

Zoning Board of Appeals Minutes 10/08/2014

MASHPEE ZONING BOARD OF APPEALS OCTOBER 8, 2014 MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, October 8, 2014, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. The following Board Members were present, Chairman, Jonathan D. Furbush, Vice Chairman, William A. Blaisdell, Clerk, Ronald Bonvie, Board Member, James Reiffarth, Associate Members, Domingo K. DeBarros and Scott Goldstein and Building Commissioner, Michael Mendoza. Board Member, Richard Jodka was absent.

Mr. Furbush opened the meeting at 6:00 p.m. and announced the meeting was televised live on local Mashpee television.

CONTINUED HEARINGS

Cotuit Solar: Request a Variance under §174-31 of the Zoning By-laws for setback relief requirements of a residential structure located in a C2 Zone at 36 Savannas Path, (Map 62 Parcel 68B), Mashpee, MA. (Continued from September 10, 2014 Hearings).

Cotuit Solar: Request a Special Permit under §174-24, §174-25 D (1) and §174-41F for construction of a solar warehouse and meet adequate parking requirements located in a C2 Zone at 36 Savannas Path, (Map 62 Parcel 68B), Mashpee, MA. (Continued from September 10, 2014 Hearings).

Mr. Geysler, Principal of Cotuit Solar stated he provided the Board with updated plans with the requested information; building height, the dimension of the Northwest corner of the pole barn to the wetlands, the revision dates and a check made out to the Town of Mashpee for consulting fees. He stated that the Conservation Commission approved the proposal.

Mr. Furbush stated he read the updated plot plan, and does not depict the correct distance of the barn moved back 10 feet as requested. It was originally 106 feet from the wetlands, and the new plan shows 113 feet. Mr. Furbush stated he was not concerned with the setback from the road. Mr. Furbush also mentioned that the height was not shown on the plan; it was listed in the note section but not on the building; therefore the plan will need to be updated.

Mr. Furbush read an estimate provided by Charlie Rowley, Consulting Engineer into the record for Cotuit Solar's site work on behalf of the Town. Mr. Furbush explained to Mr. Geysler that a check would need to be given to the Town for Charlie's site work.

Mr. Bonvie and Mr. Reiffarth reiterated that Mr. Geysler needs to get the updated plan to Charlie Rowley, so he can report back to the Board of his findings prior to the next meeting on October 22, 2014.

Mr. Furbush stated the updated plan needs to depict the following:

- The Pole Barn **116'** from the wetlands and closer to the road
- The **height** of the Pole Barn as **20'**
- The **revision dates**.

Mr. John Bartlett, and abutter that resides at 28 Sampson Mill Road, approached the Board and stated he would like the following conditions written into the decision as discussed at prior meetings:

- No access should be permitted for construction vehicles from Sampson's Mill Rd.
- Lockbox gate at the edge of property line.
- Restrict hours of operation from 7:00 am to 5:00 pm, weekdays, and no weekends.
- Plantings of vegetative border.
- Downward lighting.

Mr. Furbush stated that he would go by the Town Bylaw regarding weekend hours. Also he was not sure the ZBA has any jurisdiction on

plantings.

Mr. Furbush read a letter into the record submitted by Lorraine and Roland Bird, 89 Sampson's Mill Road. It stated the same comments as Mr. Bartlett except item number (2) two was noted as; "No requirements of the zoning by-laws that should be relaxed or amended in any way on this land. There is no hardship on the land. Therefore the permit should not grant any deviation from setback, coverage ratios, paving, draining or other factors of development."

Jim Wills, an abutter that resides at 112 Sampson's Mill Road, approached the Board and stated he wants the Board's decision to prohibit commercial access on Sampson's Mill Road, and also believes the ZBA can make a decision regarding vegetative buffer.

Mr. Bonvie made a motion that the Board accept the applicant's request to continue the hearing until October 22, 2014, at which time will render its decision.

NEW HEARINGS

Robert M. and Marjorie Hackett: Request a Written Finding under §174-17 of the Zoning By-laws to allow for construction of a deck on property located in an R-3 Zoning District at 10 Stanley Road, (Map 114 Parcel 88 & 89), Mashpee, MA.

Mr. Kevin Kirrane represented the Hackett's for their deck construction and supplied the Board with photographs, a plot plan, and a copy of recorded decisions of finding a fact for their demo and rebuild house project back in 2013. The updated plan depicts their new home and an adjacent parcel of land they acquired which increases the size of their parcel from 2,968 square feet to 6,112 square feet. This will allow them to add a deck to the Southerly side of the new dwelling.

The additional acreage will keep the deck compliant with the side and rear setback requirements and will be under the 20% lot coverage, but does not conform with the setback to the paper road known as Monomoscoy West. The existing structure is non-conforming therefore there was a need to apply for a Finding with the 14 x 16 deck addition.

The Board wanted confirmation that both lots are now owned by the Hackett's. Mr. Kirrane said the Hackett's took over the adjacent lot by deed. He provided the Board with a copy of the two deeds that depict four lots; "608, 609, 610 and 611" and were recorded on 6/9/2014.

Mr. Blaisdell read the Board of Health comments into the record; "Septic repaired in June for (2) two bedrooms. No comments on the deck required."

Mr. Bonvie made a motion to issue a Written Finding to Robert M. Hackett and Marjorie A. Hackett, also known as RMMAH8 Nominee Realty Trust under a Trust dated March 6, 2007, and §174-17 of the Zoning By-laws to allow for construction of a deck on property located in an R-3 Zoning District at 10 Stanley Road, (Map 114 Parcel 88 & 89), Mashpee, MA. Issuing the Finding the Board makes reference to a plot plan prepared by: JC Engineering, Inc. 2854 Cranberry Hwy., East Wareham, Ma 02538, titled; Proposed Site Plan, prepared for Marjorie Hackett, located at 10 Stanley Road, Mashpee, MA, 02649. Scale: 1 inch = 10 feet, dated October 16, 2013, Revision date 11/04/13, 1/6/14 and 8/4/14.

Conditioned upon the parcels 88 & 89 have merged and can never be separated in entirety by the same realty trust that is the same applicant as recorded. The Board also finds the project is not substantially more detrimental than the pre-existing non-conforming structure, the deck will conform to current building code requirements, is compatible in size with other structures in the neighborhood, and there is sufficient parking and setbacks as may be required.

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

John C. and Debra M. Landsiedel: Request a Written Finding under §174-17 & §174-20 of the Zoning By-laws to raze and replace a single-family dwelling located on property in an R-3 Zoning District at 12 Monomoscoy Road West, (Map 114 Parcel 68), Mashpee, MA.

John Slavinsky, Cape & Islands Engineering represented the Petitioner requesting to raze and replace their three season dwelling. The plan depicts the existing and proposed three bedroom home with landscaping. He stated the plan was approved by the Conservation Commission and given an order of conditions.

Mr. Slavinsky stated the Board of Health wants the second floor office to have a 6-foot permanent opening. The lot coverage will be 19.6% and the height of the dwelling will be 29 feet. The new dwelling will meet current zoning side setbacks at 15 feet, the elevation is 12. The basement floor is 12.5, and the slab will be built up above the flood zone.

Mr. Furbush stated he noticed a new shed on the property and wants it removed.

Mr. Furbush read the Board of Health comments into the record; "Septic design plan approved on February 3, 2014 for 3 bedrooms. An installer has not pulled the permit yet but the approval of the plan is good for three years. The second floor office is considered the 4th bedroom and cannot be built as proposed. The room must have a 6-foot permanent opening. The 3rd floor loft area must remain unfinished and unheated or it is considered the 5th bedroom." These comments will be conditioned into the decision.

The Conservation Commission issued an Order of Conditions was recorded on 12/6/2013, Book 28002, Page 231.

Mr. Furbush read the Harbormaster comments into the record; "The Harbormaster requires that the dock/floats including 10A floats must be updated to black hard plastic encapsulated block flotation and all the foam/Styrofoam be removed and disposed of properly. This will help eliminate the issue of storm bourn debris on our bays, lakes and rivers. Also that the street address must be permanently and clearly displayed with minimum of 3" block letters with contrasting color at end of pier/piling for emergency purposes, and in addition to the owners address be permanently affixed on all floats and ramps with 3" block letters with contrasting color. Otherwise, The Harbormaster has no issue with this plan. Thank you, Stephen Mone, Harbormaster.

Mr. Bonvie made a motion to issue a Written Finding to John C. and Debra M. Landsiedel under §174-17 & §174-20 of the Zoning By-laws to raze and replace a single-family dwelling located on property in an R-3 Zoning District at 12 Monomoscoy Road West, (Map 114 Parcel 68), Mashpee, MA. Making reference to Harbormaster comments, Conservation Comments, and Board of Health Comments that have to be met in the redesign of the plan. Also conditioned into this decision, the shed located at 5 Monomoscoy Road West is illegal, and will need to be removed prior to any issuance of building permits. Referencing house plans dated provided by Bruce Devlin Design, scale= 1/4"-1.0", dated September 2014, pages 1 of 6, Page 2 of 6 needs to be amended as referenced by the Board of Health. Also, a site plan prepared by Cape & Islands Engineering; titled; Proposed House Reconstruction/Landscaping House No. 12 Monomoscoy Road West, dated October 24, 2014, Scale: 1" = 20', File 111MA. The Board also finds the project is not substantially more detrimental than the pre-existing non-conforming structure, will deck will conform to current building code requirements, is compatible in size with other structures in the neighborhood, and there is sufficient parking and setbacks as may be required.

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

Joann Wilson: Request a Written Finding under §174-17 of the Zoning By-laws to raze and replace a single-family dwelling located on property in an R-3 Zoning District at 27 Elliot Road, (Map 118 Parcel 118), Mashpee, MA.

Mr. Furbush announced he was stepping down from this petition.

Mr. Mark Gildea, Attorney, represented the Petitioner for the raze and replace project. Mr. Gildea. He introduced Raul Lizardi-Rivera, of Holmes and McGrath, Engineering and Joe Colantano, Builder for the project. Mr. Gildea provided pictures of similar homes in the neighborhood, a plot plan depicting the existing and proposed dwelling. The current property is located in the Popponesset Overlay District, is just under 8,400 square feet, a single-family home with a concrete patio and paved driveway. There is sufficient parking and has no setback issues. The existing setback in the front is 19.5 under the proposal and will increase to 20 feet. Conservation has approved the project and awarded an order of conditions. The applicant is proposing a modest home and has no issues with lot coverage within the required 20%.

Mr. Blaisdell questioned the staking of the covered deck. Mr. Gildea stated the property has an existing concrete patio on the water side. The proposed plan depicts a covered deck which matches the concrete patio and does not extend any further than what currently exists and is included in the calculations of lot coverage.

Mr. Blaisdell read the Board of Health comments into the record; "Septic repaired in 2003 for 3 bedrooms. Septic passed inspection in March, 2014. Floor plans reviewed. Office has half-rail with 6-foot opening which is compliant. OK for 3 Bedrooms."

Mr. Bonvie made a motion that the Board issue a Written Finding under §174-17 of the Zoning By-laws to raze and replace a single-family dwelling located on property in an R-3 Zoning District at 27 Elliot Road, (Map 118 Parcel 118), Mashpee, MA. Referencing the following; a Board of Health Disposal Construction Permit dated June 2, 2003, and a Certificate of Compliance issued on 6/18/2003. An issued Order of Conditions by Massachusetts DEP, dated 10/2/2014. A Site Plan prepared by Holmes and McGrath, Inc. for Joann Wilson for lot 16, #27 Elliot Road, Mashpee, MA, Scale: 1" = 20', dated August 29, 2014, Job No: 214137, Dwg. No. 88-3-73A, sheet 1 of 1. A plan titled; Wilson House, Proposed 1/4" = 1'.0", prepared by Denise D'Ambrosi Bonoli, A.I.A., East Falmouth, MA, dated 9/12/14, Page 1 of 6.

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

Mashpee Commons, LP: Request minor modifications under Special Permit SP-86-04-024 to address actual built conditions, relocate certain square footage of building space and location of parking areas, and previously approved residential units as permitted on property located in a C-1 Zoning District, at 38 Nathan Ellis Highway, Building 30, (Map 74 Parcel 20), Mashpee, MA.

Mr. Bonvie abstained from the Mashpee Commons hearings.

Tom Feronti, represented Mashpee Commons LP, requesting a minor modification to their special permit to construct another building from the master plan documented as building 30. The two-story building will be located on the corner of Market Street and the new road to be named Storrs Road. The first floor will be mercantile with four retail spaces, and five apartments on the second floor. Also included in the petition is a square footage table with the reallocation of square footage from other buildings, and will not exceed the permitted total of the allowed square feet. The second document shows the parking calculations even with the construction of the new building and sufficient parking. The third document is a waste water calculation showing enough capacity to bring this building online.

The building is being reconstructed as an addition to the retail florist space with three second floor apartments. Two of those apartments have stairwells going down to the ground, combining two of those second floor units to share the same stairwell. There's a net loss of 10 parking spaces, but construction of seven new parking spaces includes handicapped, and three additional spaces on Market Street. This will be a net loss of seven parking spaces when all completed, but leaves a surplus of 39 parking spaces on the calculation. The first floor four will have retail spaces ranging from 950 to 970 square feet. The front doors will exit onto Market Street and will have rear access. The buildings will be connected on the second floor with the wooden stairwell and will be passable underneath. All the site work and parking will be completed with the construction of the building.

Mr. Mendoza will need to review the stairwell structure if wood constructed. The fire department will need to be informed because it's a life safety issue. Mr. Feronti can redesign the stairwell as metal if required.

Mr. Bob Wooldridge, Chairman of the Mashpee ADA wanted to confirm the accessibility of handicapped parking of the new building.

Mr. Blaisdell made a motion to approve Mashpee Commons LP request for a minor modifications under Special Permit SP-86-04-024 to address actual built conditions, relocate certain square footage of building space and location of parking areas, and previously approved residential units as permitted on property located in a C-1 Zoning District, at 38 Nathan Ellis Highway, Building 30, (Map 74 Parcel 20), Mashpee, MA. Referencing a prospective plan titled; Building 29A – Mashpee Commons, prepared by IMAI Keller Moore Architects, dated September 4, 2014, A1.1, A1.2, and A3.1. Site Plan prepared by Horsley Witten Group, Inc., dated; September 2014, survey provided by: BSS Design, Falmouth, MA, Project Number 13050A Sheet 2 of 4, and Master Plan Special Permit, dated March 4, 2003.

OTHER BUSINESS

Mashpee Commons LP & Jobs Whitings Trust: To present the updated Final Comprehensive Permit for review and approval as required by the 40B regulations. Documents presented will describe or depict all changes or updates since the original Preliminary Comprehensive Permit approved by the ZBA in 2007.

Mr. John Connell, represented Mashpee Commons LP & Jobs Whitings Trust. Also present was Tom Feronti of Mashpee Commons, and Bob Engler, 40B Consultant. Mr. Connell provided the Board with a final document schedule that summarizes the numbered unit submissions listed in the 40B permit that coincide with numbered folders of already reviewed and approved engineering, sequencing of building types, design phase and mix, parking, construction, mitigation plans, and easement. He also provided a final summary document of Sub-Phase 1A, describing what was modified, updated, and completed for submission to Mass Housing for final approval that's required prior to filing building applications.

Bob Engler, 40B Consultant stated that Mass Housing does a financial affordability review of the correct rents and incomes. There's a limit of dividend that the developer cannot take out in any given year. A report is provided by the Monitoring Agent for every rental including information of the for-sale property, what units are sold with the correct income along with the deed of that sale, and is standard throughout the State. These reports are sent to the Town Manager and Selectmen.

A final letter of approval needs to be submitted by Mass Housing before submitting building permit applications. Once Mass Housing submits approval, another meeting to the ZBA will be needed. John confirmed that once the approval is given, the building applications will be submitted within a reasonable time.

Mr. Blaisdell stated the Board determined the submittals are insubstantial changes to the already approved 40B Comprehensive Permit.

Approve September 10, 2014 Meeting Minutes

Mr. DeBarros made a motion to approve, yes, Mr. Blaisdell, seconded, yes, Mr. Reiffarth, yes, Mr. Goldstein, yes. All were in favor.

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

Respectfully submitted,

Mary Ann Romero
ZBA Administrative Secretary