

**BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
FEBRUARY 17, 2016**

Members Present: Christopher Graham, Chairman
Gerald Coutinho, Vice Chairman
Heather Salva, Clerk
Donna Lambert
Gary Simmons
Larry Kidney
Roger Menard

Chairman Graham called the Zoning Board of Appeals meeting to order at 7:20 PM in the Westport Town Hall, 816 Main Road, Westport, MA with the reciting of the Pledge of Allegiance by all present.

*Note: Ms. Lambert left the meeting at 7:16 PM on an emergency call.

Chairman's Announcement - Under MGL Chapter 30A, section 20(e) – Meeting being recorded.

Sandra Hayes – RE: An application request seeking a variance under Westport Zoning Bylaw Article 7 (Intensity Regulation); applicant wants to build a 22' x 27' garage to the existing single family dwelling with a proposed setback from Shirley Street of 18'. The parcel is shown on Assessor's Map-71, Lot-64. Subject Property is located at 45 Old Horseneck Road, Westport, MA.

Voting on Petition: Christopher Graham, Gerald Coutinho, Gary Simmons, Heather Salva,
Roger Menard

Also Present: Larry Kidney (ZBA members)
Ralph Souza, Zoning Enforcement Officer/Building Commissioner
Kurt Hayes, representing petitioner

Abutters Present: None

Mr. Graham read the Public Hearing Notice and asked if anyone wished to speak on this petition, to give their name and address for the record.

Mr. Hayes stated he was Sandra Hayes' husband (the applicant) and would be representing her due to the fact that she is out of Town this week; it is school vacation. Mr. Hayes stated they applied for the variance due to the setback issue from the street. Mr. Hayes stated their property on Old Horseneck Road was purchased after the prior owner passed away and essentially they rebuilt the house from the ground up; it was pretty much a shack but they now have a beautiful home there. Mr. Hayes stated there is no garage and so there is no where for us to be able to store things such as our lawn care equipment, lawn furniture or vehicles. Mr. Hayes stated he is not so concerned about storing his vehicles but they lack the ability to store lawn equipment and things of that nature. Mr. Hayes stated they want to build a two-level garage. Mr. Hayes stated where the property is located on the corner of Old Horseneck Road and Shirley Street, a garage will not obstruct any views or things of that nature. Mr. Hayes stated he has spoken with some of his neighbors and they do not seem to have any issues with his proposal. Mr. Hayes stated this is something that they may not do for a year or so.

Mr. Graham asked if there were any other properties in the vicinity that have similar setback issues. Mr. Hayes stated in addition to our house, there is the property owned by Ms. Capone and the McDuff's. Mr. Hayes stated there are a number of houses in the neighborhood that have been rebuilt, bringing the neighborhood back.

Mr. Simmons questioned the shed in the backyard. Mr. Hayes stated it is a detached studio; his wife works from home on occasion, she is a Regional Manager for Lane Bryant, and usually on Mondays and Fridays she is allowed to work from home, this place allows her to work away from our children; the electricity is supplied from our house, there is no separate meter. Mr. Coutinho questioned if Ms. Hayes was self-employed; Mr. Hayes stated no.

Mr. Coutinho stated a significant piece of this, is the fact that this is a corner lot, which must meet two 25 ft. setbacks – one from Old Horseneck Road (which has been met) and one from Shirley Street; part of these setbacks are for safety reasons. Mr. Coutinho asked about the trees that were along Shirley Street. Mr. Hayes stated the trees were Poplar Trees and they would be coming down because they are not strong trees. Mr. Hayes stated they have already removed 72 trees from this property. Mr. Coutinho commented that it is a very nice looking property.

Mr. Coutinho stated that if approved, will the meters have to be relocated. Mr. Hayes stated yes; his electrician, Tim Caden, has already been out to see what has to be done. Mr. Simmons stated that with the bumpout, would the meters have to be moved. Mr. Hayes stated it is not a drastic move but the electrician has seen it and it does have to be moved slightly. Discussion ensued.

Mr. Coutinho asked what the size of the property was. Mr. Hayes stated the lot is approximately a half-acre (100' x 201' = approximately 20,000 sq.ft.). Mr. Coutinho stated what he was looking for is a hardship due to size, shape and topography of the lot. Mr. Coutinho stated that if you are not familiar with zoning and variances, there has to be some kind of hardship with the property such as the size, shape, topography, even ledge, things of that sort. Mr. Hayes stated that due to the design of the house, this would be the only area that they would be able to have an attached garage, there is no other location and as a matter of fact, they explored that idea early on; they even looked at the opposite side of the house, but they would be right on the property line of the McDuff's property.

Mr. Simmons mentioned Article 7.6.1.1.4 (Waiver); Mr. Simmons then read the article aloud. Mr. Coutinho stated first of all, that would be the Planning Board but how are you equating that with this. Mr. Menard stated Article 7.6.1 is specifically for front yards. Mr. Simmons stated this is a corner lot. Ms. Salva stated she believed it was easier to go with the hardship of the land due to the size. Mr. Coutinho stated he agreed with Ms. Salva and the applicant will not have to go to the Planning Board. Mr. Coutinho stated we are talking about a relatively small lot. Mr. Coutinho asked Mr. Hayes if there was any other reason, other than aesthetics, as to why the garage was not shifted so that the garage opening would be facing Old Horseneck Road. Mr. Hayes stated due to the placement of their well. Mr. Coutinho stated that can be part of the hardship also; due to the placement of the well. Mr. Coutinho stated the size of the garage is not unreasonable. Mr. Hayes stated it is a standard size garage.

Mr. Graham asked if there were any other comments from the Board or information from the applicant. None were received.

7:33 PM

Motion made by Ms. Salva to close the hearing. Second by Mr. Simmons. The Board voted unanimously in favor.

Discussion by the Board:

Ms. Salva stated she was looking at the size of the lot and the location of the well as hardship.

Vote taken:

Motion made by Ms. Salva to approve the request for a variance at 45 Old Horseneck Road due to the hardship being the size of the lot, the odd-shape of the lot and the placement of the well, which prohibits the placement of the garage to a different direction and due to the location of the neighbor on the

opposite side of the property, prohibiting placement of a garage. Second by Mr. Coutinho. The Board voted unanimously in favor.

Mr. Graham stated there is a 20-day appeal period from the date of filing the decision with the Town Clerk. Mr. Coutinho also advised Mr. Hayes that the decision must be recorded with the Registry of Deeds in order to be valid. Mr. Coutinho questioned Mr. Souza how long does the applicant have to exercise the right of the variance; is it six months or a year. Mr. Souza stated it must be exercised within a year. The hearing is concluded at 7:30 PM.

Approval of Minutes – None.

Action Items – None.

Correspondence – None.

Other business – None.

Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting – None.

7:35 PM

Motion made by Ms. Salva to adjourn the Zoning Board of Appeals Meeting. Second by Mr. Simmons. ¹
The Board voted 6 in favor, 1-absent (Lambert).

Adjournment.

Respectfully submitted,

Diane Pelland, Principal Clerk
to the Zoning Board of Appeals

APPROVED: _____
Heather L. Salva, Clerk