



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

August 6, 2014 – Margolius/Stark, Holly

Present

Cynthia Maxwell, Member

Robert Cadle, Member

Alison Manugian, Member, via remote participation (Holly)

Bruce Easom, Associate Member, via remote participation

Mark Mulligan, Chairman

Berta Erickson, Associate Member (Margolius/Stark)

Not Present

Jay Prager, Member

Megan Mahoney, Associate Member

A quorum was attained. The meeting was called to order at 7:00 pm.

Meeting Minutes

Margolius Special Permit

Chairman Mulligan convened the hearing by reading the Legal Notice.

Member Easom is participating remotely.

Chairman Mulligan read the memo from Michelle Collette to Member Easom and into the record.

Robert Margolis, contractor for Starks, said the addition is a small bathroom, 9 x 15 feet, and is within the side and rear setback requirements. He said they are not making the dwelling less conforming.

Member Erickson said she went to look at the place, noting that she could not tell from the renderings that it is the same place.

Mr. Margolis said it looks different because his drawings don't show a deck. He said they may have to disassemble part of it but are keeping the deck.

Member Erickson said it seems like they could have access from the deck.

Mr. Margolis said they could, but they won't because there is no door and just a window.

Member Easom asking whether they were looking at the plan that was submitted with the application.

Mr. Margolis said yes.

Member Easom said the setback is shown only from Windmill Hill on the plan, noting that he wants to know what the setback from Old Orchard will be.

Member Maxwell said that the addition is behind the house from Old Orchard Road.

Member Cadle asked whether a special permit is necessary.

The administrator said yes, per the BI.

Member Easom made a motion to grant a special permit for the proposed addition as shown on the plan dated 6/16/14 in that the proposed addition is in keeping with the character of the neighborhood and will not further increase any non-conformances of the lot. Member Cadle seconded and Easom voting aye, Mulligan voting aye, Maxwell voting aye and Cadle voting aye.

Holly Variance/Special Permit

Chairman Mulligan re-convened the hearing.

Members Manugian and Easom participated remotely.

Atty. Collins said he wanted to walk through a few issues, noting that Stan Dillis is present. He presented a bigger plan showing the façade, noting that the height of the structure at the tallest point is 21.1 feet. He said that Maureen Giattino is going to pains such that there will not be a blank façade on Ms. Mavilia's side. He said the side facing the lake has the largest façade, with a lot of glass to maximize the view. He said they are trying to push the house back from the lake, noting that the side setback facing Mavilia will not change from what was existing. He said the opposite side is closer to the side boundary and does not meet side setback requirements, noting that it is 50 feet from the abutting house. He said he consulted with the BI about reconstructing the house, noting that this house is larger than the original. He said the footprint is 600 square feet, and with grades they could build an 1800 square foot house in the footprint, which would have big blank walls facing each abutter. He said this is a softer approach to the site.

Chairman Mulligan asked about the size differences of a 760 sq. ft. vs. an 1190 sq. ft. footprint.

Atty. Collins said this plan is smaller than what could be built by right, noting that there is not a single conforming property on the street. He said the setbacks of the proposed house are generous compared to what is on the street. He said the average setback is 13 feet and this has a slightly greater setback and thus

is not out of character nor would it diminish the neighborhood character. He said he feels that a three story high dwelling built by right would not improve the neighborhood.

Discussion ensued regarding the steep topography and what it would allow.

Member Cadle said this may be true but questioned why anyone would want to put up two blank walls.

Atty. Collins said there would be windows but otherwise a blank wall without jogs because they have to stay in that footprint. He said not much could be done with a rectangle.

Member Maxwell said she wanted clarification regarding no changes on one side of the building.

Atty. Collins said it is being moved back from the lake but the setback on that side will be the same.

Discussion ensued regarding how the other side setback was changing, due to re-orienting the house.

Member Easom said he wants clarification, that the new dwelling has a 70% larger floor plan than the original dwelling.

Atty. Collins said that is correct.

Atty. Benson, Mavilia attorney, said he is hearing that this is an improvement because the new dwelling is not hanging over the lake. He said the existing structure was nowhere near hanging over the lake, and simply put, "it ain't so". He said this couldn't be considered a hardship, noting that there is room between the edge of the house and the lake. He said the sidewall is only 11 feet from his client's house (right side), noting that the original was 37.5 feet long on that side. He said the plan that was submitted last time does not seem to be here tonight, which shows a wall of about 65 feet, which is an increase from 37.5 to 65 feet, 11 feet from the house. He said it is also getting higher, noting that three windows don't make a nice view. He said it is not fair to impose a huge longer wall than what was there already. He said the footprint is increasing immensely: 70% on a postage stamp sized lot. He said the house could be rebuilt the way it was in the last plan on record, noting that they can't claim a hardship that the house hangs over the lake when it never did. He said everyone wants to build bigger and better but that is not grounds for hardship, noting that on behalf of his client, the permit should be denied.

Atty. Collins said he doesn't understand where Atty. Benson is getting his measurements, noting that he has an engineer here to refute them. He said the façade is 32 feet long.

Atty. Benson said the originally submitted plans showed 11 feet separation.

Atty. Collins said the measurement is 32 feet and not 65 feet.

Chairman Mulligan said the board could hold them to 32 feet.

Atty. Collins reiterated that it is 32 feet and not 65. He said the plan shows the house as it was in 2006 and the house was subsequently remodeled and had a deck that went right to the shoreline. He said he is not speaking untruths.

Atty. Benson said that is not part of the house.

Both Atty. Collins and Mr. Dillis said it was enclosed.

Ms. Mavilia said the deck is still there and it was never enclosed.

Atty. Benson said the first plan submitted showed the distance between his clients home and the proposed structure to be 11 feet, noting that his client measured and it was in fact 10 feet.

Mr. Dillis said that was the proposed distance and not the actual distance.

Discussion ensued regarding which figures are accurate.

Chairman Mulligan asked whether the old foundation is part of the new plans.

Atty. Collins said not that he knows of, but the Mavilia side is proposed to have the same sideline footprint, which is 32 feet instead of 45 feet.

Atty. Benson said the dwelling is getting closer and higher, noting that this plan is disingenuous.

Member Cadle said the façade that faces Mavilia seems like it will be shorter and taller.

Chairman Mulligan asked for clarification: that some parts of the roofline will be shorter and some taller and the façade shorter.

Atty. Benson said they are all taller.

Chairman Mulligan said he is playing devils advocate and asked if the façade is shorter and the roof in some areas is shorter, then what is the problem.

Atty. Benson said the roofline is mostly higher and there is slight additional setback, noting that there is still a high wall that shows. He said the last thing approved on this site was for a two-story dwelling.

Atty. Collins said they could replace with a three-story dwelling as long as it doesn't exceed 35 feet in height, per the building inspector.

Chairman Mulligan asked what the proposed height at the street is.

Atty. Collins said 21 feet but it could go higher.

Atty. Benson said they can only go as high as what exists, noting that they have no right to go above that line.

Atty. Collins said if setback requirements are met, the structure could go higher.

Atty. Benson said that as shown now, they couldn't go higher than what there was because setbacks are not being met.

Chairman Mulligan asked that the attorneys not argue between themselves.

Atty. Collins said this is a much better design than what was there before the fire.

Member Easom said he is trying to get his head around the character of the neighborhood here, noting that there is talk of comparable setbacks along the road. He said he wants to know how it compares to lot coverage on other lots in the neighborhood.

Mr. Dillis said lot coverage is about 20%, as proposed.

Chairman Mulligan said Member Easom wants to know how that compares to other lots in the neighborhood.

Atty. Collins said lots are small and houses are big, so they are comparable, noting that this setback exceeds setbacks of a lot of properties. He said Ms. Mavilia's house is less than two feet from the shared side lot line, noting that a 1926 plan shows the peninsula as shorter than drawn.

Atty. Benson said he appreciates what Atty. Collins said, that the question was not answered because he doesn't know.

Mike Slaka, abutter, said he has lived on Boathouse Road for 30 some odd years. He said he thinks this would be a good house on a two-acre parcel, noting that Mr. Dillis should submit a new stamped plan with exact dimensions. He said there are no elevations, etc., and that much is data missing because it is only a two dimensional plan. He said this would be a nice house on a lot 10 times that size.

Atty. Collins what house Mr. Slaka lives in.

Mr. Slaka said he lives in #7.

Atty. Collins said his house is only 5 feet from the road. He showed an assessors' plan, noting that the size of the house not out of character in what is on the street.

Atty. Benson said the burden is on the applicant to establish that this is in character with the neighborhood, noting that the houses in the neighborhood are cottages and not a big house like what is proposed.

Member Easom said he is not inclined to agree with the proposed new arrangement and would like to see a more modest plan presented with less increase in the footprint. He said that if the public hearing is closed they would need to start over if the board denies as proposed.

Discussion ensued regarding whether to close the public hearing.

Atty. Collins said they are running out of time to rebuild so he is inclined to withdraw if the board is not going to grant a permit, noting that his clients need to break ground before the snow flies.

Chairman Mulligan said his opinion is that the plan is for a significantly larger structure than what was there before, noting that he is a little confused about the elevation of the side facing Mabilia. He said it seems like when compared to the old structure, the new structure is smaller from her side.

Member Manugian said setback is not so much of an issue, noting that even if the house was set back five more feet, it would still have a huge impact and thus nothing is appealing from that perspective. She said there is a positive impact in pulling the dwelling back from the shoreline and feels setbacks in the neighborhood are comparable.

Chairman Mulligan said it seems like there are not enough votes so the applicant should have a chance to withdraw.

Member Erickson asked about the ramifications of a withdrawal.

Atty. Collins said they would build in existing footprint.

Discussion ensued regarding how to proceed.

Member Maxwell said that at least here they know what they are getting.

Member Cadle asked for clarification re: footprint differences.

Member Manugian said it is unfortunate that there are only two binary choices. She said she feels like she would grudgingly agree to a special permit and variance because it would not be substantially more detrimental than what was there.

Chairman Mulligan said he agrees with Member Manugian.

Member Easom said he is on the fence.

Member Maxwell said she is on the fence, noting that this feels like a substantial change.

Member Cadle said he has been leaning against granting a permit, noting that he would like to see something less large and more in keeping with the footprint of what was there.

Member Manugian said they all would like to see a middle ground but it seems the applicant is not willing to look at a smaller plan.

Atty. Collins said the only area for flexibility is on Mavilia's side.

Chairman Mulligan asked Ms. Mavila what she would like to see there.

Ms. Mavilia said her issue began with the fire, noting that she felt the peak would fall on her house because no fire fighting apparatus could fit.

Chairman Mulligan asked whether she would be opposed to a replacement of the existing dwelling.

Mavilia said she thought that was what they were going to do. It is an emotional issue, no room for snow, etc. She said she wants to see the structure of what was there before the remodel, noting that she heard that the remodel was bigger than what was permitted, which makes this a gray area.

Discussion ensued regarding fire safety, etc.

Atty. Collins suggested that the board stipulates the new dwelling be sprinkled.

Ms. Mavilia said there were supposedly 7 smoke detectors that went off by mistake but not one was heard on the day of the fire.

Atty. Collins suggested continuing for a few weeks to see what design changes could be made and what fire suppression systems could be installed.

Member Manugian said it is not reasonable to expect a fire suppression system to be installed. She said she wants to see a smaller plan in terms of footprint but doesn't feel that 4 feet of roofline would make a difference in terms of fire safety.

Chairman Mulligan said the applicant is proposing as a good faith gesture to the abutter.

Member Cadle said he doesn't think the board has ever expected fire suppression systems to be installed.

Member Easom said that a 70 % increase ameliorates the benefit of moving the building.

Atty. Collins suggested granting with a reduced footprint.

Atty. Benson said this is not fair to his client.

Discussion ensued regarding what date to continue the hearing to.

Member Maxwell made a motion to continue the hearing to Tuesday September 9 at 6 PM. Members Manugian, Easom, Mulligan, Maxwell and Cadle all voted yes.

Other business

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Minutes and Bills

Minutes from 6/4/14 were approved as drafted. Member Cadle seconded the motion. Members Manugian, Easom, Cadle, Maxwell and Mulligan all voted aye.

A Groton Herald bill was signed.

Member Maxwell made a motion to adjourn at 8:45 pm. The motion was seconded by Member Cadle, Members Manugian, Easom, Cadle, Maxwell and Mulligan all voted aye.

Approved 10/8/14.