

BOARD OF APPEALS

Minutes of Meeting

May 23, 2023

A regularly scheduled and noticed meeting of the Board of Appeals was held on **Tuesday May 23, 2023**, remotely on Zoom, and was called to order by Chairman Bill Moriarty at 7:30 PM.

Present were five Board members *Lipkind, LaBrecque, Barlow, Liebman, Rudolph*.

This hearing was held in accordance with the provisions of the Marblehead Zoning Bylaw, and Chapter 40A of the General Laws as amended. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this public hearing of the Marblehead Zoning Board was conducted via remote participation.

https://us06web.zoom.us/rec/share/5U-9H_vKH6aNbAhFDJ6Q1zcbQgHjqkCYMyrNr8sfqpBumTet38K3VKSXnHhZL2yf.SmsG5TgjFV8AS7-s

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7:30 PM. 10 Pitman Road – Brendt and Kerry D'Orio

The Board of Appeals opened a public hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct an addition to an existing single-family dwelling on a preexisting non-conforming property with less than the required lot area, frontage and side yard setback located in the Single Residence District. The new construction will be within the side yard setback. Architect Tony Roosien, Roosien Architects, Swampscott, MA explained the application for the construction of a finished space above the garage, the space will step down from the main second floor. The floor and roofline is lower. Space is within the sideyard setback. No one spoke in favor or opposition and a motion was made to close the hearing (Barlow, Labrecque, Rudolph). Labrecque, Liebman, Rudolph, Barlow, Lipkind. (All in favor). The board considered the application for the reasonable addition on an undersized lot and voted to approve the application with the usual conditions. Labrecque, Liebman, Rudolph, Barlow, Lipkind. (All in favor). **SPECIAL PERMIT WILL ISSUE.**

7:40 PM 4 Taft Street – Allen Shiller

The Board of Appeals opened a public hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct of a deck addition to an existing single-family dwelling on a preexisting non-conforming property with less than the required lot area, lot width, frontage, front and side yard setback and open area located in the Single Residence District. The new construction will be within the side yard setback and further reduce the required open area. Paul Lynch represented the application. Allen Shiller was also on the call for the presentation. The application is for a proposed deck, in the same 13' setback, with a deck length increase by

5'. The area under the deck is over 5' in some places. Abutters are not in close proximity and many have signed a petition in support of the project. There is an increase in gross floor area due to the area under the deck, in a sloped area; the area is unusable. Mr. Barlow asked if there was an issue the deck encroaching on an easement. Mr. Lynch responded, no, but he will check with DPW director, Amy McHugh to see if there is a potential issue. A condition can be incorporated into the decision to ensure that the water and sewer and drain department approves any encroachment. The deck is above the easement. There were no further questions. A motion was made to close the hearing (Barlow, Labrecque). Liebman, Rudolph, Labrecque, Barlow, Lipkind. (All in favor). A motion was made to issue the special permit with the usual conditions and an additional condition for easement approval by Water and Sewer Dept. with a letter to Becky Curran for the file. Rudolph, Liebman, Labrecque, Barlow, Lipkind. (All in favor). **SPECIAL PERMIT WILL ISSUE.**

7:45 PM 5 Curtis Street – Ryan and Maggie Wheeler

The Board of Appeals opened a public hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct additions to an existing single-family dwelling on a preexisting non-conforming property with less than the required lot area, frontage, front, side and rear yard setback and parking located in the Single Residence District. The new construction will exceed the 10% expansion limit for nonconforming buildings. Architect Craig Bosworth represented the application for the Wheelers who were on the call as well. He presented an assessors map to show location and identify neighbors in support of the project. There are two additions in two locations both within the setback limits; an existing side addition with a deck will become a full addition and the rear side deck will have another addition. Existing nonconformities include an existing garage. The application is before the board because of the 10% expansion rule, all other dimensional considerations are by right. The lot is 7000 s.f., a large lot. A motion was made to close the hearing. (Liebman, Barlow). A motion was made to issue a special permit with the usual conditions. Barlow, Rudolph, Liebman, Labrecque, Lipkind. (All in favor). **SPECIAL PERMIT WILL ISSUE.**

7:45 PM 34 Ruby Avenue – Annie Lee and Nankin Li

The Board of Appeals opened a public hearing vary the application of the present Zoning By-law by allowing a Special Permit to construct an addition to an existing single-family dwelling on a preexisting non-conforming property with less than the required lot area, frontage, front rear and side yard setbacks located in the Single Residence District. The new construction will be within the front and side yard setback, reduce the open area to less than required and exceed the 10% expansion limits for a nonconforming building. Board member Marc Liebman will not participate in deliberations, citing a potential conflict of interest. Architect Bruce Greenwald presented the application for reconstruction of porch and stairs in the front and a one story addition to the back of the two-story gambrel. The porch is already in the front yard setback and the new addition will not encroach further. He showed existing and proposed conditions that would create additional space in the master bedroom over the first floor rear addition, expanding a little in the back to align with the rest of the house. Open area space is under the required 1:1 because of the basement under the addition. There is neighbor support for the project, but nothing in writing. Mr. Barlow asks to explain the porch and addition again with a concern about going lower than the 1:1 ratio, further inquiring about the entrance modification and how it

aligns with adjacent homes. The basement will be usable space. Mr. Rudolph asked how far off the existing front porch is. The house is 20' to the steps that are within the setback.

Tom Murando, 12 Sapphire Avenue, wasn't contacted by the neighbors and only received the letter from the town about the proposed project. He expressed concerns gross floor area, setback changes, and has concerns about a potential rental unit. Mr. Greenwald confirmed that the space will not become a rental property. Owner, Annie Lee spoke and said that she didn't know who the owner was directly behind the property and apologized for the oversight, and didn't know that she should've spoken with him. A motion was made to close the hearing. Barlow, Rudolph, Labrecque, Rudolph, Barlow, Lipkind. (All in favor 4). Mr. Barlow has a concern about the extension of the expansion but Mr. Greenwald made an important point, that the high percentage is in the basement and won't impact the footprint or exterior. A motion was made to issue a special permit with the usual conditions. Four members voted. Barlow, Rudolph, Labrecque, Lipkind. (All in favor 4). **SPECIAL PERMIT WILL ISSUE.**

ADMINISTRATIVE HEARING – 16 Hathaway Road – Dyer Residence – Windows

Architect Tony Barletta, Bramhall Architects, represented the request to change originally proposed two double-hung windows on the southeast corner of the home to a single, large window, and also replace three proposed double hung windows in the kitchen with three smaller windows to accommodate a new counter. It was decided that the request was not a materials change and the Board could make a vote on an administrative basis. Labrecque, Liebman, Rudolph, Barlow, Lipkind. (All in favor). **ADMINISTRATIVE CHANGES APPROVED.**

8:00 PM 42 Longview Drive – Deborah Stevenson Wysor

The Board of Appeals opened a public hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct a shed as an accessory to an existing single-family dwelling on a preexisting non-conforming property with less than the required lot area, lot width, frontage and side yard setback located in the Single Residence District. The new construction will be within the rear and side yard setback. Deborah Wysor presented her application for 6' x 10' shed within the sideyard setback in her back yard. It will be built 3' from the read and 4' from the sideyard setback. Four immediate neighbors have been contacted, no one opposed. Mr. Barlow inquired about the angle placement of the shed. Ms. Wysor stated that it is a more favorable location because of existing landscaping plants) and a tree on the right side of the shed. No one spoke in favor or opposition. Motion was made to close the hearing (Liebman, Barlow). Labrecque, Liebman, Rudolph, Barlow, Lipkind. It was motioned to issue a special permit with the usual conditions and build as shown, no closer than 4' to the side setback. Labrecque, Liebman, Rudolph, Barlow, Lipkind. All in favor. **SPECIAL PERMIT WILL ISSUE.**

8:00 PM 26 Wyman Road – Derek Rando and Lindsay Lubets

The Board of Appeals opened a public hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct a detached carport/shed as an accessory to an existing single-family dwelling on a conforming located in the Single Residence District. The new construction will be within the front and side yard setback. Architect Derek Bloom presented the application for a new carport and shed for bikes on the property where there is currently just grade parking. There are no nonconformities and construction would be in the front and sideyard setback. One abutter on Bubier Road would be most impacted. Two email letters of

support were submitted. Mr. Lipkind inquired about existing structures not appearing on site plan. Mr. Barlow asked about the concrete paving with edgings and no curb and asked if the features would blend with natural finishes. Mr. Lipkind expressed concern about approving a structure on a road and ½ foot off the lot line; an unusual site. Mr. Liebman shared his concerns for snow removal and town trucks with the structure being so close to the street. Motion was made to close the hearing (Barlow, Liebman) Barlow, Rudolph, Liebman, Labrecque, Lipkind. (All in favor). A brief discussion about site conditions, lot line, ledge. A motion was made to issue a special permit. Barlow, Rudolph, Liebman, Labrecque (yes) Lipkind (no) 4-1. **SPECIAL PERMIT WILL ISSUE.**

8:15 PM 12 Liberty Lane – Keith and Kathryn McDonald

The Board of Appeals opened a public hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct an addition to an existing single-family dwelling on a preexisting non-conforming property with less than the required lot area, frontage, front and rear yard setbacks located in the Single Residence District. The new construction will be within the front and side yard setback and exceed the 10% expansion limits for a non conforming building. Attorney Paul Lynch represented the application for an addition on the split level home. The Board had questions about a roof overhang and a chimney and fireplace below, questioning the dimensions on the plans. Neighbor Jo-Ann Andaloro, 12 A Liberty Road, asked if the project had gone before the Conservation Commission. My Lynch said that if it's within 100' of the resource area, they will file with the ConCom. The meeting closed Labrecque, Liebman, Rudolph, Barlow, Lipkind. Mr. Lynch made a request to withdraw the application without prejudice. The Board voted to allow the motion to withdraw the application. Labrecque, Liebman, Rudolph, Barlow, Lipkind. (All in favor). **APPLICATION WITHDRAWN WITHOUT PREJUDICE.**

8:15 PM 80 Jersey Street – Will and Lisa Garry-Seymour – The Board of Appeals opened a public hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct an addition to an existing single-family dwelling on a preexisting non-conforming property with less than the required rear yard setback located in the Single Residence District. The new construction will be within the rear yard setback. Architect Craig Bosworth presented the application for a renovation and addition to the second floor of the home. The addition will not expand the footprint and will be in keeping with the gambrel style of the home. He reviewed the plans to expand the master bedroom and bathroom and showed letters of support from neighbors at 1 Spear Street, 77 Jersey Street, 75 Jersey Street. There were no questions from the Board. No one spoke in favor or opposition to the project. A motion was made to the close the hearing Barlow, Labrecque, Rudolph. Labrecque, Liebman, Rudolph, Barlow, Lipkind. (All in favor). A motion was made to issue a special permit with the usual conditions. Labrecque, Liebman, Rudolph, Barlow, Lipkind. (All in favor). **SPECIAL PERMIT WILL ISSUE.**

Minutes approved for March 28, 2023 and *continued hearing minutes* April 18, 2023. Labrecque, Liebman, Rudolph, Barlow, Lipkind. (All in favor).

Respectfully submitted,
Senior Clerk, Engineering