



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

June 19, 2019 – Garger Variance, Ream SP, Whittemore SP

Present

Mark Mulligan, Member and Acting Chairman

Jay Prager, Member

Bruce Easom, Member

Dan McLaughlin, Associate Member

Jen Spencer, Associate Member

Not Present

Cynthia Maxwell, Chairman

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

Meeting Minutes

Garger Variance – 46 Redskin Trail, #1-19

Acting Chairman Mulligan re-convened the hearing.

Acting Chairman Mulligan read a memo from the Board of Health into the record.

Acting Chairman Mulligan asked about the BOH issues.

Mrs. Garger said that without digging up the existing system, they can't pin point the exact location and thus are in a bind. She said that their concern is if the septic system fails and there is a garage, they are not sure there is a place to put in a new septic system. She said if they have to replace the septic system, it would require a variance because the lot is so small, noting that they don't like to issue variances on such a small lot.

Mr. Garger said they would need a variance if the septic fails even if a garage is not there.

Member Prager said the BOH memo is very straightforward, noting that they won't allow a building permit to issue.

Member Spencer said she had a house with the same issue and they hired an ultra sound to find out the location of the septic system.

Discussion ensued regarding how to proceed, potentially with using ultrasound.

Member Mulligan said the BOH wouldn't move forward without knowing the location of the existing system.

Member Prager asked what the lot coverage is. He also asked how the applicant could justify a setback variance.

Mr. Garger said other properties have non-conforming setbacks.

Member Prager said two abutting properties are much way further back and the averages are way more than 13 feet.

Member Mulligan asked whether they have reduced setback variance requirements.

Mr. Garger said it was the same as before.

Discussion ensued.

Member Prager said the 218-22H requirements couldn't be met, noting that he also wants to know the percentage of lot coverage. He said there is a lot missing from the proposal.

Mr. Garger asked what more info was needed.

Member Prager said it is about lot coverage first and foremost, noting that he needs to meet the 25% standard. He said the setback issue is not get aroundable.

Member Spencer said he might have a lot that can't have a garage because it is so small.

Mr. Garger said Ross Associates told him the garage size is okay for that lot.

Member McLaughlin said the size of the lot is not part of variance criteria.

Discussion ensued.

Member Mulligan outlined options, noting that with a withdrawal, they could come back in less than two years.

Member Prager described what needs to be complied with.

Member Spencer suggested asking an engineer how a garage can be built that will satisfy both the BOH and the bylaws.

Mr. Garger said there are much smaller lots with buildings on them.

Of note: BOH concerns are first and foremost.

Member Prager suggested withdrawing without prejudice and working out the issues with the BOH.

Member Easom said the board often conditions BOH approval, noting that he is okay with doing that here. He suggested asking for a continuation.

Mr. Garger said he wants a continuation until July 17th, the next meeting.

Of note: List 218-13, 218-6E1, 218-20, 218-22H, BOH.

Member Easom made a motion to continue the hearing to July 17, 2019 at 7:15 PM. The motion was seconded and passed unanimously.

Ream SP-605 Longley Rd., #8-19

Acting Chairman Mulligan convened the hearing by reading the legal notice.

Mr. Ream said he wants to purchase about ¼ acre from 605 Longley and needs a special permit to extend the area of the backyard. He said this was originally submitted as an approval not required and the planning board said they needed a special permit. He said lot 605 was previously non-conforming, noting that they are changing a non-conforming lot.

Discussion ensued regarding what exactly the permit is for.

Michael McCoy, 20 Pawpaquet Path, said he bought the property in 1996, noting that at the time, the realtor indicated that the property line extends further than it does, so much of the area inside of the fence in their back yard is owned by 605. He said this would put the property line in accordance with what he was told and he can then replace the fence and get rid of a rotting stump. He said it would be good to actually own his back yard.

Of note: bylaw applied under §218-22.

Discussion ensued regarding which lot needs the special permit.

Mr. Ream said 605.

Member Spencer said there are essentially two applicants.

Discussion ensued regarding how to proceed.

Member Mulligan said 605 wants a special permit to protect that non-conforming lot.

Mr. Ream said under 218-22 it is an existing lot.

Member McLaughlin asked whether the PB gave specific instructions regarding a permit.

Member Mulligan said a SP to allow the alteration of a non-conforming lot, noting that he is okay with this.

Member Mulligan made a motion to allow the alteration of a non-conforming lot, as applied for and referencing the GPR plan and filed with the registry of deeds. The motion was seconded and passed unanimously.

Whittemore SP-10 Cypress Rd., #7-19

Acting Chairman Mulligan reconvened the hearing.

Bruce Ringwall was present as agent for the applicant, noting that he wants greater than 25% coverage on a non-conforming lot. He said the lot was 6,000 sq. ft. and is now 12,000 sq. ft. He then described the well radii of this and abutting properties. He said there was no other place to fix septic, etc, until his client purchased the abutting lot, which also allowed abutters to be able to tie into town water, etc. He said he has been before the board with other small lots and they went via SP to allow the alteration of a non-conforming lot. He said his client did some tree clearing and since the meeting of two weeks ago, the proposal has been further modified. These modifications include bringing the addition forward, limiting pavement, and converting the concrete walks to permeable pavers. He said the lot coverage is now down to 26% instead of 32% and only just over the 25% allowable. He said they can't get to 25%, which is why they are here, and then noted other special permits. He read five letters into the record from neighbors in favor of the proposal, noting that one of the criteria is that a proposal is not detrimental to the neighborhood.

Member Prager said that per the bylaw, the first standard of the bylaw needs to be met before the ZBA can grant a SP.

Mr. Ringwall said he understands what he is saying, but respectfully disagrees.

Member Prager said they are increasing non-conformity on a non-conforming lot.

Discussion ensued.

Member Prager said that they could make the garage 24 feet and it would fit.

Mr. Ringwall said that wouldn't fit with the use of the property. He said it is a single family structure and thus needs to come before the board because it is increasing non-conformity, but only by a foot. He said he has before the board several times with similar situations, all via the SP route.

Member Spencer said the other cases were different because he bought more land. She said that even though he is lessening the non-conformity over two lots, it is still increasing.

Member Mulligan said the applicant should be given credit for reducing the increase, noting that he has no problem with a grant.

Mr. Ringwall said his clients are both contractors and want shop space in the garage without having ugly hoop houses in the yard. He said he has done everything he can to make it fit.

Member Prager said he wouldn't lose sleep if the rest of the board votes for it, noting that the reduction should have been done before they came to the ZBA and not after submitted application.

Discussion ensued regarding how to figure setback averages.

Mr. Ringwall showed averages that are much closer.

Discussion ensued.

Mr. Ringwall stressed that this is just a single-family residence and he can show that this proposal is not detrimental to the neighborhood. He said they would have to take four feet off the garage to make it comply. He then asked what the issue was about the lot coverage: is it drainage, visual effect, etc.

Member Prager said he has an issue because of the gross disparity and now the only argument is that they are working hard to make a big effort so the permit should be granted.

Discussion ensued regarding whether a variance is required.

Mr. Ringwall explained how they came to be here and stressed that the state says the board is allowed to grant a SP.

Member McLaughlin said that it is allowed to operate a small home occupation in an R-A zone, but this sounds like a bigger business than allowed.

Mr. Ringwall said they could have just applied for a building permit but came here because of lot coverage.

Member Mulligan said that due to letters of support, the neighborhood is happy with the project.
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Mr. Ringwall said the board could grant a permit.

Member Prager said he is a stickler and wants the bylaw to be complied with.

Member McLaughlin said he thinks a variance is required.

Member Spencer said she feels that the board should grant the .8 and give a permit, noting that they have done a great job.

An interested party asked whether there is a room above the garage that could be tweaked.

Mr. Ringwall said the size of the first floor is important.

Member Easom made a motion to continue the hearing to July 17, 2019 at 7:30 PM. The motion was seconded and passed unanimously.

Other business

Minutes and Bills

No Groton Herald bill was signed and no minutes were approved.

A prospective board member, Chris Sweeney, gave a brief synopsis of his experience. Member Easom made a motion to authorize the appointment of Chris Sweeney as an alternate. The motion was seconded and passed unanimously.

The meeting adjourned at 8:30 pm by unanimous vote.

Approved 9/18/19