

BOARD OF APPEALS
TOWN OF MARBLEHEAD

Minutes of Meeting of March 12, 2013

The regularly scheduled and noticed meeting of the Board of Appeals was called to order by Chairman Moriarty at or after 7:30 p.m. in the Selectmen's Room at Abbot Hall, Marblehead, Massachusetts. Present were Board members Tubridy, Drachman, Moriarty, Barlow, and Lipkind.

HEARINGS:

**7:30 PM 37 CORNELL ROAD
NEIL GEARY**

**Parcel ID 71-33
File Date: 9/20/2012**

**CONTINUED FROM 11/27/2012 & 1/26/2013 –WITH EVIDENCE TAKEN:
Tubridy, Drachman, Moriarty, Barlow & Lipkind**

The Board continued hearing a request to vary the application of the present Zoning By-law by allowing a Special Permit to demolish an existing dwelling and construct a new dwelling at **37 Cornell Road, Map 71 Parcel 33**, in a Single Residence District. The new construction is within the front yard setback and exceeds the 10% expansion limit on a pre-existing non-conforming property that has less than required lot area, lot width, front yard setback and side yard setback. The application was presented by Mr. Geary. Attorney Joe Dever, Esq. spoke in opposition to the application on behalf of neighbor Peter Sheridan. Other neighbors including Jim Armstrong of 62 Cornell Road, John Homan of 29 Dartmouth Street, Kathleen Kobialka of 41 Cornell Road and Linda Guarnino of 19 Cornell Road, spoke in opposition to the application. The applicant's request to withdraw the application without prejudice was unanimously approved.

**7:30 PM 14 CENTRAL STREET
EMILY STUART AND
PAULA PEARCE**

**Parcel ID 111-48
File Date: 1/25/2013**

Mr. Krasker replaced Mr. Drachman for this and all remaining hearings this night other than as noted below. The Board commenced hearing a request to vary the application of the present Zoning By-law by allowing a Special Permit to allow a change of use from light industrial to a two family dwelling and construction of a new overhanging roof at **14 Central Street, Map 111 Parcel 48**, in a General Residence District on a pre-existing non-conforming property. The application was presented by Attorney Paul Lynch of Marblehead. Mr. Lynch presented architectural plans as well as a survey and assessors plans purporting to depict other multi-family parcels in the area. The applicant wants to change the use from light manufacturing to a two family use. The applicant explained that the printing business that formerly utilized this property moved printing operations offsite in July 2011. Margaret Flynn of 10 Central Street spoke in support of the application, as did Marion and Mike Keating, who live behind the property. Barbara Shefftz of Central Street spoke in favor of the application. She said that she was in favor of changing the use to residential, and that her only concern—the garage door—had been

met by making the door opaque. Attorney Robert McCann of Danvers appeared representing the abutters on the right side of the property. Prior to the hearing, Mr. Lipkind had announced to those assembled that Mr. McCann in the past had referred clients to Mr. Lipkind's law firm. Nobody raised a concern. Mr. McCann stated that the corporation that had previously operated a business at the site had been dissolved in December of 2011. Mr. McCann presented photos of the subject property from his clients' property. The matter was continued to May 28, 2013 at 7:30 p.m. with evidence taken. Mr. Krasker is to write the decision.

**7:45 PM 1 RICHARD ROAD
ELENA LANDE**

**Parcel ID 42-40
File Date: 1/18/2013**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit to construct an addition at **1 Richard Road, Map 42 Parcel 40**, in a Single Residence District on a pre-existing non-conforming property. The application was presented by Eleana Lande. The applicant presented a plot plan dated January 16, 2013 prepared by Thomas P. Bernardi, PLS, as well as architectural plans dated December 5, 2012 prepared by Interior and Architectural Designer Margarita Muzykina. Letters in support of the application were received from Don Kaplan of 50 Sevinor Road and George Shube of 2 Richard Road. Opposing the application at the hearing were Diana Swan-Gedman of 60 Beacon Street, who appeared with Marlene Sevinor of 48 Sevinor Road. Ms. Swan-Gedman stated that Ms. Sevinor has a hearing deficiency and needed her help at the hearing. Elizabeth Lampert of 7 Elizabeth Road also appeared in opposition to the proposed construction. The application was unanimously approved, with conditions, including but not limited to a condition precluding the construction of a second kitchen.

**7:45 PM 5 REDSTONE LANE
SHANMUGAM MUTHIAN**

**Map 113-18
File Date: 1/31/2013**

The Board commenced hearing a request to vary the application of the present Zoning By-law by allowing a Special Permit to construct additions at **5 Redstone Lane, Map 113 Parcel 18**, in a Shoreline General Residence District on a pre-existing non-conforming property. The application was presented by Attorney Paul Lynch of Marblehead. The applicant presented a plot plan dated September 26, 2012 by Peter J. Kane, PLS, photos, architectural plans prepared by Architect Walter Jacob of Marblehead, as well as assessors plan and a description of the project. Letters in support of the application from Terry Medlinsky of 10 Redstone Lane, Lussa and Craig Millett, David Smith of 7 Redstone Lane and Nena Lualdi of 12 Redstone Lane were reviewed by the Board. Attorney David Principe appeared in opposition to the application on behalf of Kenneth McCaskill of 6 Redstone Lane, which is across the street. He presented photos purporting to show view impacts. The applicant's request to withdraw the application without prejudice was unanimously approved.

**8:00 PM 12A ATLANTIC AVENUE
MICHAEL HENNESEY dba
ORANGE LEAF**

**Parcel ID 129-15&16&18
File Date: 1/31/2013**

The Board was prepared to hear a request to vary the application of the present Zoning By-law by allowing a Special Permit to allow outdoor seating for 20 at **12A Atlantic Avenue, Map 129 Parcels 15 & 16 & 18**, in a Business-1 District. The applicant's request to withdraw the application without prejudice was unanimously approved.

**8:00 PM 87 HUMPHREY STREET
THOMAS SUTTON**

**Map 40 Parcel 5
File Date: 2/1/2013**

The Board commenced hearing a request to vary the application of the present Zoning By-law by allowing a Special Permit to construct additions at **87 Humphrey Street, Map 40 Parcel 5**, in a Single Residence District on a pre-existing non-conforming property. The application was presented by Attorney Paul Lynch of Marblehead. The applicant presented a survey dated December 20, 2012, revised on December 26, 2012, prepared by Ralph W. Reid, PLS, as well as architectural plans dated January 30, 2013 prepared by Paul G. Fermano, Registered Architect, of 17 Prince Street, Marblehead. Attorney Robert McCann of Danvers appeared for the abutter at 85 Humphrey Street. At the outset of the hearing, Mr. Lipkind advised those assembled that Mr. McCann had referred legal work to Mr. Lipkind's firm, but that he believed he was disinterested. The applicant's request to withdraw the application without prejudice was unanimously approved.

**8:15 PM 15 HEREFORD ROAD
CAREN & DAN MCEACHERN**

**Map 32 Parcel 46
File Date: 2/1/2013**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit to construct additions at **15 Hereford Road, Map 32 Parcel 46**, in a Single Residence District a pre-existing non-conforming property. The application was presented by Architect John Albright of 7 Pearl Street in Marblehead. The applicant presented a survey dated January 23, 2012 prepared by Ralph W. Reid, PLS, as well as architectural plans dated January 31, 2012 prepared by Mr. Albright. The applicant seeks to expand into the attic of an existing Cape style home, and in doing so would add three new dormers. The applicant also seeks to infill a niche at the rear of the house to enlarge the kitchen. Written support of the application was presented from neighbors at 9, 12, 14, 15, 17 and 18 Hereford Road. The application was unanimously approved, with conditions. Mr. Barlow is to write the decision.

**8:15 PM 15 GUERNSEY STREET
TORSTEN & MARY WOHR**

**Map 127 Parcel 17
File Date: 2/4/2013**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit to construct additions at **15 Guernsey Street, Map 127 Parcel 17**, in a Single Residence District on a pre-existing non-conforming property. The application was presented by Architect D. Bruce Greenwald of 32 High Street in Marblehead, who was

accompanied by Torsten and Mary Woehr. The applicant presented a plan dated January 10, 2013 prepared by Gail L. Smith, PLS, architectural plans dated November 21, 2012 (with a revision date of January 30, 2013) prepared by Mr. Greenwald, as well as a written summary of the proposal and a photo of the property. The applicant wants to demolish the existing front deck areas at the house, and to remove and reconstruct the existing enclosed mudroom. The applicant seeks to construct a more usable garage, expand the existing mudroom and build a new covered porch over the existing entry area. Jody Magee of 13 Guernsey Street appeared in support of the application. She stated that she is the most impacted abutter, but she supports the project. Nobody appeared in opposition to the application. The application was unanimously approved, with conditions. Mr. Lipkind is to write the decision.

**8:30 PM 3 VALLEY STREET
(Cont.) GREGORY SPANOS**

**Parcel ID 908-15
File Date: 11/8/12**

**CONTINUED FROM 12/4/2012 – NO EVIDENCE TAKEN &
CONTINUED FROM 2/26/2013– WITH EVIDENCE TAKEN:
Tubridy, Drachman, Moriarty, Barlow & Lipkind :**

The Board, consisting of the members identified above, continued hearing a request to allow the un-merger of lots 15 and 17 on assessors map 908 and allow the construction of a single family dwelling on lot 15 at **3 Valley Street, Map 908 Parcel 15**, in an Expanded Single Residence District. The new lot will have less than the required area. Attorney Paul Lynch of Marblehead presented the application. Norma Vesso of 51 Harbor Avenue and David Connelly of 10 Valley Road appeared in opposition to the application. The applicant's request to withdraw the application without prejudice was unanimously approved.

**8:30 PM 99 PITMAN ROAD
(Cont.) CHRIS & MERYL THOMPSON**

**Parcel ID 156-26
File Date: 11/13/2012**

**CONTINUED FROM 12/4/2012 – WITH EVIDENCE TAKEN &
CONTINUED FROM 2/26/2013– WITH EVIDENCE TAKEN:
Tubridy, Drachman, Moriarty, Barlow & Lipkind**

The Board, consisting of the members identified above, continued hearing a request to vary the application of the present Zoning By-law by allowing a Special Permit to construct an addition and deck expansion on the existing dwelling at **99 Pitman Road, Map 156 Parcel 26**, in a Shoreline Single Residence District. The new construction is within the rear yard setback, side yard setback and further reduces open area on a pre-existing non-conforming property that has less than required lot area, lot width, frontage, rear yard setback, side yard setback, exceeds the maximum height allowed and has less than required open area. The application was presented by Attorney Paul Lynch of Marblehead. The applicant presented new architectural plans and a new plot plan. The applicant represented that it has reached an agreement with the Goodmans who are abutters. The Mulligans, also abutters, opposed some of the relief requested. The Board took a vote on whether to allow the application as amended with the revised plans. Messrs. Lipkind and Barlow voted no, and the application did not pass. A vote was then taken on whether to approve the relief requested, subject to conditions requested by the Mulligans pertaining to the configuration of the deck. The application as modified was approved, with conditions. Mr. Tubridy is to write the decision.

ADMIN

**28 FOSTER STREET
JAMES & KATHERINE KELLOGG**

**Parcel ID 150-84
File Date: 2/8/2013**

Attorney Robert McCann of Danvers appeared on behalf of the owners, seeking changes to windows, door and siding on an administrative basis. The request was unanimously approved.

ADMIN

**5 EUSTIS ROAD
LEE ROBERTS**

**Parcel ID 189-6
File Date: 2/14/2013**

Architect Peter Pitman of Salem appeared on behalf of the owners, seeking changes to windows and doors and the lowering of garage slab. The application was unanimously approved.

The meeting was then adjourned.

Respectfully submitted,



Alan E. Lipkind

4830-6851-2019.1