

ZBA Minutes October 15, 2008 – Kinnear

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

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

Atty. Anctil, agent for applicant, noted that applicant is at a sales meeting and thus unable to attend. He said that he is seeking a variance to construct retaining walls within the required 50' setback. He noted that he thinks they don't need to be here because the ZBA approved a plan, showing the walls, granting a variance for the home construction within the 50' front setback. He said that construction has began and one neighbor complained to the BI concerning access to her property. He said that the BI decided that a variance is required for the retaining walls because they are more than four feet in height. He said that the BI originally was going to issue a cease and desist but decided to let construction continue as long as his client went back to the ZBA. He said that the walls are about $\frac{3}{4}$ constructed at this point and should be completed along with the septic system before November 1st. He noted that the walls taper as they gain in elevation.

Discussion ensued regarding construction of the walls, cost and speed of construction.

Chairman Cadle asked about the BOH condition requiring a fence.

The Engineer said that there would be a guardrail at the end of the parking area.

Discussion ensued regarding the fence conditioned by the BOH on the septic area. Chairman Cadle said that the Board has already incorporated the BOH conditions and will likely do so again for this decision.

The Engineer said that he wants to give his client a choice of fencing, shrubs or boulders to prevent vehicle access.

The Engineer said that Mr. Kinnear wanted another course of wall and noted that he also added "Geofabric" to strengthen the wall. He said that the BI wanted an engineered wall and he has provided 8.5 sheets to him.

Mrs. Duffy noted that she wants copies of these sheets to be part of the record.

Discussion ensued regarding the BI's approval and what he had in his record. The Engineer said that the BI wouldn't have a problem with the extra course, noting that the material is less than 1/8th inch thick, like siltation fence material.

Atty. Anctil said that the fence is shown on the Con. Comm. and BOH plans, as well as the plan submitted to the ZBA and reiterated that he thinks that the ZBA has already approved the plan with the walls shown, even if not discussed specifically. He then cited a Bobrowski determination that if this didn't change the original issuance of the grant, then an additional variance would not be required.

The Engineer said that the retaining walls were shown on the septic plan, which was submitted to the ZBA. He also noted that the BI has been understanding because this is the best time of year to get walls in, while there is less rain, noting that it is important to shore up the road.

Discussion ensued regarding the parking area wall vs. the septic wall and how each is shown on the plans. Of note: the parking area wall has the one extra course, at the request of Mr. Kinnear.

Pam Fletcher, abutter most directly affected, said that Mr. Kinnear has been great about letting abutters know when work is happening and others have been great about letting them park cars up the road so that there is continued access.

The Board moved to grant a variance for setback for retaining walls on lot 61 as shown on the retaining wall detail plan, SKC 1-6 and the sewage system disposal plan dated November 2006. The motion was seconded and passed unanimously. Condition: both the BOH and Conservation Commission are again incorporated into the decision.

The meeting adjourned at 8:30 pm.