

**BOARD OF APPEALS
REGULAR MEETING MINUTES
AUGUST 11, 2010**

Members Present: Clayton M. Harrison, Chairman
Gerald Coutinho, Vice Chairman
Christopher J. Graham
Kimberley Fernandes, Clerk
William Wyatt, Alternate

Absent: Kendal Tripp
Donna Lambert, Alternate

Also present: Ralph Souza, Building Inspector

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.

Lawrence Webb & Janet Hadley, 82 Shirley Street - RE: Continued hearing on application request for a variance for relief from Zoning Bylaws, Article 7, Section 6 to allow the construction of a garage not meeting yard or setback requirements. The property is also known as Assessor's Map 71, Lot 81.

Sitting on petition: Harrison, Coutinho, Graham, Fernandes, Wyatt
Attending: Attorney Brian Corey, representing petitioner
Abutters: None

Attorney Brian Corey stated his clients purchased the property, which consists of a ranch style house that was built in the 1950's. The property has peculiar characteristics. The property is in close proximity to the Westport River, with a portion of the building being built on piers. This is a minor variance that is being requested. As for Shirley Street, where it is built is not where it exists. My client is requesting a variance of setback of 1.5 ft., the required setback is 25 ft. but an average radius shows 15 ft. All the structures in this area miss the average setbacks. This is the only place, because of the river, that the proposed garage can be placed. Attorney Corey stated that per request of the Zoning Enforcement Officer, a 250-ft. radius of the concerned residence was shot by engineers. The garage is proposed to be 19-ft. deep and 12.5-ft. wide with 7.5 ft. into an existing foundation. There is only a basement under the house part, not the garage due to the water table. The Conservation Commission has requested to have a filled-in partial basement area. There will be a new deck on pylons, which will be shifted from the original deck. The new deck will be roughly 5 ft. from the garage. No extension is planned for the existing house. The new foundation will eliminate the old foundation. Mr. Souza, Building Inspector stated the changes have been made to the plan and he has not viewed them yet. Attorney Corey stated that Lot 1, which abuts this property is dedicated to the use of Shirley Street residents. The new garage area will be 12 x 12 ft. Mr. Souza stated the petitioners are here because they could not meet the average setback. The averages were 19.9, 15.5, 30.5, 3.7 which is a shed that is the closet structure to the property boundary, not the house and 8.4. On Lot 82, the shed has

existed for about 50 years. On a plan dated 03-02-10 titled "Natural and Characteristic" it shows the only location on the property that a garage can be done. Mr. Coutinho stated that the other lots showing are small lots of similar size.

Motion made by Ms. Fernandes to close the hearing at 7:30 PM. Second by Mr. Wyatt. The Board voted unanimously in favor.

Discussion

Mr. Coutinho stated he saw no problem and this request does not denigrate from the bylaw and the existing parking area is just being covered. Mr. Graham stated it would be a one-story garage with no second floor. Mr. Harrison stated all the materials and a plan with the dimensions have been submitted and no correspondence against or in favor of this petition have been received. Mr. Coutinho stated his concern is the setback but it is a one story functional garage that can't cause much architectural damage to be done at 12.5-ft.

Vote Taken

Motion made by Mr. Coutinho to grant the variance as requested by the applicant for the setback indicated on the presented plan dated 03-10-10 with a setback to the property line no less than 13.5 ft. The grant of this variance is due to a hardship of size and shape of the lot, with the neighborhood consisting of relatively small size lots and the granting of this variance will not denigrate from the intent and purpose of the bylaw. The garage size and type is basically for a functional garage set where there is existing parking now. Also, the average front setback within a 250-ft. radius is approximately 15 ft., per our bylaw, overrides the usual 25-ft. front setback requirement. Second by Mr. Graham. The Board voted unanimously in favor.

Manuel Soares, 42 Cleveland Street - RE: Public Hearing on an application request for a variance to keep and maintain two dump trucks/trailers, four pickup trucks and ten pieces of off-road equipment located at 42 Cleveland Street. Relief is sought from Zoning Bylaw Article 4.0 – Commercial Use not allowed in R/A District. The property is also known as Assessor's Map 11, Lots 48-60.

Chairman Harrison opened the public hearing at 7:45 PM. Mr. Harrison read the public hearing notice aloud and stated a request for a continuance was received from the applicant's representative, SITEC Engineering.

William Plamondon, 11 Cleveland Street, stated he questioned whether there was a conflict of interest with Mr. Harrison sitting on the petition due to his relationship with Michael Rodrigues whose is involved with an abutting lot. Any decision made on this lot could directly affect Mr. Rodrigues lot.

Mr. Harrison stated he has no conflict and Mr. Paiva is not the applicant, Mr. Soares is. This property has come up numerous times over the past years before this Board and there has never been a conflict.

Motion made by Ms. Fernandes to continue this hearing to Wednesday, September 15, 2010 at 7:00 PM. as requested by the petitioner. Second by Mr. Coutinho. The Board voted unanimously in favor.

Attorney Brown-representing abutter Mr. Paiva stated to the Board that a 3rd and final order back in March was issued to Mr. Soares. The abutting properties are not being allowed their privacy. Mr. Coutinho stated that a "Cease & Desist" is the Zoning Enforcement Officer's jurisdiction not the Zoning Board of Appeals.

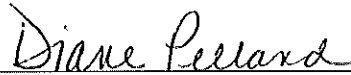
Other Business

1. No action taken.

Motion made by Ms. Fernandes to adjourn the Zoning Board of Appeals meeting at 8:00 PM. Second by Mr. Graham. The Board voted unanimously in favor.

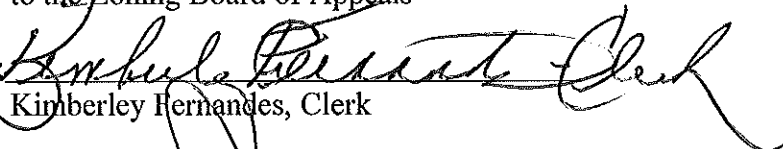
Adjournment.

Respectfully submitted,



Diane Pelland, Principal Clerk
to the Zoning Board of Appeals

APPROVED:



Kimberley Fernandes, Clerk