

Zoning Board of Appeals
Minutes of Meeting 9/17/2009
Oak Bluffs Town Council on Aging Building

Members present: Kris Chvatal, Chairman, Peter Palches, Derek Tipton

Also present: Associate Member Andrea Rogers. Adam Wilson, Zoning Administrator & ZBA Clerk.

The meeting began at 6:00 pm. The minutes from August 20th were discussed for the approval.

Derek made a motion to approve the minutes as presented. Andrea seconded.

The Board voted 3 – 0 - 1 to approve the minutes from August 20th.

The Board agreed to meet again the third Thursday in October 15th.

-Adam brought up a request from Linda Skladzien Shapiro of 115 Winemack Street to modify a special permit she received back in January to alter and renovate her house. Adam showed that she had a change in plans to add and extend a proposed 4 season sunroom. He explained the nonconforming aspects of the property and showed on the site plan that the additional space would not infringe upon the side setback. Derek stated the proposed addition does not appear to be substantially more detrimental than what had already been approved.

Derek made a motion to modify the special permit given in January of '09 to Linda Skaldzien Shapiro of 115 Winemack Street to include the four foot addition to the 4 season sunroom. Andrea seconded.

The Board voted 4 – 0 to modify the special permit.

The 1st public hearing was for Diane & Reginald Felton of 16 Samoset Ave. William (Billy) Reagan represented the Felton's. Kris explained to Billy that there were only four members sitting so any approval of what was being requested would need a unanimous vote. Billy was given the option of continuing with the hearing or postpone until October when there will be five members. Billy said he wanted to proceed with the four member board.

-Peter asked about the density of the neighborhood and setback issues. He said there is little room on the lot for any sized addition, much less 850 square feet as was being proposed. Kris said modifications to what was being proposed could be made instead of the Board denying the project.

-Billy showed elevation plans of what the addition would look like at the southwest corner of the property. He explained that the addition is for a 1st floor bedroom that would address the couple's needs for accommodations in their later years. Billy explained that the house used to have a separate dwelling in the area where he is proposing to build on and that remnants of that servant's quarters are still in the ground. He said that the Felton's spoke with all the neighbor's during the summer and got support from everyone as to what they are proposing.

-Kris pointed out the nonconforming issues dealing with lot size and setbacks for an R1 residence. Derek asked about the drawings and where the downstairs bedroom would be. Billy said there would be two bedrooms in the addition; one upstairs and one down. He said that the Wastewater Department has approved the additional flow since that structure originally had 5 bedrooms to start off with when it was originally built.

-Peter wondered if the board's only concern was if neighbors objected, other wise they would be obligated to approve. Kris said the role of the Board is to apply zoning by-law 3.5.5 and see if it substantially increases the nonconformity or not. Public comment is only a small portion of what the Board has to consider. Peter asked Adam if there was some kind of provision for having open space on the lot while construction occurs. Adam said that the Building Inspector has the responsibility to insure that surrounding residences are protected while construction occurs.

-Peter said he would like Board Members to do a site visit to see how close the proposed addition will be to the neighbors. He has a concern about the change or increase of lot coverage with the new addition.

-The Board discussed current living and gross square footage amounts the structure has. Peter talked about other applications presented in the past that are based on hardship and how the neighborhood changes because of it. He expressed concern about short term and long term impacts when these types of special permits are granted.

-Kris opened the floor for public comment. No one spoke. A letter was submitted from the Felton's clarifying their position on the proposed addition. Kris asked the Board to decide if the addition as an extension of the existing nonconformity is big enough to be substantially more detrimental. He added that the Board has not looked favorably on past requests for increase in nonconformities but has accepted extensions of existing ones.

-Peter said it would be better if direct abutters had written letters in support of the proposed change.

-Kris asked Billy if he would like a continuance to the next meeting so that Board Members could conduct a site visit and see if letters of support could be obtained. Billy agreed to the extension and would stake out the area where the addition would go.

By consensus the Board and applicant agreed to continue the hearing to 6:05 pm October 15th at the Council on Aging Building.

-The next hearing was for Chris Ewing of 6 Old Schoolhouse Village. Representing the applicant was builder Gene Pepper. Gene was told that there were only four members sitting so any approval of what was being requested would need a unanimous vote. Gene was given the option of continuing with the hearing or postpone until October when there will be five members. Gene said he wanted to proceed with the four member board. He explained that the owner wishes to add a 10 X 12 foot sunroom addition to a house located in a subdivision that was created before zoning and doesn't comply with R3 dimensional regulations. Kris stated that the lot is undersized and the house is in all 50 foot setbacks. Gene showed where the addition would be on a site plan. Kris pointed out that prior approvals in this community have occurred with the understanding that 20 or 25 foot setbacks can apply for additions to existing nonconforming residences. Derek pointed out that other homes in the neighborhood have approved additions that are a lot larger than the present request. Kris stated that the proposed addition would not be substantially more detrimental than what currently exists.

-Kris asked if anyone was present for public comment or if any correspondence needed to be read. No one spoke and there was nothing to be read.

Derek made a motion to approve the plans as presented. Andrea seconded.

The Board voted 4 – 0 to grant the special permit to Chris Ewing of 6 Old Schoolhouse Village to add a 10 X 12 foot sunroom to a pre-existing, nonconforming residence.

Under new business Peter wanted to talk about windmills and the impact they will have in residential neighborhoods. Kris said perhaps a joint meeting with the Planning Board and MVC to gather information and discuss changes in existing regulations could be arranged.

-The Board and Adam discussed current regulations. There was a desire to gather information of how windmills may impact zoning by-laws in the future. Adam talked of how the language of the current by-law almost automatically requires any resident who wishes to put up one be reviewed by the Board. He said that the statement of a windmill potentially "derogating from the public good" was the stumbling block for residents on the Cape wishing to erect windmills in their neighborhoods.

The meeting adjourned at 7:00 pm.