furbush read the Board of Health comments into the record; “Pool shed to be seasonal in nature. No heat.”

Mr. Blaisdell made a motion to approve the applicant’s request for an in-ground pool and shed. The Variance will not be detrimental to the neighborhood and will not nullify or derogate from the existing bylaw. The approval is for 21 feet from the wetlands for the shed and 32 feet from the wetlands for the pool. Referencing a Proposed Site Plan submitted by Cape & Islands Engineering, Project address: 4 Waterline North Drive, Mashpee, MA. Owner of Record: Donald & Milica Pogorzelski, 20 Bryant Street, Cambridge, MA. 02138, dated: 2/10/15, Revision date: 4/2/15, Relocated pool, patio and changed shed, made by: MC, Checked by: MC.

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

**50 Wilann Road:** Owner, Arthur A. Jacobson requests a Variance under §174-31 to vary the side yard setback to allow for construction of a detached garage on property located in an R-5 Zoning District. Assessors Map 46 Parcel 52, Mashpee, MA.

Mr. Steve Cook, Cotuit Bay Design represented the applicant who would like construct a single car garage, 16’ x 22’ to the right hand side of the house which is in line with the driveway. He is requesting a 6.4’ Variance on the south side setback. The plot plan shows the existing 3-bedroom Cape style house with the proposed garage. The lot is only 100 feet wide. The left side of the house is 25 feet from the side property line. The width of the house is 32 feet with a chimney on the side, and leaves very little space to attach a garage.

The design of the garage is to fit behind the front setbacks and there is no relief needed on the two sides, only the right hand side of the south east side of the property. The design has a walkway from the driveway with a walkway up to the house. The deck has a sliding door which is the homeowner prefers to enter the house. The utilities are situated around the chimney. This lot was created in 1985 and the R5 zoning came into effect in 1988 three years later so there’s not much room. There’s no neighborhood detriment and there’s over 100 feet on the right and wooded conservation land in the rear. There will be no living space above the garage, just storage with a pull-down stair assembly. The height of the garage is 18’ from grade. The rinse station is for their large dog.

Mr. Mendoza wanted to know where the plumbing would run for the rinse station. Mr. Cook said the underground water line will be between the deck and chimney where the gas meter is. There will be a wooden frame with stone underneath.

Mr. Blaisdell read the Board of Health comments into the record; “Septic inspection required prior to Building Permit sign-off. New garage to be 10 from existing leaching facility.”

Mr. Furbush read the Inspection Department comments into the record: “The area is zoned R5 and the property is in the Pre-contact Archaeology Sensitivity area- listed as “Moderate Sensitivity”. Proposed garage will be short 6.4 feet from the 25 foot side yard requirement.

Mr. Furbush mentioned he believes there is a hardship because the lot is only 100 feet wide.

Mr. Blaisdell made a motion to approve the request for a 6.4 foot Variance on the south side setback. The Variance will not be detrimental to the neighborhood than what exists today, and will not nullify from the intent of the existing bylaw. Referencing a site plan prepared by Cotuit Bay Design, Richard J. Hood, PLS, Land Surveyors – engineers, 35 Timberland Drive, Mashpee, MA. Job No.: 15104, Dated May 15, 2015, Scale: 1” = 30’. Also referencing a floor plan prepared by Cotuit Bay Design, LLC, 43 Brewster Road, Mashpee, MA, titled; New Addition for: Coburn/Jacobson Residence, 50 Wilann Road, Mashpee, MA. Front Elevation, Scale: ¼” = 1’0”, dated 5/11/2015 Drawing No: A1 and A2.

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

## **OTHER BUSINESS**

### **Approve June 10, 2015 Meeting Minutes**

Mr. Goldstein made a motion to approve the June 10, 2015 meeting minutes, yes, Mr. Blaisdell, seconded, yes, Mr. Furbush, yes, Mr.

Jodka, yes, and Mr. DeBarros, yes. All were in favor.

Mr. Mendoza created a cover sheet form to help focus on case issues during the hearings. The form will list comments, conditions, and calculations when completing the cases during the hearings, and will have the pertinent information listed on each case to help with voting and reading aloud to the audience and applicants.

Mr. Furbush made a motion to accept this document to be used as a worksheet going forward. Mr. Blaisdell seconded, yes, Mr. Jodka, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. 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