

Zoning Board of Appeals
Minutes of Meeting 5/28/2009
Oak Bluffs Town Council on Aging Building

Members present: Kris Chvatal, Chairman, Gail Barmakian, Jane Lofgren, and George Warren
Also present: Associate Member Joe Re. Adam Wilson, Zoning Administrator & ZBA Clerk.

The meeting began at 6:00 pm. The minutes from April 9th & April 30th were discussed for the approval. Kris talked about the edits Gail had proposed. He asked for an amendment from one paragraph of the minutes from 4/9 to add statements made directly from the tape by both Gail and Philippe from IHT.

-Minutes from amended 4/9 & 4/30 were approved by unanimous majority.

-The Board agreed to meet the 3rd Thursday in June (18th).

-The 1st hearing was for Tobey & Charlotte Barbey at 459 Barnes Rd. They were seeking a special permit to plant evergreen and deciduous screen along their property line which is in the Island Roads District. Landscape Architect Kristen Reimann represented the Barbey's. She showed a site plan of the property as well as pictures showing where the house is off of Barnes Rd. She showed where the new driveway comes in and where existing vegetation is. She said the existing white pines were planted many years ago and a power line pole that had been removed disturbed some of the existing shrubs along the road.

-Gail asked how far along Barnes would the new screening be. Kristen said 50 – 60 feet is where they want to plant the white pines. She stated that there is no view of the lagoon from Barnes Rd. and that if a neighbor's winter view across the street is affected; it would be hard to know what effect the plantings would have.

-Kris read a letter from the Land Bank Commission expressing a desire to have views maintained. He then read 9.2.5 (d) of the overlay by-law that deals with height conditions being exempted for the applicant with a special permit. He mentioned of having done a site visit and thought only a summer property opposite the Featherstone entrance might lose a 2nd story winter waterview.

-Kristen stated there are seven 8 – 10' white pines to be planted. She didn't think they would grow very tall being exposed to northwest winds as opposed to growing in a forest. She said the viburnum's wouldn't grow any taller than 10'.

-Kris stated that it's a question of a potential loss of scenic views for only one particular neighbor vs. a homeowner wanting additional screening for 50' of his back yard. He said the road view is not a factor and the abutter that may be affected had been notified and has not appeared. There was discussion if the land bank property from the high ridge is affected at all.

-George said he conducted a site visit and parked in different areas around the property and couldn't see the landscape changes making any difference.

-Kris opened the floor for public comment. No one spoke either for or against the proposed landscape design. By consensus the floor was closed.

By consensus the Board agreed that 9.2.5 (d) does apply because the proposed trees and shrubs to be planted are greater in height than 36" in the Island Roads District. The Board agreed there was no detrimental impact of the proposed plantings affecting views of the water from Barnes Road.

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

The Board voted 5 – 0 to grant the special permit.

The next hearing was for Kathleen Taylor on 29 Thompson Ave and her request to rebuild and extend an outdoor deck on the property. Before the hearing began Gail stated that she knew the property owners but felt that she could be impartial.

-Richard Taylor spoke of how they've owned the property 30 years and the need to expand a deck for more outdoor use by a growing family. A site plan was shown to the Board. Asking about nonconformity, the Board noted that the house doesn't meet side setbacks and the lot is undersized for an R2 residence.

-There was discussion of how Thompson Avenue exists as a paper road. Richard stated that the deck extension will only go further towards the rear setback where there is room and not any further along the side setback where the house nonconforms.

-Kris opened the floor for public comment. No one spoke for or against the proposal. There was no correspondence to be read. By consensus the floor was then closed.

The Board, by consensus, agreed that zoning by-law 3.5.5 applies because the structure is in the side setbacks and the lot is undersized and the applicant wishes to add to that nonconformity.

Everyone on the Board agreed that the deck extension was not more detrimental to the neighborhood

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

The Board voted 5 – 0 to grant the special permit.

-Before the next hearing, Gail cited an abutter conflict and left the meeting for the evening.

The last piece of business for the Board was for Kathleen and Frank Nasser of 59 Naushon Avenue. Builder Gary Ben David represented the Nassers and explained that they had received a special permit from the Board back in December for an addition and new garage with detached bedroom above and needed to modify the building plans to include two dormers; one on the main house and one for the guest room above the garage. He stated that there is no change in the footprint from what was originally approved and only the roofline has been modified. Board Members asked if the additional floor space would affect the total square footage of the guest apartment. Gary said perhaps 30 additional feet but it still is under the 400 square foot limitation for a detached bedroom. Adam said the plans show only a bedroom and bathroom but no kitchen. Gary said the original plan was to have a dormer on the front of the garage but not on the house. The CCHDC wanted to see the dormers on both the fronts of the two structures.

-The Board found the changes to be minor and did not derogate from the approval of the prior special permit.

Joe made a motion to approve the dormer additions as presented. George seconded.

The Board voted 4 – 0 to approve the change of plans at 59 Naushon Avenue.

In other business, Adam reminded Jane, Joe and George that the Selectmen will consider new members to the Board in June and that if they wished to be reappointed they should write letters to Michael Dutton indicating their desire to serve another three years.

The Board adjourned at 6:45 pm.