

Zoning Board of Appeals
Minutes of Meeting 4/09/2009
Oak Bluffs Town Council on Aging Building

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

The meeting began at 6:00 pm. The minutes from February 12th and March 12th were discussed for the approval.

A motion was made and seconded to approve the minutes.

The Board voted 4 – 0 - 1 to approve both the minutes from prior meetings.

A meeting was scheduled for April 30th and then again for May 21st.

The 1st hearing was for Wendy Mariner at 27 Sengekontacket Rd. Chuck Sullivan along with Wendy and her husband approached the Board and explained the lot is undersized in the R3 zone and is in the setback. They want to add a mudroom addition and a sunroom with a covered entry over the front door. Kris confirmed that the lot is nonconforming and the front of the house is 33' instead of 50'. Chuck pointed out that the covered entry will increase the nonconformity but still be more than 25' which was what was originally planned for the subdivision when it was developed in the 70's.

-Joe asked where the house sits in relation to neighbors. Wendy showed pictures of the house and views from it to the neighbors.

-Kris read 8 letters in support of the project from direct abutters and other members of the Sengekontacket community.

-Kris opened the floor for comment. John Lolly spoke of each homeowner in his community needing to come to the Board because the community predates zoning.

-Gail said the covered porch does make the front of the home more nonconforming. She asked if it can become living space. She asked that the covered area remain open.

Kris asked for a consensus that the by-law 3.5.5 applies. The Board agreed.

Gail made a motion to approve the plans as proposed with a condition that the entry porch remains open and does not become habitable space. Jane seconded.

The Board voted 5 – 0 to grant the special permit

-The next hearing was for Tom & Joyce Dresser of 79 Meadow Lane. They came to the Board to ask to rebuild a rotting deck and add 3 feet to it. It was pointed out that the lot only has 5,000 sq. feet and most of the residence is in the R2 setbacks.

-Kris read 3 letters from neighbors supporting the applicants.

-Kris opened the floor for comment. Patrick Crosgrave, a neighbor, spoke saying that the new deck increases safety and runs parallel to the setback.

By consensus the Board agreed that it is nonconforming and 3.5.5 does apply. George pointed out the neighborhood has built a lot of decks.

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

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

-Before the next hearing George Warren left for the evening and Peter Palches joined to Board.

The last hearing was for Bradley Square. Philippe Jordi and Richard Leonard came to the Board and showed modified plans for the community housing project. Philippe said the review has gone on for 18 months with 8 of those months used to design the project. The MV Commission reviewed it for the next 4 months. In July of 2008 it came to the ZBA. There was a time out so that the Oak Bluffs Concerned Citizens Committee could work conditions into the agreement. They met 7 times over 5 weeks. They went back to the Commission with a modified plan.

The applicants showed that on site parking went up from 11 – 20 spaces. Open green space has been greatly reduced but trees retained. The height of the two new buildings has gone from the originally proposed 32 feet down to 28 feet. All commercial space is now located in the B1 area of the property. The Denniston building originally proposed to be moved to the east end of the lot will now stay in its current location. Events in the building are limited to a maximum of 30 people twice a week. The number of units went down from the original proposal but the number of bedrooms went up. Each residential unit will be sold to qualified low to moderate income applicants. Oak Bluffs residents will get preference for 4 of the units. Oak Bluffs residents can also qualify for the other units as well.

-Philippe reported this project will generate 100 construction jobs as well as tax revenue for the town. The modified plan approved by the MVC includes all the conditions approved by the Board at its December 2nd meeting and added that tree #52 is retained and that only 18 parking spaces be required on site.

Philippe reported that because several trees are to be retained with 15 foot no digging zones around them, the Bradley I has been shifted 7 feet east to comply with the MVC condition. The Denniston building also will be put on a new foundation that will be 1 foot 8 inches east from the present location. Philippe showed on the site plan the two parking spaces the Commission thought should be eliminated. He said not having them would create a buffer area for residents across the street on Masonic Avenue.

Kris read off receipt of 8 letters brought to the Board.

The floor was opened for public comment. Holly Alaimo from 57 Webequa Ave spoke in favor of the project. Marie Allen from 59 Monroe Ave spoke in favor. Janet Morris 58 Simpson Ave spoke in favor of bringing the project to fruition. Richard Toole from 24 Tradewinds Road said it's positive growth for the town and is infill growth that's part of smart planning. Lawrence Schubert, 92 Dukes County Ave said it would be wise to mark up the plan so that parking should be emphasized on Masonic. Guinivere Kramer, 19 Vineyard Ave said she's happier with the new design.

-Vera Short from Tisbury said the project will benefit the whole community and preserves the history that is so vital. Judith Schubert along with her husband stated that the compromises made helped it to be a better project. She also said the buffer p-spaces are great to hide the p-lot and make it pleasant to look at.

-People who still had concerns included Don Lambert from 10 Bay View Ave who stated that parking and traffic were the safety issues they most wanted to address. He says it's still an issue and spaces should stay and the meeting schedule should be more restrictive. He asked for more parking and less use of the community space in the function hall. Karen Torrence of 7 Warrick Ave said the project puts a lot of parking in her back yard and too much green space along Bradley II and Wing Rd. She's happy with the fence.

-Candace Nichols from 110 DC Ave said the plans weren't on file when she went to see them. She talked about the two trees to be preserved. She thinks it has to go back to the MVC. She said a new design is necessary. She said the Denniston Building can't be moved because of the tree. She said that the lot has not been approved because the sewer commission has not signed off. She said real estate prices need a reaffirmation that the banks still will lend. She also said commercial development in Bradley I should be reviewed with town counsel. She said the businesses must be incidental to the residents. She said the Denniston use is business in a residential neighborhood. She said one less building would only cost 100K more.

-Joe asked when Don became ambivalent. He said from the start. The parking was inadequate. He also said 2 building with greener space and onsite parking would be a lot better. 2 building redesign is a better project.

-Michelle Jones from Franklin Ave asked about the sewer problems in Oak Bluffs and if the problems in Ocean Park will affect this project. Catherine Deece of 50 Pocasset Ave asked about the lots going from 2 to 1 and how the sewer will work for this project. She's against the size and being so close to it.

-Philippe said the lots were merged back in August. He showed the Board a recorded deed acknowledging that the property is one lot and recorded as 96 Dukes County Avenue satisfying wastewater's condition for tie in.

-Kerry Scott spoke as a selectmen and resident. She said it's too much of a good thing. She said it was hoped to be more affordable. She said the project has a lot of support but is too much on the lot. She said

the process was not good. She said the Selectmen should have vetted the project 1st. She said the BOS could have had more time to look at the different considerations.

-Candy went again and showed the Planning Board memo. There was discussion on how the lot was recorded. She also showed the letter from Tree Warden Joe Bettencourt. Kris read the letter. The letter stated that digging would not be allowed close to the tree. Kris also read the MVC conditions.

-Gail said the Board should not go against what the tree warden wants from the project.

-Candy said the tree warden should come to the Board to show how the tree will be protected.

-Janet Morris commented that there are people opposed to the project despite what they said tonight. She said to just keep bringing up concerns will only lead to the demise of the project.

-Dave Wilson from Inca Road said it's been talked about for a long time and even though community sentiment is not all in favor, it's time to vote. Richard Toole said he wants to once again point out that the revote for the funds was overwhelming. He said there is a lot of support.

-After hearing from the public the board discussed the modified and conditioned project. Gail thought the preservation of the Denniston building and the low income affordable housing component were the most important aspects of the proposal. She stated it would be a better project if the Bradley II building were removed. Gail proposed that one building be taken out which would still provide four affordable units and preservation of the Denniston Building. She ran the numbers and figured that with one less building, the project could be completed with in about \$35,000 of the original proposal. The applicant argued that Gail's calculations did not account for the loss in subsidies incurred by reducing the number of affordable units to four. Joe stated the long process of review was ragged at times. The applicants responded that they took the time to hear the concerns of neighbors and have scaled back many components of the design and use because of it.

The Board discussed the condition that the Denniston building not be moved. It was agreed that the condition was intended to prevent a complete relocation of the structure. The current plan to put it on a new foundation that is only 1 ½ feet different than the current location was acceptable.

A motion was made to remove the condition that the Denniston Building not be moved.

The Board voted 5 – 0 to remove the condition.

-The Board took up the issue of parking. Kris said a board condition was to have 20 on site and 4 on street parking spaces be included in the plan. He asked for discussion about the Commission's recommendation to have only 18 on site. Gail asked what relief the applicant needs from zoning regarding parking. She said that according to the by-laws the density and use of the property would require 28 spaces. She said in the bylaws for "flexible development" there is language for parking requirement for multi family buildings. There was discussion about each unit needing one or two spaces. Kris commented on the applicant's concession to the OBCCC to have 20 on site parking spaces instead of 11. He stated that it was a major concern in prior meetings that too many people utilizing Bradley Square would have to find parking in other areas of the neighborhood. There was discussion on the burden of providing parking both on site and off both daily and during special events. Gail said that the Board could not condition parking to be provided on the public street. Kris asked Board members if the condition that the project has 20 onsite and 4 on street parking spaces should be upheld.

A motion was made to eliminate the Board's condition to have 4 on street parking spaces but that there will be no less than 20 on site parking spaces.

The Board voted 5 – 0 to approve the modification of the parking condition.

-Kris pointed out 3.5 of the Commission's conditions involving trees on the property be incorporated into the ZBA decision. Board discussed incorporating all the conditions in the MVC decision into the ZBA decision. Kris asked about the fencing around the perimeter of the property. Philippe said it will be six feet either wood or vegetation. Kris said the MVC condition says it's a fence with vegetation.

-Gail said she wants to seek clarification on the Commission's traffic study and other conditions and said that there were conditions that appeared ambiguous and confusing. There was discussion of extending the time to be able to further review the Commission's decision.

Gail made a motion to continue the hearing for another 10 days to answer questions still pending. Joe seconded.

The Board voted 2 -3 to close the hearing for another 10 days.

-The Board discussed the Commission's condition of the applicant recommending to the town an implementation of a sidewalk plan which includes 4 on street parking spaces along Masonic Avenue. Gail thought it wasn't necessary. There was discussion on how the more restrictive conditions imposed by either the Commission or the Board cannot be reduced.

A motion was made to approve the project with the Board approved conditions and Commission conditions except 2.2.

In the discussion Gail asked if commercial use restriction should include restaurants as well as fast food restaurants. Provisions for commercial use in the Commission's decision were discussed.

The Board voted 3 – 0 – 2 to grant the special permit.

Kris addressed Selectman Scott asking for the town to embark on a road that will build a comprehensive plan to address the town's affordable housing in the future.

The meeting adjourned at 9:00 pm.