

## Zoning Board of Appeals Minutes 07/08/2015

### MASHPEE ZONING BOARD OF APPEALS JULY 8, 2015 MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, July 8, 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, Ronald Bonvie, Richard Jodka, Domingo K. DeBarros and Associate Member, Scott Goldstein were present. Building Commissioner, Michael Mendoza was also present.

#### PLEDGE OF ALLEGIANCE

Jonathan announced that the meeting is being televised on local Mashpee TV.

#### CONTINUED HEARINGS

**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.

An email letter was received on July 6, 2015 from Thomas Smith requesting a continuance until the next available hearing date. The Board voted in favor to continue until Wednesday, July 22, 2015.

#### NEW HEARINGS

**9 Kanter Lane:** Owners, Laura E. Kanter & Susan Wilson request a Written Finding under Article V §174-17 (determine if it's more non-conforming) to allow for construction of an attached garage with living space above on property located in an R-3 Zoning District. Assessor's Map 119 Parcel 1D, Mashpee, MA.

Mr. Kieran Healy, Land Surveyor with the BSC Group represented the owners for the proposed garage project. He provided a narrative, a plot plan, and building plans that depict the existing and proposed conditions of the lot that is situated on Waquoit Bay. The existing house and the side deck is non-conforming due to the side setback of being only 13.5' from the side lot line instead of the 15' requirement. The applicant is proposing to add an addition for a garage with living space above onto the existing home. The Board needs to determine if the addition would increase the non-conforming nature of the building. The project was approved by the Conservation Commission and the Board of Health.

Jonathan read the Board of Health comments into the record; "The septic and floor plan have been approved for three bedrooms. This is considered an increase in flow from 2 to 3 bedrooms. The opening to the living room/office is only 5 feet. The BOH regulation for bedrooms is six feet so the new room above the garage can be considered a bedroom."

Mr. Healy stated that the septic system was designed to accommodate the extra room.

Mr. Furbush read the Inspections Department comments into the record; "The area is zoned R3 and part of the property is in the VE Flood zone. The property is also in the Pre-contact Archaeology Sensitivity area – listed as "High Sensitivity". Seeking relief from Article V §174-17 regarding a determination from the Board if the addition of the garage would increase the non-conforming nature of the home."

Mr. Furbush read letters from two abutters into the record: Thelma and Martha Kanter, Trustees, 8 Kanter Lane, Mashpee, MA and from Neal Kanter, the abutter at 5 Kanter Lane: both in support of the project at 9 Kanter Lane. The owners of 8 Kanter Lane, went on to say that 9 Kanter Lane has full rights to access their property using the current driveway which crosses 8 Kanter Lane. Both 8 and 9 Kanter Lane will create a formal easement to ensure this access for this site.

Mr. Furbush commented that he made a site visit and said the lots were owned by the mother at 8 Kanter Lane and she gave her

children the abutting properties years ago.

Mr. Bonvie was concerned with the electric line running across the property and suggested an easement be required prior to the OCC for access and utilities.

Mr. Bonvie 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.
- Plot Plan prepared by BSC Group, Drawn by Craig A. Field, Professional Land Surveyor, dated 6/18/2015. Titled: Plan of Land at #9 Kanter Lane Seconsett Island in Mashpee, MA. Existing and Proposed Conditions, dated June 15, 2015, Revisions: No. 1 dated 6/18/15 Update Assessors Info, Prepared For: Laura Kanter, 107 Griggs Road, Unit 2, Brookline, MA 02446. BSC Group, 349 Route 28, Unit D, W. Yarmouth, MA 02673, Scale: 1" = 10', File: 9899-SP.DWG, DWG. No: 6296-03, Job No: 49899.00 Sheet 1 of 1.

A required easement must be obtained and recorded for access and utilities prior to the issuance of a certificate of occupancy by the Town of Mashpee.

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

Mr. Healy was very appreciative with the staff at the Town Hall saying they were very helpful!

**17 Cape Drive:** Owner, Seventeen Cape Drive Mashpee, LLC request a Written Finding under §174-25 (K) to allow for construction of a 16' x 26' storage shed to be used for storage of construction tools and equipment on property located in a C-2 Zoning District. Assessor's Map 55 Parcel 20, Mashpee, MA.

Mr. Keith Shaw presented the application and has been the owner of the property for the past two years. He said his construction management company occupies fifty percent of the building, and has tenants occupy the rest of the building. He would like to construct the shed for storage of construction tools and equipment on the property rather than off-site. Mr. Shaw noted that the shed will be constructed on sono-footings with a "big-foot" base.

Mr. Mendoza addressed the Board stating he was trying to determine the correct use in the bylaw for this application because the zoning district does not allow a contractor's yard, and this is not the intent of the project. The intent is really for storage use, and there was nothing close in the bylaws that suits this description. He suggested that the Board make conditions that comply with the intent, i.e., no heavy equipment, no construction trucks, etc., and to make guidelines for this use. The other question was, would the Board feel that this use would require a special permit?

Mr. Shaw stated he will be storing safety equipment and tools. The shed will have an overhead door, and the floor of the shed is 2.5 feet off the ground so a truck can back up for loading and unloading.

Mr. Furbush read a comment from the Board of Health into the record; "No issues with this proposal."

Mr. Furbush read comments from the Inspections Department into the record; "The area is zoned C2. Applicant seeking a Written Finding under §174-25 (K) if the Use is allowed in the proposed shed and if said Use would require a Special Permit."

Mr. Bonvie 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.
- A Site Plan: Prepared For Tom Sullivan of 17 Cape Drive Mashpee, MA, From: J.E. Landers-Cauley, P.E. Civil Environmental Engineering, PO Box 364 West Falmouth, MA 02574, Ass#55-20, date: 9/14/07, Scale: 1" = 20', drawn by: DLC, Job No. 1732, Sheet 1 of 2.
- Nothing can be stored and/or no activities outside the shed that makes it resemble a contractor's yard.

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

## **OTHER BUSINESS**

### **-Vote to Reorganize Board Member Appointments**

The Board voted and nominated Jonathan Furbush, as Chairman, William A. Blaisdell, as Vice Chairman and Ron Bonvie, as Clerk.

### **-Discuss and Finalize Proposed Bylaw Changes of Accessory Apartment and Flat Wall Signs for submission to Selectmen's office by July 13<sup>th</sup>.**

The Board members voted to submit the following Zoning By-Law changes.

#### **Amend Section §174.45.4 E, with additional language as shown Italicize and Underlined:**

E. **Exterior Design.** Modifications to the exterior of an existing principal structure resulting from the installation of an accessory apartment shall be consistent with the principal structure's predominant character as a single-family home. *There shall be only one address for the building and only one electrical and gas meter used to serve both units.* Appropriate landscaping may be required in order to provide a buffer between the applicant's lot and abutting properties.

Vote: 5 – 0 in Favor

#### **Replace §174.45.4 H, in its entirety with the following:**

H. Any application for a Special Permit under this Section shall require the submission of three (3) original copies of the application, plans and documentation required under §174-24 C3 for Special Permit application to the Board of Appeals.

Vote: 4 – 1 in Favor

#### **Add to Section §174.45.4, the following new section:**

K. A single accessory apartment is exempt from the Plan Review requirement of §174- 14 B.

Vote: 4 – 1 in Favor

#### **Amend Section §174.55 B, with additional language as shown Italicize and Underlined:**

B. Building signs are allowed up to ten percent (10%) of the aggregate square footage of the front wall area, *of the individual occupied space*, with wall area measured as total width times average height of the *individual occupied space of the* wall elevation being measured. Determination of which wall area shall be considered the front shall be by the Special Permit granting authority for projects requiring a Special Permit and by the Building Inspector where no Special Permit is required, with that wall facing the nearest street line normally considered the front. The square footage allowed may be applied to a single-sign, a series of signs representing individual businesses or any combination thereof. Such signs can be placed on or attached to any wall, but in no case shall the total of all building signs exceed ten percent (10%) of the front wall square footage, nor shall any wall have signage exceeding five percent (5%) of that wall's aggregate square footage (with said limit including any projecting, window or awning signage). These signs can be any of the following: wall, window (per requirements in subsection E), projecting, and awning. The top edge of each such sign shall be not higher than the top edge of the wall and no higher than the plate of a flat roof.

Vote: 5 – 0 in Favor

### **-Approve June 24, 2015 Meeting Minutes**

Mr. Goldstein made a motion to approve the meeting minutes, yes, Mr. Jodka, seconded, yes, Mr. DeBarros, yes, Mr. Furbush, yes, and Mr. Blaisdell, yes. Mr. Bonvie abstained.

Mr. DeBarros made a motion to adjourn. All were in favor.

Respectfully submitted,

Mary Ann Romero  
Administrative Secretary  
Zoning Board of Appeals