



Town of Pepperell
BOARD OF APPEALS
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Zoning Board of Appeals Meeting Minutes of January 9, 2007

PRESENT: Thomas McGrath, Christine Morrissey, Sherrill Rosoff, Annette McLean, Mark Walsh; and ZBA Assistant, Cheryl Lutcza

7:12P.M. Thomas McGrath, Chairman, convenes the meeting. First agenda item is a hearing regarding an application submitted by Suzanne Shaw requesting MODIFICATION of the VARIANCE dated September 19, 2006, and filed with the Town Clerk on September 26, 2006. The requested relief is from the mandates of Condition No. 5 being: "Commencing 250 feet from Harbor Street, on the easterly side and to the rear of Lot 1, an area of 40 feet in width shall provide a restricted green space; said area shall be shown on a Final Landscaping Plan as a perpetual restriction to be presented to the Zoning Board of Appeals prior to a Certificate of Occupancy being issued on any house to be constructed on Lot 2. The Final Landscaping Plan shall be presented to the Zoning Board of Appeals at a publicly advertised hearing." The subject properties are located at 81 Harbor Street and 91 Harbor Street, Pepperell, MA, as shown on Assessors Map 32 as Parcels 18, 19:D and 98.

Clerk reads legal notice into the record.

Chair explains that the three members of the Board who voted on the original Decision in this matter, Christine Morrissey, Sherrill Rosoff and Annette McLean, will also be voting on this new application.

Applicant, Suzanne Shaw was present, and addressed the Board, explaining that she feels that Condition No. 5, in the Decision of the Board, dated September 19, 2006, was based solely for the position of a shared driveway being done, and that she has now decided to construct the driveway on the other side of the property and asks that Condition No. 5 be waived.

Applicant further addressed the Board and explained the following:

- Lot has been cleared
- Blaster has been hired
- Surveys are scheduled
- New driveway will be where actual frontage is

- All trees that have been removed are on new lot
- Presented copies of Plan signed by the Planning Board and recorded at the Registry of Deeds.
- Presented overview of property and shows “before and after” pictures of property and where new lot has been cleared.
- Feels that having a 40-foot “green space” is very restrictive; there is already extensive foliage between the two properties.
- Will be spending over \$22,000 to have driveway cleared; requirement to have another landscape plan for purposes that no longer exist is not fair; does plan to put up some white pines for own privacy.
- Can’t expect landscape won’t change when a new lot is created and new home is constructed; intention is for it to be beautiful in the end.

Clerk reads responses from the following Town Boards/Departments and/or concerned parties into the record:

- Response from Fire Department
- Response from Board of Health
- Response from Police Department
- Response from Town Counsel
- Response from Water Department
- Response from Highway Department
- Response from Planning Board
- Response from Conservation Commission

Chairman inquires if there is anyone in attendance who would like to speak in favor or opposition to application. The following members of the audience address the Board:

- Mike Sannicandro, 89 Harbor Street, read letter to Board into record. Mr. Sannicandro presented photos, which he also submitted into the record, showing his property in relation to the Applicant’s property, and what has been going on.

Applicant responded to Mr. Sannicandro’s presentation and discussion ensued regarding: location of wetlands; 40-foot “green space”; old roadway that has been there for many years; possibly old camping road; structure once existed “back there.”

- Dave Lyons, 88 Harbor Street, read letter to Board into the record. Mr. Lyons also presented new exhibit consisting of diagrams and pictures which he obtained from Google Earth. Mr. Lyons requested that Board deny application on table until 180 days after back lot building permit is granted.

Applicant responded and questioned Mr. Lyons’ measurements.

Board member asked Applicant why she abandoned common driveway. Applicant responded that she thought it would be more acceptable to abutters.

Board member informed Applicant that she had the right to appeal the original decision, dated September 19, 2006. Applicant responded that she didn't want to appeal, but wanted a modification; that she spoke with some attorneys who said she could apply to modify.

Board member explained that there are many considerations taken in granting variances.

Christine Morrissey motions to close record. Annette McLean seconds. All concur.

Christine Morrissey motions for discussion. Sherrill Rosoff seconds. All concur. Discussion ensues.

Sherrill Rosoff motions to deny relief requested. Christine Morrissey seconds. All concur.

8:20P.M. Second agenda item is a hearing regarding an application submitted by MacGregor Fiske under Section 9222 for a VARIANCE to the requirements of the Town of Pepperell Zoning By-Law Section 4231, which provision requires the minimum front yard set back to be maintained for a distance of 50-feet into the lot. The subject property is located at 9 Shirley Street, Pepperell, MA, as shown on Assessor's Map 34 as Parcels 18 and 21.

Board member, Sherrill Rosoff, requests to be recused from this proceeding.

Clerk reads legal notice into the record.

Applicant, MacGregor Fiske is not present. Present on the Applicant's behalf is Attorney Elisabeth Aherne and Roger Goscombe, who both addressed the Board. Attorney Aherne explained the following:

- Variance request is only in respect to Lot 2
- New plan submitted, dated October 29, 2006, to correct typo
- New home will keep in character with homes currently in area
- Applicant believes he has special circumstances due to antique home located on property

Board member asks Roger Goscombe to show on plan where new home will be located.

Discussion ensued regarding various aspects of the plan and that there are no plans for town sewer to be available to the property.

Clerk reads responses from the following Town Boards/Departments and/or concerned parties into the record:

- Response from Water Department
- Response from Police Department
- Response from Historical Commission/Assessor's Office
- Response from Town Engineer
- Response from Town Counsel
- Response from Highway Department
- Response from Planning Board
- Response from Fire Department
- Response from Conservation Commission
- Response from Building Inspector

Attorney Aherne responds to letter from Planning Board explaining that new plan makes lot containing antique house a conforming lot and presents Field Cards from Assessor's Office (new exhibit).

Chairman inquires if there is anyone in attendance who would like to speak in favor or opposition to application.

The following members of the audience addressed the Board:

- Ernie Lindstrom, 8 Shirley Street: Is in favor of plan, but has concerns with grading of property when new house is built regarding how water will flow off property.
- Tom McAlpine, 10 Shirley Street: Doesn't have problem with existing house as it now stands, however has concerns with runoff and septic for new house. Roger Goscombe responds and addresses issues raised by Mr. McAlpine.

Discussion ensues regarding:

- Runoff and culvert
- There could be an increase of water flow in area if antique home were moved.

Christine Morrissey motions to close record. Annette McLean seconds. All concur.

Christine Morrissey motions for discussion. Annette McLean seconds. All concur.
Discussion ensues.

Annette McLean motions to grant relief as requested. Christine Morrissey seconds. All concur.

9:30P.M. Third agenda item is a hearing regarding an application submitted by Daniel Locapo requesting a Zoning Board of Appeals SPECIAL PERMIT for the property located at 43 Nashua Road, Lomar Park - Lot 11, which said Lot 11 is in both the industrial and recreational residential zoning districts. Section 2315 of the Town of Pepperell Zoning By-Law allows, by Special Permit, the extension of the regulations of the less restricted district (being the industrial district) to extend 50' into the remaining portion of the lot in the more restricted district (being the recreational residential district) where a district boundary line divides the lot. The subject property is shown on Assessor's Map 15 as Parcel 65.

Chairman informs those in attendance that Applicant, Daniel Locapo, has submitted a signed withdrawal form to the Board to withdraw his application without prejudice. Board votes to accept withdrawal application.

Old and New Business:

- Bayberry Estates 40B Application:
 - Board accepts request by Applicant via Attorney Robbins to cancel January 30, 2007 continuation hearing. Board instructs ZBA Assistant, Cheryl Lutcza, to send letter to Applicant, via Attorney Robbins, advising that the Board has rescheduled continuation hearing to Tuesday, March 27, 2007 at 7:00P.M. at the Pepperell Senior Center.
 - Cheryl Lutcza informs Board that Town Counsel has indicated that a Traffic Consultant is to be hired to perform a Peer Review of Applicant's Traffic Study. Discussion ensues and Board decides that an independent traffic consultant needs to be hired to perform an independent traffic study, as previously announced at the last Bayberry Estates continuation hearing on August 22, 2006. Board member, Annette McLean, will research and provide names of Traffic Consultants to ZBA Chairman, who will in turn forward them to Town Counsel, with the request that an independent traffic consultant be hired by the Board to perform an independent traffic study.

- Christine Morrissey motions to approve ZBA Meeting Minutes of November 28, 2006. Annette McLean seconds. All concur.

Christine Morrissey motions to adjourn meeting. Annette McLean seconds. All concur.

Meeting Adjourned at: 10:30P.M.

ZBA Minutes of January 9, 2007 filed with Town Clerk: February 20, 2007

Cheryl Lutcza
Assistant, Zoning Board of Appeals

cc: Town Clerk
Building Inspector
ZBA Application File
ZBA Minutes file
ZBA Members