

Board of Appeals
Town of Marblehead

Minutes of Meeting of May 28, 2013

The regularly scheduled and noticed meeting of the Board of Appeals was called to order by Chairman Moriarty in the Selectman's Room at Abbot Hall, Marblehead, Massachusetts. Present were members Krasker, Tubridy, Drachman, and Barlow.

Legal Ads Run: 5/9/2013 & 5/16/2013

7:30 PM 14 Central Street
Emily Stuart and
Paula Pearce

Parcel ID 148-23
File Date: 1/25/13

Continued from 3/12/2013 – with evidence taken:
Tubridy, Krasker, Moriarty, Barlow, Lipkind

The Board held a hearing on 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. As a preliminary matter, in the prior hearing on March 12, 2013, Member Lipkind indicated that he may have a conflict due to clients at his law firm, but with knowledge the applicant and attorney for opposing abutters, Mr. Robert McCann, approved his participation. The hearing was continued to May 28, 2013, with Member Lipkind absent and with the approval of the applicants to proceed with only 4 members sitting. The application was presented by Attorney Paul Lynch with architectural plans prepared by Walter Jacobs prepared 5/09/13 with an issue date of May 14, 2013, with a plot plan dated 12/20/12 prepared by Gail Smith, Professional Land Surveyor. Relief sought was a change of use from commercial to a two family residence. While the existing building has less than the required lot area and all yard setbacks, has less than the required open area and parking, the proposed building will not change the exterior configuration. Speaking in favor was Barbara Schiff who lives directly across the street at 13 Central Street. She voiced concerns and suggestions which were accepted by the applicants: garage door opaque, not translucent, a solid wood facing and the AC unit placed on the roof. Speaking against was Attorney Robert McCann on

behalf of Emily and Don Dewitt of 16 Commercial. As the immediate abutter they want a single family unit and are concerned with encroachment of privacy for which a 6 foot privacy fence would be erected on both sides of the deck. The applicants changed the size of the roof deck (11 X 15) and have opaque windows facing the DeWitts. The applicant provided assurance that hazardous waste removal would be done in accordance with all laws, use only licensed contractor and would provide advanced notice of the removal.

The Board (Moriarty, Tubridy, Barlow and Krasker) having made the necessary findings approved the application to convert the building to a 2 family residence, to build as shown with the garage doors being opaque and the types and colors as show (grey siding material) and the widows as represented and with the usual conditions. Mr. Krasker to write the decision.

7:30 PM **18 State Street**
 William H.Haskell

Parcel ID: 148-23
File Date: 2/12/2013

Continued from 3/26 with No Evidence Taken

The Board was prepared to hold a hearing to vary the application of the present Zoning By-law by allowing a Special Permit to allow the construction of a garage at 18 State Street, Map 148 Parcel 23, in a Central Residence District, Unrestricted District and Historic District on a pre-existing non-conforming property. The applicant's request to withdraw without prejudice was allowed.

7:45PM **10 Cheever Avenue**
 Kelley Clark

Parcel ID: 162-20
File Date: 4/10/13

The Board held a hearing to vary the application of the present Zoning By-laws by allowing a Special Permit to construct additions and deck at 10 Cheever Avenue, Map 162 parcel 20 in a Single Residence District on a pre-existing non-conforming property. The applicant submitted a Plot Plan and the proposed additions were within the side yard setback. The abutter at 16 Cheever Avenue spoke in opposition that a strip of land between the two houses had been maintained by them and was theirs by adverse possession. Chairman Moriarty stated that the Zoning Board was not the proper forum to address the question. Since the only evidence before the Board of Appeals indicated that the proposed construction was within the dimensional requirements, the application was unanimously approved (Moriarty, Drachman, Tubridy, Barlow and Krasker) with the usual conditions. Member Tubridy to write the decision.

7:45 PM **5 Crown Way**
Jonathan Fobert

Parcel ID: 28-10
File Date: 4/17/13

The Board held a hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct a proposed deck expansion at **5 Crown Way, Map 28 Parcel 19**, in a Shoreline Single Residence District and Single Residence District on a pre-existing non-conforming property. The applicant presented a plot plan prepared by Gail Smith, Registered Professional Land Surveyor, dated 3/25/13. Although the proposed deck presented no new non-conformances, as a result of a prior Board decision, any reduction in open space required a Special Permit from the Board. The applicant averred that he had shown his plan to the neighbors who voiced no objection. The application was approved unanimously (Moriarty, Drachman, Tubridy, Barlow and Krasker) with the usual conditions. Member Drachman to write the decision.

8:00 PM **89 & 95 Front Street**
Marblehead Boatyard Inc.

Parcel ID: 148-56, 57 & 58
File Date: 4/18/13

The Board held a hearing to vary the application of the Zoning By-law by allowing a Special Permit to allow the expansion of a non-conforming use to include 4 residential units at **89 & 95 Front Street, Map 148 Parcels 56, 57 & 58** in the Harborfront District on a pre-existing non-conforming property. After a presentation by Attorney Paul Lynch concerning the intent to redesign the interior space to construct 4 residential unit in addition to the 7 units presently in the space, the construction of dormer to create floor space, A neighbor at 86 Front Street spoke in favor of the project to create more sidewalk for pedestrian safety, although this is not part of the application. Speaking against first was Fred Sullivan, 14 Sapphire Avenue, who noted that the Harborfront District was created to prevent the erosion of marine based business in favor of residential dwellings. He also noted that the two buildings were just connected by a passageway but had been separate buildings before the passageway was constructed. Jack Attridge, 67 Beach Street, also spoke against. The diminution of space to store the long spars would serve to displace a vital marine industry. Doug Stern, 16 Wyman Road, a naval architect indicated that he has an office in the building but it is in reality 2 separate buildings connected merely with a third floor passage. Chairman Moriarty noted that 95 Front Street which houses the 7 residential units is connected to 89 Front Street which is a marine use, presenting a mixed case. Chairman Moriarty questioned whether the 2 parcels are appropriate for a Special Permit after which the applicants request to withdraw without prejudice was accepted.

8:00 PM **8 Follett Street**

Parcel ID: 924-10

Scott & Camille Goodby

File Date: 1/14/13

The Board was prepared to conduct a hearing on the request to vary the Zoning By-law by allowing a Special Permit to demolish an existing dwelling and garage and construct a new dwelling at **8 Follett Street Map 924 Parcel 10**, in an Expanded Single Residence District and shoreline Expanded Single Residence District. The new construction exceeds the 10% expansion limits on a pre-existing non-conforming property that has less than the required lot area, rear yard setback, side yard setback and exceeds the maximum height allowed. The applicant's request to continue the hearing until July 23, 2013, was approved with no evidence taken.

8:15 PM **40 Locust Street**

Parcel ID: 67-13 & 14

Meredith Tedford

File Date: 4/29/13

The Board held a hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct an attaché garage addition with guest room and expanded deck at **40 Locust St, Map 67 Parcel 13&14**, in a Single Residence District on a pre-existing non-conforming property. The applicant appeared with her attorney Paul Lynch with plans drawn by Ebben Creek and Molly Frey Design dated May 2013 with a site plan by Hancock Survey Associates, dated April 24, 2013. The applicant proposed an attached garage with a second story and a new entry way and an extension of an existing deck. Applicant represented that immediate abutters were in favor and that the existing shed would be moved to meet setback requirements. The Board (Moriarty, Tubridy, Krasker, Drachman and Barlow) voted in favor with the condition that the work be built as shown in the drawings presented to the Board.

Mr. Barlow to write the decision.

8:15 PM **33 Elm Street**

Parcel ID 150-67

Jeffrey Meserve

File Date: 4/30/13

The Board held a hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct a dormer addition on an existing garage at **33 Elm St, Map 150 Parcel 67**, in an Unrestricted District and Historic District on a pre-existing non-conforming property. The applicant was represented by Attorney Lynch and submitted a plot plan drawn by Reid Land Surveyors, dated July 10, 2012 and updated on March 25, 2013. The proposed dormer is on the left side of the garage and will add 80 square feet of gross floor area and will have a height of 18'10". The

applicant represented that his immediate abutters on Elm Street were not opposed. Victor Wild of 40 Russell Street, the abutter to the rear of the property spoke in opposition citing loss of light and views. After making the necessary findings, the Board voted to issue the Special Permit with the usual conditions with Chairman Moriarty, Members Drachman, Tubridy and Krasker in favor with Member Barlow against. Mr. Krasker to write the decision.

8:30 PM **7 Bayview Road**
 Roberta Xavier

Parcel ID 122-36
File Date: 5/2/2013

The Board held a hearing to vary the application of the present Zoning By-law by allowing a Special Permit to construct additions including a rooftop deck and a detached shed at **7 Bayview Road, Map 122 Parcel 36** in a Shoreline Single Residence District on a pre-existing non-conforming property. The applicant appeared with Attorney Paul Lynch with plans drawn by Wardley Architects dated May 4, 2012, and January 30, 2013, along with a plot plan by North Shore Survey Corporation, dated October 10, 2012. The applicant proposed to construct a roof top deck which would add no gross floor area except for the stairs accessing the deck. No one spoke against the proposal and applicant represented that the abutters were in favor. Making the necessary findings, the Board (Moriarty, Tubridy, Drachman, Barlow and Krasker) voted in favor of the Special Permit with the usual conditions. In a separate vote on a proposed 16 foot by 9 foot shed, which would have a set back of 2 feet, the Board denied that part of the application: Tubridy, Drachman and Barlow in favor with Moriarty and Krasker against. Mr. Moriarty to write the decision.

ADMIN: **67 Beach Street**
 Jack Attridge

Parcel ID: 94-8
File Date: 4/8/2013

Applicant proposed changes to window, doors, siding, shed and porch. The Board approved the changes.

ADMIN: **3 Sargent Road**
 David Robbins

Parcel ID: 903-19
File Date: 6/13/2012

Applicant proposed changes to window, doors, siding, and trim. The Board approved the changes.

