

ZBA Minutes September 3, 2008 – Kinnear, Black/Guichard

Members Present: Robert Cadle, Chase Duffy, Cynthia Maxwell, Alison Manugian, Harris McWade

Chairman Cadle reconvened the Kinnear hearing, explaining how the hearing was continued.

Atty. Anctil, agent for applicant, apologized for not being available at the last hearing. He then gave a history of the project, noting that they received a variance from the ZBA, got a septic permit from the BOH and then went to the Con. Comm. and got two separate Orders of Conditions. He said that they obtained a permit on 12/12/07 granting variances and Condition #2 states that the dwelling shall be constructed as shown on the plan dated September 2007 (Job 03131A, Peter A. Lothian Professional Land Surveyor). He said that the Board approves a plan conditioned on Conservation Commission approval and this plan needs to be changed per the Con. Comm. He then described the dimensional changes as outlined in his letter attached to the application. He said that he wants the ZBA to endorse a new plan in which the house is further from the road. He said that the Conservation Commission wants the house as far from the road as possible to create a flatter area for off street parking. He said that this is unusual but it creates better parking. He said that the new plan has the dwelling one foot closer to the side lot line but it is not as close as the existing house.

The Board asked about the location of the distribution box.

Discussion ensued regarding the location of the closest abutter. Mr. Kinnear thought the box is about 50 feet from the abutter.

Atty. Anctil said that they had a plan to build the septic on the side of the house but it was too close to the abutter and the BOH decided that it should be closer to the road.

Chairman Cadle asked whether the other side of the street is used for parking.

Atty. Anctil said that Mrs. Duffy wanted to make sure that the other side of street could not have another dwelling, noting that there is a condition that it couldn't be sold separately.

Chairman Cadle asked about the easement. Atty. Anctil said that they had one approved by the BOH.

Chairman Cadle asked whether the Con. Comm. Orders of Conditions were available.

Atty. Anctil said that yes, two order of conditions are available, noting that he didn't bring them but that they are registered with the deed. He said that he is also including a deed restriction for both lots. Atty. Anctil submitted two orders of conditions from the Con. Comm.

Mr. Kinnear said that they are here because the Con. Comm. didn't want decks on the side of the house and now they can move the house back for a better parking area.

Ms. McWade said that she likes the new plan better.

Atty. Anctil said that his client spoke to the three houses past his property and they all felt fine with the slight changes. He also noted that the deed restriction references a plan from 2004 and that plan merges the two lots that lie on either side of the street.

Mrs. Duffy said that she likes the new plan.

Discussion ensued regarding fencing options.

Atty. Anctil said that this is really not an amendment because the changes miniscule, entailing only moving the building four feet and making the non-conformity less non-conforming. He said that the decision should be written keeping the rights of the original decision.

The Board moved to grant variance from setback for the reasons set forth in Decision #14-07, approved 12/12/07 and incorporated the revised plan submitted 9/3/08, dated September 27th and signed by Peter Loviathan on May 28, 2008. The motion was seconded and passed unanimously.

Chairman Cadle reconvened the Black hearing.

Mr. Black submitted a certified plot plan, noting that he wants to move the garage to line up with the fence, which would be removed. He said that the garage will be 24 x 26 feet and will be 8.5 feet from lot line, instead of the originally believed 2.5 to 5 feet.

Discussion ensued re: exact location of property and how abutters may or not be affected.

Chairman Cadle said that he wanted to know exactly how far the abutter to the right, when facing the lot, is from the garage, noting that he wanted to make sure emergency vehicles could access the rear of the property.

Mr. Black said that the only disturbance is 24 feet of fence, noting that there is no room for storage currently and this will allow bikes, etc. to be kept out of sight.

The Board moved to grant a variance for an addition of a garage that will be no less than 8.5 feet from the property line, with the garage to be slightly altered from the frame as shown on the plan such that it aligns with the back of the house and extends to the existing fence, which shall be removed, and as outlined on the plan by Ducharme and Dillis, dated 9/3/08, and including a condition that the existing row of trees along the property shall remain. The motion was seconded and passed four yeas to one nay. The negative vote was due to concern of access by safety vehicles to the rear of the property.

Ms. McWade asked about gates. The applicant said that there are two existing and one to be constructed.

The meeting adjourned at 8:30 pm.