

Zoning Board of Appeals  
Minutes of Meeting 8/20/2009  
Oak Bluffs Town Council on Aging Building

Members present: Kris Chvatal, Chairman, George Warren, Joe Re, Derek Tipton.

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

The meeting began at 6:00 pm. The minutes from June 18<sup>th</sup> were discussed for the approval.

George motioned for approval, Joe seconded.

**The Board voted 3- 0 to approve the minutes from June 28<sup>th</sup>.**

With Peter Palches not present, a determination was made to have Andrea sit for the Board's 1st hearing.

-There was discussion about the annual election of a chairman

George nominated Kris for another year as chairman. Joe seconded.

**Board members present voted 6 - 0 to have Kris serve as Chairman for the period of one year finishing June of 2010.**

-There was discussion on whether or not there should be a vice chairman.

George made a motion to have a vice chairman. There was no second.

-The 1st hearing for the night was for Richard Paul of 23 Hidden Cove Road. Chuck Sullivan represented the applicant and explained that the request is to renovate the front entryway and add a new sunroom to a pre-existing, nonconforming residence. Also present was Helene & Richard Paul. Chuck 1st showed the lay out of the subdivision and then the lot dimensions. The site plan showed the lot being undersized for an R3 residence and the structure in the 50 foot setbacks. He showed where the front of the residence would be changed and the deck addition in the back + the new 3 season sunroom.

Kris read the letter from the Hidden Cove Association approving the changes.

Kris got consensus from the Board that the applicant has a pre-existing, nonconforming structure because of lot size and setbacks on the front and side of the property.

The Board asked questions of how the renovations would change the layout of the house. George asked what was new to the house. Kris pointed out that the front alteration and the deck addition on the back had plenty of room as far as setbacks were concerned. He said the new sunroom will increase the footprint's nonconformity and reduce the side setback from what was currently 30 feet to 21 feet.

Chuck said that there has been dispensation for prior applicants in Hidden Cove for building in nonconforming subdivisions. Adam pointed out that many areas such as Woodside Village, Sengekontacket and Sea Glen have all been given special consideration since none of them come close to satisfying today's R3 standards.

-Joe asked about the garage. Chuck said it is part of the overall project but conforms to zoning and doesn't need a special permit.

-Kris said that there are considerations for setting 20 foot setbacks, as opposed to 50, in a community where no one can meet zoning dimensions. Joe said the deck in the back does increase the nonconformity but it has approval all the way around.

-Kris got consensus that 3.5.5 applies. There were questions asked whether the deck enclosure could be a bedroom.

-Kris opened the floor for public comment. There was none and no abutter correspondence to be read. The Board determined the proposed plans were not substantially more detrimental to the neighborhood than what currently existed.

-Andrea made a motion to approve the proposed plans as presented. George seconded.

**The Board voted 5 - 0 to grant the special permit.**

Before the next hearing Peter Yoars replaced Andrea at the hearing table.

-The next hearing was for Alan S. McKim of 301 East Chop Drive. Representing Alan was Architect Doug Ulwick. He showed the board 1st the nonconforming aspects of the property. The only issue stated was the residence not meeting R2's front setback requirement of 25 feet. He showed a plot plan of the house that detailed where it was on East Chop Drive and how the residence faces Vineyard Haven Harbor. Doug said the renovations to the house has approval from ConCom. But replacing the patio is another issue. The applicant wants to redo the existing 2nd floor roof deck and expand it so that it will also include the area in front of the 2nd floor bedroom. He showed elevations and pointed out the the new deck won't be seen from the road. The existing concrete patio would be replaced but ConCom is requesting that it be a wooden deck area instead. The new deck will be approximately 24" above grade. Since it is under 30", it won't have a railing.

-Kris asked Adam about the deck replacing the patio and whether or not it is a footprint expansion. Adam said that being only 24" above grade with no code railing around it makes it more like a platformed area. Adam asked about abutters on the side the deck will be built. Doug said the applicant owns the adjacent property.

Kris asked for consensus that 3.5.5 applies. The Board agreed.

-Kris opened the floor for public comment. There was none and no abutter correspondence to be read. The Board determined the proposed plans were not substantially more detrimental to the neighborhood than what currently existed.

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

**The Board voted 5 - 0 to grant the special permit.**

Before the next hearing Andrea once again replaced Peter at the table.

-The third hearing was for Glen & Rose Peters of 5 Nahoman Ave. Jason Forend and Glen Peters came to the board and showed 1st how the residence was originally built and their plans to add an addition. Kris explained that the lot was undersized being only 5,000 square feet. He showed on the site plan the nonconforming setbacks. Jason said the addition would go 6" into the only conforming setback. He said he could be flexible if the Board wanted to maintain to 20' dimension for an R1 property. Kris asked what the existing layout is of the current residence. Jason showed where the living, dining, kitchen and bedrooms are. It was shown that the bedrooms would remain the same.

-Joe asked for the reason for the expansion. Glen explained that it would be for greater personal use by family members.

Kris opened the floor for public comment. There was none and no correspondence to be read.

Joe said that the Board wants to keep the 20' setback. Kris said that the lot is small and does the addition overburden the lot. He also said that there is a slight increase in nonconformity along the side setback as well.

The board talked about homes on 5K lots.

Kris asked that 3.5.5 applies. Consensus was that it is. The board agreed that the proposed plans were not

substantially more detrimental.

George motioned the plans as presented with the condition that the addition meets the 20' setback. Derek seconded.

**The Board voted 5 - 0 to grant the special permit.**

The last piece of business involved Nancy Wright at 26 Pall Mall. George left the meeting and Peter replaced him at the table. Attorney Ellen Kaplan represented the applicant and came to the board to ask for an extension.

of a special permit that was granted in December of 2007. Ellen asked for a clarification of when the special permit actually expires. Adam stated that it had always been when the decision was made. Ellen pointed out that MGL 40A seems to indicate that it is when it's received by the Town Clerk. She also thought that local by-laws tacks on the 20 appeal period as well. Adam said he would research the question and get a correct date for the applicant's benefit.

-Ellen stated that the applicant was requesting an extension due to the fact that economic conditions have dramatically changed. She also pointed out that ConCom is still in the process of establishing an order of conditions with the approval given months ago. She asked that the Wrights be given another year to make plans to demolish the existing house and replace it with a new building.

-Joe asked if the building plans had changed at all. Ellen said everything that was 1st proposed and approved remains the same.

The Board found that the applicant had good cause to be granted the 1 year extension.

Derek motioned to grant the extension of one year. Joe seconded.

**The Board voted 5 - 0 to grant the extension.**

The meeting adjourned at 7:30 pm.