

**BOARD OF APPEALS  
REGULAR MEETING MINUTES  
JANUARY 06, 2010**

**Members Present:** Clayton M. Harrison, Chairman  
Gerald Coutinho, Vice Chairman  
Donna Lambert, Clerk  
Kendal Tripp  
Kimberley A. Fernandes, Alternate  
William Wyatt, Alternate

**Absent:** Christopher Graham

Chairman Harrison called the Zoning Board of Appeals meeting to order at 7:00 PM in the Westport Town Hall, 816 Main Road, Westport, MA 02790.

**Jane Nunes – RE: A public hearing on an application request for a variance pursuant to Article 7.6.2 of the Westport Zoning Bylaws, which requires a 10-ft. sideyard setback, to construct a proposed garage closer to the property line than allowed. The property is located at 188 Sodom Road and also known as Assessor's Map-65, Lot-66.**

The hearing was opened at 7:00 PM with Mr. Harrison reading the public hearing notice aloud. Members sitting on petition were Mr. Harrison, Mr. Coutinho, Mr. Wyatt, Mr. Tripp and Ms. Fernandes. Ms. Jane Nunes (applicant) and her contractor were present. Ms. Nunes stated that her contractor tried to put the garage back further on the property but the septic system would be interfered with. Ms. Nunes stated that she has also put a new deck on the house and the garage would be blocking it and the side entrance of the house. Mr. Harrison questioned if the front of the property line is near Sodom Road and the house is 26 ft. from the proposed garage. Ms. Nunes stated that Alex Taber a builder from Tiverton, RI did not identify the actual property line. Mr. Harrison stated that the setback from the road is 25 ft and this could be an issue. Mr. Harrison then read the letter from the Building Inspector addressing the issue of the property. Mr. Harrison then stated the applicant wants to build within 2-ft. of the property line. Mr. Harrison said the reasons for setbacks are for safety and access to one's property and a hardship can be caused by a number of things such as ledge, shape of the lot and topography; that is why a variance is granted. Mr. Coutinho asked if the 2-ft. included the eaves. Mr. Coutinho noted the drawings that were submitted are not to scale. Ms. Nunes' contractor stated the eaves were not included and that drawings are not to scale. Mr. Coutinho asked if Ms. Nunes had a copy of a plot plan or the Assessor's Map. Ms. Nunes had neither. Ms. Nunes stated the garage size is 24' x 36' and it is 30 ft. from Sodom Road, it will be a single story garage in order to store one car; also, there will be only one garage door on it. Ms. Fernandes stated the request is for 2-ft. from the boundary line, suppose the neighbor wants the same thing that would leave only 4-ft. between neighbors; the garage is almost as big as the house; perhaps a change in plans can be more accommodating to the bylaws. Mr. Harrison stated the only hardships he can see is the septic in the back and the well in the front. Ms. Lambert stated that if the septic needs repair, where or how could the equipment get into the backyard if this proposed garage is granted. Mr. Wyatt stated that

presently this does not conform to Title V. Mr. Harrison said that he would like to see an accurate, corrected dimensions on a new plan and he would also like to see the plans that were submitted to the Building Inspector. Mr. Tripp stated the applicant was asking a lot of this Board to approve this application because this is not something the Board would normally approve. Mr. Coutinho stated a person does not have a right to get a variance to get a garage; he agreed with Mr. Tripp, he does not believe this is a reasonable request because a normal garage is 8 to 9 ft. wide; if the applicant were to stay away from the Sodom Road property line by 25-ft. and stay at least 10-ft. from her property line, this request would not be here because according to the septic plans there is 40-ft. from the edge of the road to the well and 75-ft. from the edge of the road to her house. The depth of the garage is not the problem, it is the width. Mr. Harrison stated the Building Inspector had a problem, with the side lot line. Mr. Coutinho stated to Ms. Nunes that she could come back with accurately drawn plans or an onsite could be conducted using accurately drawn plans or the Board could allow Ms. Nunes to withdraw without prejudice and gets professional plans in order to reapply. Mr. Coutinho stated the advertisement has the wrong lot number; but that could be a legal question. Ms. Nunes asked if surveyor plans would be okay. Mr. Coutinho said not necessarily, a set of plans showing all accurate dimensions is needed; this submitted plan does not match the septic system plans. Mr. Coutinho stated that if Ms. Nunes really wanted storage, it could be built in the back of the garage. Ms. Lambert stated her concern was the dimension from the house to the boundary line to the right-of-way and then from the patio deck to the garage. Mr. Coutinho stated the Board could almost deny this petition tonight due to the wrong lot number and the inaccurate drawings, which would mean that the applicant could not come back before the Board within two years. Mr. Coutinho stated to Ms. Nunes that she should get help with the laws on hardship because it is up to the applicant to be prepared; and if you decide to downsize or reshape the garage you may have to come back to the Board, at which time it would be better to be prepared. Ms. Nunes stated that she would like to withdraw her request at this time and submitted a letter to that effect.

**Motion** made by Mr. Coutinho to allow the petitioner to withdraw without prejudice; in as much as the legal ad was in error based on the information from the application and inaccurate plans showing no dimensions were submitted. Second by Ms. Lambert. The Board voted unanimously in favor.

### **Consider**

1. **Motion** made by Ms. Lambert to approve the Annual Report of the Board of Appeals. Second by Ms. Fernandes. The Board voted unanimously in favor.
2. No action taken by the Board on an updated report of petitions being filed with the Registry of Deeds.
3. The Board of Appeals received permission to use the Town Hall Annex to host a free one-day seminar given by Kopelman & Paige.
4. **Motion** made by Mr. Coutinho that the Sub Division Regulations as shown on plans for 275 State Road are incorrect and possibly the minimum area requirements are incorrect also. Second by Ms. Fernandes. The Board voted unanimously in favor.

5. **Motion** made by Ms. Lambert that the Sub Division Regulations as shown on plans for the proposed Forge Road Contractor's Storage Facility are incorrect. Second by Mr. Coutinho. The Board voted unanimously in favor.

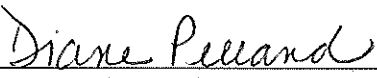
**Correspondence**


No actions were taken.

**Motion** made by Ms. Lambert to adjourn the Zoning Board of Appeals meeting at 9:20 PM. Second by Mr. Coutinho. The Board voted unanimously in favor.

**Adjournment.**

Respectfully submitted,

  
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Diane Pelland, Principal Clerk  
to the Zoning Board of Appeals

APPROVED:   
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Donna M. Lambert