



## Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

### October 8, 2014 – Holly, Roche/Ancil/Field

#### Present

Cynthia Maxwell, Member, via remote participation

Robert Cadle, Member

Alison Manugian, Member

Bruce Eason, Associate Member

Mark Mulligan, Chairman

Berta Erickson, Associate Member

#### Not Present

Jay Prager, Member

Megan Mahoney, Associate Member

A quorum was attained. The meeting was called to order at 7:10 pm.

#### Meeting Minutes

##### Holly Variance/Special Permit

Chairman Mulligan re-convened the hearing.

Atty. Collins submitted a revised plan showing the house with a reduced width so the footprint could be moved five feet further from the Mavilia boundary. He said the new dwelling would be 1130 sq. ft. and the burned house had a footprint of 1110 sq. ft. He said 1855 sq. ft. was the living space figure for the old house, noting that this dwelling is 20 square feet larger at 1875. He said the closest point is 12.5 feet from the Mavilia border because of the angle of the lot line, noting that closer to the lake is 15 feet from the boundary. He said the Hollys are under a terrible time constraint, noting that the new dwelling needs to be completed by May 15, 2015. He said this is better environmentally because the house is not as close to the lake and further from the side boundary. He said this is a modest sized lot so it is not a huge move back but a move back just the same, noting that he hopes the board will support this because it is not much larger and is further from the side boundary. He said they would need to start construction before the snow flies.

Chairman Mulligan said the dwelling that burnt down looks significantly longer than what is proposed.

Atty. Collins said it was long and narrow, much like the lot. He said a long façade is eliminated in the new plan, in which the dwelling is more like a box.

Member Easom said he is looking at two lines that seem to be the outline of the destroyed house, one solid and one dashed.

Atty. Collins said the solid line is the structure and the dotted line is a deck and set of stairs. He said the measurements are on the solid line.

Member Easom said he is coming up with 800 square feet so is wondering how Atty. Collins came up with his figures.

Of note: proposed dwelling 32x36 and old was 22.5x37.

Member Easom said there is still a 70% increase.

Atty. Benson, rep. for Ms. Mavilia, said he hopes the board read the letter he submitted in August. He asked what the dotted line on the plan is, noting that it is clear to him that if one looks in the middle of the plan it goes to the dotted lines and this goes back to the issue of the deck being subsumed into the living area of the house. He said the Assessors' photo shows that the deck was clearly not enclosed and thus can't be counted as living area of the unit, noting that 1855 sq. ft. of living space includes an open deck and thus is an exaggeration. He said on top of that this is a huge increase of living space that was also addressed in the letter from him, noting that he made a mistake in calculations that benefited the Hollys. He said that of all other dwellings on Boathouse Road, only three have a living area exceeding 20%. He said 1875 sq. ft. is 31% of the lot area and totally out of character with the neighborhood. He said he just saw the new plan this afternoon, noting that this is by far the largest house, with the next having 26.7% lot coverage. He said there is no hardship here, noting that it is not the board's fault that there is a deadline to build by next May. He said the deck area should be rightfully excluded and thus there is a huge increase in living space. He said they also have his client's longstanding objection about raising the height of building, noting that it already looked like the Great Wall of China and they now want to make it higher. He said there is fear due to fire and the house falling. He said that what the Holly's are looking for is far too large for the neighborhood, noting that they used incorrect figures and there are significant safety issues.

Atty. Collins said the pictures on the assessors' website represent the house before the remodel that was done before the fire, noting that given the sq. footage figures were figured by the designer, it must be assumed those numbers are correct. He said this is not a variance request so hardship doesn't come into it. He explained that Mr. Holly had a massive heart attack and surgery after the fire that caused some of the delay, noting that it wasn't neglect on their part. He said they have run out of time and if there are two members disinclined to grant, he will withdraw.

David Wellens, 90 Boathouse, said they just moved the house two or three feet in one direction, noting that he quickly looked at the plot plan and it is now 7.5 feet instead of 10 so they are increasing setback issues on his side of the property.

Chairman Mulligan asked Atty. Benson about the assessors' figures, noting that it appears the original dwelling exceeded 20% and is at about 25% of lot coverage.

Atty. Benson said they are now asking for 31%, and are using figures with the deck enclosed.

Ms. Mavila said the deck has never been enclosed or covered.

Atty. Benson said it is a 33% increase.

Member Manugian asked whether building in the existing footprint would limit the height.

Atty. Collins said they could not exceed the height of what is there. He said they could burrow down because of the grades and create a good walk out space.

Member Easom said he wants to hear more about the character of the neighborhood.

Mike Slacka said he has lived there for 30 years, noting that this is not good for the neighborhood and he doesn't understand why the client is not present. He said a show of face is important.

Atty. Collins said he asked them not to attend.

Member Easom asked Atty. Collins about clarification on whether he would stand by the statement regarding size of the new dwelling vs. old.

Atty. Collins said he would, noting that this was comparing the remodeled dwelling to the proposed.

Member Manugian said she still has concerns regarding the size of the structure for the lot, noting that there is not much compromise. She said the abutters have been consistent with their concerns and she hasn't seen much motion on that.

Member Cadle said hardship is for variances and they originally asked for one.

The board seemed inclined to deny and thus Atty. Collins requested a petition to withdraw.

Member Manugian made a motion to approve the request for withdrawal. Member Easom seconded and Members Mulligan, Maxwell, Cadle, Manugian and Easom all voted aye.

### **Roche/Field/Ancil Variance/Special Permit**

Chairman Mulligan convened the hearing by reading the Legal Notice.

Atty. Anctil, agent for applicant was present, along with Mr. Roche and Matt Field, developer. He went over a bit of history of the process, noting that they decided to start anew with a new application. He said he has driven past the property for the last 20 years and it is in a state of disrepair. He said his client wants to tear down the existing dwelling and meet all setback requirements on the 10,000 square foot lot. He said they have approval for 2 bedroom septic system, noting that they got a permit for the septic system first, which caused some of the issues before. He stressed that it is a valid septic permit. He said they are seeking a special permit and not a variance, although a variance was initially requested. He then read a letter from the BI denying a building permit because of more than two years of none use, but stating that he needs a special permit from the ZBA. He said there are no wetland issues and submitted the proposed house plans. He said, by way of background, that the big issue in prior applications was the result of non-use. He said Mr. Roche was here to testify that he fell ill and thus that is why the property hasn't been used.

Chairman Mulligan said he felt that non-use was not an issue if they are applying for a special permit.

Atty. Anctil said that if dealing with a business, the use could not be reestablished. He said this is residential and he felt that he needed both a variance and special permit to re-establish residential use but the BI said only a special permit was necessary for residential use purposes. He said that in order to receive the right to rebuild, a special permit is needed from this board.

Member Easom said he wants Atty. Anctil to list all variances that make this land and building potentially non-conforming, ie frontage, etc.

Atty. Anctil said he can and will but doesn't understand the relevance. He said the 150-foot circle of uplands may not be possible, the lot is only 10,000 sq. ft., and the frontage is less that required, noting that he thinks that is it. He said they will comply with corner lot setbacks, noting that the special permit makes sure that the dwelling is in keeping with the neighborhood and will keep it as a 2 bedroom. He said it would improve the neighborhood by tearing down an eyesore.

Dave Hefner, 8 Tavern Road, said the house has not been used for many years, noting that he never met Mr. Roche before tonight.

Mrs. Hefner asked about setbacks, noting that setting it back will put it back on or near her property line.

A realtor from Pristine Realty said the property has been on the market for two years or so, and was surveyed and that is the plan being shown.

Matt Field said he is proposing to build a 26X32 Cape, plus a two-car garage.

Member Easom asked who owns the land between the lot and the pavement.

Discussion ensued regarding whether it would be possible to comply with side and rear setbacks and where the septic system would go.

Of note: there is no plan present tonight showing where the proposed dwelling will be located.

Atty. Ancitl said they would agree with 15-foot setbacks and would set back the dwelling as far from front lot lines as possible.

Abutters were in general dissatisfied.

Discussion ensued regarding what a lot of record is and how that affects this situation.

Atty. Ancitl said the neighborhood would be vastly improved with this demolition and reconstruction.

Discussion ensued regarding the non-use issue.

Member Easom asked whether the board is comfortable making a decision without a plan.

Ancitl said the board could condition dimensions. He said he would prefer not to restrict the dwelling to a spot specific but wants to allow the restrictions of the lot itself to restrict the location.

Member Cadle agreed with Member Easom, noting that this is an excellent point that a plan should be required.

Atty. Ancitl is reiterating what the Building Inspector said, that no dimensional elements are an issue for the issuance of a special permit.

Member Manugian said there could be room to have setbacks that are in keeping with the neighborhood.

Atty. Ancitl said that current setbacks are approximately 7 and 9 feet and they will be improving on these. He said he hopes that a hand drawn plan can be submitted to give the board idea of dimensions, etc.

Mr. Field said he can reduce the garage size if the board wants.

Atty. Ancitl said he could make a commitment to make the new dwelling less non-conforming.

Mr. Field said the property is now a big hole because much trash needed to be removed.

Mr. Hefner said the lot was not an eyesore until Mr. Field cut down all the trees without permits. He said they are talking about getting a special permit for a property that has been abandoned for more than ten years and that disregard all setback requirements.

Member Manugian suggested with no plans to grant with size limitation and 50/50/15 setbacks.

Atty. Anctil said the dwelling won't meet the 50 setback requirement from both roads, noting that he could ask the surveyor to get the rough distances of abutting properties and locate the dwelling there.

Chairman Mulligan asked whether the board wanted to vote tonight or continue the hearing.

Atty. Anctil said that they could not build based on Member Manugian's potential motion, noting that a plan on a workable scale could be presented if the board wants.

Member Cadle said he wants to see a septic approval with the other submittals.

Member Manugian made a motion that the hearing be continued to Tuesday 10/21/14 at 6 PM. Member Easom seconded and Members Mulligan, Easom, Manugian, Cadle and Maxwell all voted aye.

### **Other business**

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### **Minutes and Bills**

Member Cadle made a motion to approve minutes from 8/6/14 as drafted. The motion was seconded and Members Manugian, Easom, Cadle, Maxwell and Mulligan all voted aye.

Member Cadle made a motion to approve minutes from 7/9/14 as drafted. Members Manugian, Easom, Cadle, Maxwell and Mulligan all voted aye.

A Groton Herald bill was signed.

Member Manugian 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 12/3/14.