

ZBA Minutes Meeting of September 6, 2006 – Field, Foley, Antonellis, Ward

Members Present: Robert Cadle, Stuart Schulman, Chase Duffy, Cindy Maxwell, Jay Prager

Chairman Cadle convened the Field hearing by reading the Legal Notice.

The applicant noted that he has been doing signs in town since 1992, and that he bought the house in 2002 for the shop in the rear. He said that he has had a home occupation permit from the BI in the past, then moved into Pepperell and then to this house. He noted that he was working for 1.5 years and realized that he didn't have a permit for use of the accessory building and that is why he is here now. He stressed that there has been no change for the four years since he has been there, noting that he has done most signs in town.

Discussion ensued regarding whether a special permit is needed, which it is because the operation is occurring in an accessory structure.

Andy Peterson, 191 Hollis street, spoke in support of the request, noting that the applicant is a resident, and meticulous groundskeeper, etc. He said that the business is inconspicuous and when receiving material deliveries once or twice per week, it is a quick stop by a truck in front of the house. He said that his understanding of the permitting process is that it is not a rezoning but just a permit given to him that is nontransferable.

Of note, a condition of the permit is that it will be nontransferable.

Mr. Field said that the shop is about 300 feet to the rear of the property, which is right between Martins Pond Road and Blossom Lane. He noted that the lot is narrow, and the shop is not busy or particularly visible. He said that he has no employees and no paint booth, and the few items stored outside are kept behind the barn.

Chairman Cadle asked about solvents and paints.

Mr. Field said he has them on the property, following the code as required by the insurance company and stores them in a fire proof paint cabinet. He noted that the sign business has changed and there is less handcrafting and more design and spec work. He stressed that there is no retail trade and very little activity on site.

The Board moved to grant a special permit for a home occupation in an accessory structure to Mr. Field, 200 Hollis Street, for a period of five years and the permit is not transferable. The motion was seconded and passed unanimously.

The Chairman convened the Foley/Jurczyk hearing by reading the legal notice.

Mr. Foley noted that he has owned the building on Townsend Road for ten years and they occupy the entire building, which has two separate porches and was once a commercial building over 100 years ago. He said that they want a shed roof porch to give ambiance back to the building. Because it is so close to the road they need a variance to do anything.

Discussion ensued regarding the porches that are there now and how the design will affect setback. Mr. Foley said that the new porch will be only two or three inches closer in one section because the steps will be off to the side instead of in front. He said that they want just one big porch, noting that the building originally had a full shed roof that was knocked off in a storm in the late 1930's. He said they found part of the original roof in yard.

Mr. Schulman asked whether only a two inch variance is necessary.

Mr. Foley said that they need one for the side because they are moving the stairs to the side and the setback is going from 14.5 inches to 8.10 inches.

Chairman Cadle asked about the patio/sunroom request to rear.

Mr. Foley said that he has no specific plans but has the required 15 feet side and rear setback.

Mrs. Jurczyk said that she was told the original porch was much larger than what they propose.

Discussion ensued regarding the road width when the dwelling was constructed versus its width now.

Chairman Cadle noted that they can't meet the setback requirements because of the placement of the house, which is too close to the front lot line.

Mrs. Duffy noted that is what happens when a town has been around for 350 years.

Mrs. Jurczyk said that she was told that the structure was originally built so close to the road because it was once a store.

Mr. Schulman said that parking wasn't an issue over 100 years ago.

Rule Loving, abutter living two houses up said that he came in support of the application. He said that the applicants are making a serious investment and that is a good thing. He noted that he came before the Board a few years ago because his house is two feet from the property line and he needed a variance.

Discussion ensued regarding the literal enforcement of a hardship.

Mrs. Jurczyk said that the house has been ugly for a long time and they want to improve the appearance.

Discussion ensued regarding the extent of the variance and how to justify granting it. Chairman Cadle said that a hardship is without the variance the applicant couldn't complete the project to restore the dwelling to its original architectural state.

Findings: the applicant researched the history and the proposal is in keeping with historical content/architecture of the original structure.

The Board moved to grant a variance as requested to allow a front setback that is diminished by two to three inches when the two porches are merged into one with an extension across the front of the house. The house is at an angle and this particularly dwelling is different than other dwellings in the neighborhood, and a hardship would be created to deny allowing an architectural recreation of the existing dwelling. Further, the proposal doesn't derogate from the intent of the by-law or negatively impact the character of the neighborhood. The motion was seconded and passed unanimously.

The Chairman convened the Antonellis hearing by reading the legal notice.

Don Black, contractor for the applicant, presented a more detailed plan of the proposal, noting that they want to expand the master bedroom/bath. He said that if the addition is put to the rear, more expansion would be required and the location of the lotline/setback would be at issue.

Mr. Prager asked whether the plan could be altered to conform with setbacks by expanding to the side instead of to the front.

Mr. Black said that they are working with a hallway and want to increase closet space.

Mr. Prager suggested that they could have a bigger space if the expansion went to the side.

Mr. Black said that there is a pathway to get to the back yard by the side of the house and noted that there is a solid plane at the front of the house that is being broken up to make the house more in keeping with other dwellings in the neighborhood.

Mr. Antonellis said that the house has a side setback of 30 feet but the neighbor has a large deck and hottub and he doesn't want to go in that direction.

Mr. Prager asked whether that neighbor met setback. Mr. Antonellis said that he did, by at least 15 feet.

Mr. Antonellis said that he has worked with Maureen Giattino, architect, to break up the existing

long, flat ranch look. He said that he doesn't want to go up so peaked breaks are what is being planning. He noted that he has explained the plan to all the neighbors and that he wants to break up a long, 70 foot line that is the front of the existing dwelling.

Mr. Schulman noted that the peaks are fine, but that the master bedroom plan that juts out is the problem.

Mr. Prager felt that he could have peaks in the front and still have the room go out to the side, noting that there is some wiggle room.

Mrs. Duffy asked about the frontage of other dwellings.

Mr. Black noted that they all have at least 50 feet.

Mr. Prager said that he thinks there are other ways to do this project without affecting the quality of renovation, noting that the new bedroom is 14 x 16.

Mrs. Duffy noted that the planned frontage is six feet short of the 50 foot requirement, but given where the house is, on a short dead ended street with wetlands at the end, he is not doing anything detrimental to the neighborhood or the by-law.

Mr. Prager said that there are too many factors that don't meet the variance criteria and there is no hardship because it could be built without needing a variance. He stressed that it could architecturally be laid out in a satisfactory way.

Mr. Black said that they would have to go into another bedroom and take additional space.

Mr. Prager suggested moving to the right side of the bedroom.

Mr. Antonellis said that he doesn't want a bathroom next to the entry way.

Mr. Black said that there is a finished room in the basement and would require much cutting through.

Of note: the septic system is in back.

Mr. Prager said that one could go in through the basement to get to the septic line.

Mrs. Duffy suggested that the applicant rethink the master bedroom space.

Mr. Prager noted that they have ten feet to play with in the back.

Mr. Black said that the subdivision was built in 1958 and is one of the first in town. He said that he doesn't know what subdivision requirements were at that time and what the road width requirements were.

Discussion ensued regarding the history of the by-law and what was relevant in 1956 versus today.

Mr. Prager said that he doesn't want to create a problem but noted that the ZBA's role is to determine whether a plan is viable without setback violations.

Mr. Antonellis said that it will cost more to rehire the architect.

Mr. Prager said that the architect should be sensitive to meeting zoning requirements.

Mr. Antonellis said that he is not sure how the peaks will fit in with a redesign, noting that he wanted to do what is aesthetically best for the neighborhood.

Mr. Prager noted that the by-law doesn't address the aesthetics of the dwelling.

Discussion ensued regarding whether it is better to increase the length of the house vs. putting a jog in the front.

Mrs. Duffy said that they are putting the interpretation of the by-law so literally that they aren't looking at aesthetics or character of the neighborhood.

Mr. Black asked about getting letters of support from neighbors.

Mrs. Duffy noted that the house has been there since 1958 and it has always been an eyesore. She said that if the owners want to make it beautiful then a literal interpretation of the by-law is a hardship.

Mr. Black noted that if they could have changed the design to conform, then they would have.

Mr. Antonellis said that he is very sensitive to this and that is why he has chosen this design, to make the structure more appealing.

Mr. Black said that there is proposed work to be done by adding on to the other side of the house.

Mr. Prager noted that adding a garage on the other end will increase the overall length of the structure by a lot.

Discussed ensued regarding variance requirements.

Mr. Schulman said that typically if relief can be granted without damage to neighborhood then the permit is granted. The house is where the house is and aesthetically pleasing and not so different than the last case.

Chairman Cadle noted that the last applicant did not have any other options because he couldn't meet the 50 foot setback anywhere.

Mr. Antonellis said that he went through with this plan because it is the best one, noting that he does not want to lengthen the structure anymore on this side.

Mr. Prager said that he had no problem adding to the length of the building with the garage, noting that he could have a bedroom on the other side.

Mr. Black said that if they start lengthening further, the structure would not be in keeping with the neighborhood.

Mr. Prager noted that no other house in the neighborhood violates front setback requirements.

Discussion ensued regarding what the actual measurements are, but Mr. Prager thought that it could conform and have the same living space, noting that it is not a substantial hardship to stay within setbacks. He said that the pool and patio don't relate to the condition of the structure and in the interpretation of the by-law, if there is wiggle room, which there is, then the plan could and should be redesigned.

Discussion ensued regarding whether to get a continuation and re-design or to see how the vote goes and go from there.

Mrs. Maxwell said that she doesn't have an issue because only one part is being brought out, rather than the entire length of the dwelling.

The Board moved to continue the hearing to October 4th at 8:15 pm. The motion was seconded and passed unanimously.

Chairman Cadle convened the Ward hearing by reading the legal notice.

Mr. Ward noted that he has a space issue, and he bought an extra lot a little over two years ago. He said that he took down several trees that were leaning towards the neighbors' house and it turned out that the trees were rotted. He said that he bought the lot with the hope that he could build a garage. He noted that the lot is connected to with his house lot and the two lots have merged.

Mr. Prager asked whether he will drive into the garage from Whitewood Rd.

Mr. Ward replied in the affirmative, noting that he will access the house to the rear.

Discussion ensued regarding what setbacks are not being met.

Mr. Schulman said that he is uncomfortable with the 7.5 foot side setbacks because it limits what the abutter could do.

Mr. Prager suggested moving the garage back and asked what the standard size of a garage is, noting that if the garage was moved back and made smaller, it would be more conforming.

Discussion ensued regarding the ramifications of moving the garage back on the lot, as well as making it smaller.

Mr. Schulman asked for a better picture/plan.

Beth Montgomery, abutter, said that she would like the garage to be set back further than 30 feet, noting that she drives past every day and there is already negative impacts from others on Whitewood Drive. She also asked how tall the structure will be and Mr. Ward answered that it would be a 14 foot, one story garage.

Mr. Prager said that he could have a 15 foot setback to the rear and try to minimize the side setback impacts.

Mr. Ward said that a new house in the neighborhood has 2.5 foot deck because the side setback so small.

The Board moved to continue the Ward hearing to 10/4/06 at 8:30 pm. The motion was seconded and passed unanimously.

The meeting adjourned at 9:40 pm.