

Zoning Board of Appeals
Minutes of Meeting 4/29/2010
Oak Bluffs Town Council on Aging Building

Members present: Kris Chvatal, Chairman, Peter Palches, Derek Tipton, George Warren, Joe Re
Also present: Associate Members Andrea Rogers. Adam Wilson, Zoning Administrator & ZBA Clerk.

The meeting began at 6:00 pm. The Board agreed to meet again in May on the 20th.

-Adam had the Board sign off on the Joseph plans to demolish and rebuild with a framed house instead of a modular one at 44 Windemere Rd.

The 1st hearing was for Richard & Julia Schnetke at 69 Brush Pond Road. Tom Carberry from Sam Sherman Associates showed the board a plan to add a 280 square foot screened porch and a roof deck on to a home that is on a conforming lot. He showed where the house is in the side setback. He showed where the residence is in relation to the water. He said both the Board of Health and the Conservation Commission have approved the project. He said the new porch stays inside R-1 setbacks and will be put on seven 10" concrete piers. He explained that the applicants want to create a new screened porch area that would have a deck above that would be connected to an existing master bedroom second floor balcony. Joe asked if any plumbing was being added and Tom said the new porch was unconditioned space and its access would be through an exterior door.

On the site plan the 14 X 20' screened porch was shown to meet setbacks towards the side and rear of the property. He said it's a new deck with a screened porch. Kris asked if the height of the existing structure changes. Tom says it does not. Peter asked if the new addition goes closer towards the water. Tom said the project is within the 100' foot line to the top of the coastal bank.

-Kris said the board should consider two separate permits for 3.5.5 because the residence is nonconforming and 9.6.1 because the structure is in the Coastal District.

Kris read correspondence from neighbors:

1. Peter Case from 65 Brush Pond Rd. approved the plans as presented. Kris asked if Case had seen the plans, Tom said he had.
2. Gene McCabe from 66 Brush Pond Rd. also approves of the plans.

Kris opened up the floor for public comment. There was none. Kris then closed the public hearing.

-Peter said he has a concern that the new footprint is towards to the wetlands limits area. He said that protecting the wetlands is a big zoning priority.

-Tom said the ConCom is satisfied with the plans to build and to protect Brush Pond as well. Tom said there will be a regulated "No Mowing" zone to further protect the 200' feet of shoreline along Brush Pond. Joe asked if the site plan was done to indicate wetlands by soils and vegetated species. Tom said it was.

-There was discussion about the need for both ConCom and Zoning to co-jointly review site plans in wetland resource areas.

It was agreed that the applicant qualified for a special permit under 3.5.5

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

Kris stated that the proposed alteration is not substantially more detrimental to the neighborhood than the existing nonconforming residence.

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

-Peter and Joe commented on the need for future applications being close to the shoreline needing complete documentation and approvals from ConCom before board consideration.

-Kris said that the current application doesn't show an increase in plumbing or sanitary disposal facilities that are prohibited under shore zone regulations. Joe said the run off of rain water from the new addition is mitigated away from the water. Kris said the new addition meets Coastal District height restrictions.

George made a motion to approve the plans as presented under 9.6.A.1. Derek seconded.

-Kris said the application appears to meet the height requirement and having no additional plumbing under 9.6.A.1.

The Board voted 5 – 0 to grant the special permit

The next hearing was for Lynn Howell @ 12 Vineyard Avenue. The applicant is looking to expand a sunroom and existing kitchen and add additional 2nd floor space to a pre-existing, nonconforming residence. Architect Chuck Sullivan explained that the ownership situation is in probate and that Lynn Howell is taking over ownership of the property from her mother. He said that the residence is on a conforming lot but doesn't meet the front setback for an R1 residence. Chuck explained that the additions don't add anymore to the existing setbacks. He explained that some of the space will go from one to 2 story additional space. He said the number of bedrooms will be moved upstairs but the bedroom count (3) remains the same.

-Chuck said there is 500 sq. feet in additional living space and 114 sq. feet in deck space.

Kris opened the floor for public comment. He read correspondence from Earl Peters of 7 Shawmut and Joseph Peters 6 Winthrop approving of the plans. He then closed the floor.

It was agreed that the applicant qualified for a special permit under 3.5.5

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

Kris stated that the proposed alteration is not substantially more detrimental to the neighborhood than the existing nonconforming residence.

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

-Adam reviewed for the board the appeal filed by Lehr at 133 Seaview Avenue. He read excerpts from the complaint given to him from Rappaport's office.

-Before the next hearing, Andrea replaced Joe and he left for the evening.

-The last hearing was for Pamela Bundy at 11 High Meadow Lane. The applicant is seeking to add a two car garage and enclose an existing deck to a pre-existing, nonconforming residence. Architect Darren Reubans from Terrain Associates and Pamela came before the board. Darren showed that the house did not meet the side and rear setbacks for an R2 residence. He also showed that there is also a shed that is over the property line in a "greenbelt" conservation area.

-Darren said that the 24 houses between the entrance to the subdivision and the applicant's house, 14 houses have attached two car garages. He showed pictures of other homes in the Meadowview neighborhood that have the same typical style of garage with habitable space above that they are pursuing. He said an additional 584 sq. feet was being added to the 1st floor of the residence and 624 sq. feet on the 2nd floor. The additional living space on the 2nd floor is to expand the current master bedroom. The height of the structure remains the same at 29 feet. He said there are currently 4 bedrooms. Darren said that enclosing the deck will only be to increase the living room area. Pamela said the expansion is to accommodate having more room for family's members that visit.

Kris opened the public meeting for public comment. He read a letter from James & Helen Donahue at 13 High Meadow Lane letter objecting to the proposed plans. A letter was read from Stephen Robinson of the

Meadow View Farm's Property Association Architectural Approval Committee that also objected to the proposed changes as the garage intrudes upon setbacks and other exterior architectural features. Kris read a letter from Darren to the MVF committee outlining the exterior features they would comply with in order to obtain approval. He also said that the shed would be moved so as to conform to setbacks.

-Kris said the board has gone both ways on approving or denying special permit applications with or without homeowner association approvals. Darren stated that the association rules cover exterior features and do not address the approval of addition to footprint.

-Kris asked Adam if the Building Department considers the existing deck part of the foot print structure. Adam said it was. Kris said the current nonconforming rear setback where the deck sits is 18 ½ feet from the property line and the proposed garage addition will reduce that rear setback down another 8 feet. There was discussion of making the shed conform as a factor in allowing other proposed changes to occur. Board members asked if the new garage could be moved further forward. The contour of the lot's land was discussed.

Fred Roven, whose real estate brokerage represents the Bundys, stated that the addition will make the house look more like the other houses in the neighborhood.

Setbacks to the property line vs the green belt were discussed. Pam said any redesign would make it prohibitive. Kris said the setback issue is the biggest question and is the proposed new construction substantially more detrimental to the neighborhood.

Peter stated he thought it was not because:

1. The abutting neighbor most affected by the proposed changes is silent;
2. The neighbor who objects is on the other side of the property's proposed changes;
3. There is a lot of respect to maintain the green space on the property and providing an expansion that doesn't harm the aesthetics for the neighborhood.

Kris said that there is no real direct abutter objection and that the one story deck addition is more than enough. Increasing the nonconformity is not good but the open space nature of the lot and the greenbelt behind it can allow for further expansion into the setback.

-George made a motion to approve the plans with a condition that the nonconforming shed be relocated to a conforming part of the lot. Peter seconded.

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

-Peter commented that the site visit helped greatly in his decision to vote in favor of the special permit.

-The meeting adjourned at 7:00 pm.