

## **BOARD OF APPEALS**

### **TOWN OF MARBLEHEAD**

Minutes of Meeting of March 27, 2012

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 Moriarty, Tubridy, Drachman, Schaeffner, and Lipkind.

#### **HEARINGS:**

**7:30 PM      10 TREAT ROAD  
JEFFREY WHITMORE**

**Parcel ID 63-34A  
File Date: 2/3/2012**

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 alterations to a previously permitted dwelling to remain in a Single Residence District. The new construction does not add any additional non-conformities to a pre-existing non-conforming property that has less than the required frontage and lot width. The application was presented by Attorney Paul Lynch of Marblehead, accompanied by Mr. Whitmore, former owner and builder of the structure at issue, and Mark Roberge, owner of the property. The applicant presented architectural plans dated January 25, 2012, a survey dated January 26, 2012 prepared by Gail L. Smith, Land Surveyor, a written summary of the application prepared by Attorney Lynch, and a letter dated February 12, 2012 from Mr. Whitmore to Reginald Butler at 12 Treat Road. The applicant also presented an application from 2005 pertaining to the property, the special permit arising out of that application, the deed into the Roberges, and an assessors map of the area identifying parcels whose owners approve of this application. The fact that the construction that occurred was beyond was approved by the Board in connection with the 2005 application was discussed. Mr. Lynch explained that during excavation a greater area than shown on the approved basement plan was excavated which increased the gross floor area by 824 feet. Further, dormers were added to the third floor which were not shown on the approved plans. Board members inquired how this could have occurred. Expressing support for the application were owners of 3, 6, 8, 12 and 22 Treat Road, 42, 43, 53, 58 and 60 Deverueux Street, 7 Pierce Street, and 195, 199, 203, 205 and 207 Atlantic Avenue. Reg Butler of 12 Treat Road appeared at the hearing in support of the application. Architect Bob Zarelli of Marblehead appeared at the hearing and stated that he did not draft the plans for the dormers at issue. The applicant advised the Board that architect Rob Bramhall prepared those plans. The application was approved 4-1 with Mr. Schaeffner voting in the negative. The approval is subject to all of the conditions imposed on the prior special permit for this house, subject only to the modification allowed on the current application. Mr. Tubridy is to write the decision.

**7:30 PM      30 BUBIER ROAD  
LOUISE SEAY**

**Parcel ID 96-12  
File Date: 2/7/2012**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit for the construction of an addition, small deck, front porch expansion, and second floor dormer in a Single Residence District. The new construction is within the side yard setback and exceeds the 10% expansion limits on a pre-existing non-conforming property that has less than the required lot area, frontage, front yard setback, rear yard setback, side yard setback, and lot width. The application was presented by Architect Veronica Hobson of Marblehead, accompanied by Steven and Louise Seay. The applicant presented architectural plans dated February 1, 2012 prepared by Architect Hobson, as well as a plot plan dated January 31, 2012 prepared by Peter J. Kane, Professional Land Surveyor. Written support for the application was presented by owners of 7, 25, 28, 29, 31, 33, 34, 36, 40, 59 and 77 Bubier Road, and 11 Wyman Road. The applicant presented an assessors map showing the neighborhood and indicated on that map the location of all of the neighbors that approve of the proposed new construction. Kathleen R. Curtis of 32 Bubier Road appeared in opposition to the application. Her letter to the Board dated March 16, 2012 was considered, along with several photos of the area. Ms. Curtis expressed concern regarding the use of the property. The application was unanimously approved, with conditions. Mr. Drachman is to write the decision.

**7:45 PM      9 CAPTAIN'S WALK LANE  
ATLANTIC GENERAL  
REALTY LLC**

**Parcel 181-3  
File Date: 11/17/2011**

**Continued from 1/24/2012 – No Evidence Taken**

The Board was prepared to hear a request to vary the application of the present Zoning By-law by allowing a Special Permit for the construction of a single family dwelling on a vacant lot in a Single Residence District. The new construction exceeds the maximum height allowed on a pre-existing conforming property. The applicant's request to withdraw the application without prejudice was unanimously approved.

**7:45 PM      30 DEVEREUX STREET  
PATRICIA HOEHN**

**Parcel 68-32  
File Date: 11/22/2011**

**Continued from 1/24/2012 with evidence taken: Moriarty, Tubridy, Schaeffner & Krasker**

The Board, comprised of the members listed above for this hearing only, continued hearing a request to vary the application of the present Zoning By-law by allowing a Special Permit to remove an existing garage and construct a new garage in a Single Residence District. The new garage is within the side yard setback on a pre-existing non-conforming property that has less than the required lot area, frontage, front yard setback, rear yard setback, and side yard setback. The application was presented by Patricia Hoehn. The applicant presented architectural plans revised March 16, 2012, as well as a plot plan dated March 21, 2012 prepared by Gail L. Smith, Registered Professional Land Surveyor. The application was approved 4-0, with conditions, including a condition barring utilities in the garage. Mr. Schaeffner is to write the decision.

**8:00 PM      20 CHEEVER AVENUE  
NEIL SINGER**

**Parcel ID 162-22  
File Date: 2/7/2012**

The Board resumed its prior composition of members, and held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit for the construction of an attached garage, house addition, and screened porch in a Single Residence District. The application was presented by Architect Veronica Hobson of Marblehead, accompanied by Neil and Alexis Singer. The new construction is within the front yard setback and side yard setback and exceeds the 10% expansion limits on a pre-existing non-conforming property that has less than the required lot area, frontage, front yard setback, rear yard setback and side yard setback. The applicant presented architectural plans dated February 1, 2012 prepared by Ms. Hobson, a plot plan dated January 26, 2012 prepared by Gail L. Smith, Registered Professional Land Surveyor, letters of approval from James C. Full of 21 Cheever Ave., Jill C. Weinreb of 19 Cheever Ave., James W. Pennock and Mean Taylor of 16 Cheever Ave., and Mary and Robert Reinteges of 15 Cheever Ave, as well as an assessors plan depicting the subject property and the properties owned by the people who submitted letters in support of the application. Steve Wood of 33 Stony Brook Road spoke in favor of the application. The application was unanimously approved, with conditions. Mr. Lipkind is to write the decision.

**8:00 PM      7 BRISTOL ROAD  
ELENA NOVAK**

**Parcel ID 29-11  
File Date: 2/9/2012**

The Board commenced hearing a request to vary the application of the present Zoning By-law by allowing a Special Permit for the construction of an addition and deck and to allow an existing shed to remain in a Single Residence District. The new construction is within the side yard setback and exceeds the 10% expansion limits on a pre-existing non-conforming property that has less than the required lot area, frontage, lot width and side yard setback. The application was presented by Elena and Steven Novak. The applicants provided undated architectural plans which appear to have been signed by Robert Ives on January 23, 2012. Several Board members expressed concerns regarding the architectural elevations, especially the inability to determine the relationship of the proposed structure to the ground surface. The Speiwaks of 3 Bristol Road submitted a letter in opposition to the application. Leonard Spiewak of 3 Bristol Road, Mr. Sung of 359 Atlantic Avenue, Phyllis Walter of 357 Atlantic Avenue and Dick Leahy of Garden Road appeared at the hearing in opposition to the application and expressed concern about the condition of the property. The hearing was continued to May 22, 2012, with evidence taken. Mr. Moriarty is to write the decision.

**8:15 PM      34 CRESTWOOD ROAD  
BERNARD BLANEY**

**Parcel ID 77-4  
File Date: 2/9/2012**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit for the demolition of the existing dwelling and construction of a new dwelling in a Shoreline Single Residence District. The new construction is within the side yard setback, exceeds the maximum height allowed and exceeds the 10% expansion limits on a property with an existing dwelling that has less than the required side yard setback and exceeds the maximum height allowed. The application was presented by Attorney Paul Lynch of

Marblehead, accompanied by Tracy and Bernard Blaney. The applicant presented architectural plans dated March 16, 2012 prepared by Harmon J. Kiley, Jr. Architect, a site plan dated December 27, 2011 prepared by Kane Land Surveyors of South Hamilton, Massachusetts, an Order of Conditions from the Marblehead Conservation Commission, and a table showing the dimensional requirements under the By Law, as well as the exiting and proposed dimensions. Nobody else appeared regarding this application. The Board unanimously approved the application, with conditions. Mr. Tubridy is to write the decision.

**8:15 PM      4 CROWN WAY  
KURT SCHMID**

**Parcel ID 28-2  
File Date: 2/15/2012**

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 previously constructed one story addition to remain in a Single Residence District. The addition is within the front yard setback on a pre-existing non-conforming property that has less than the required front yard setback and side yard setback. The application was presented by Michael Kehn of Kehn Fine Homebuilding of Marblehead, accompanied by Mr. Schmid. The applicant presented architectural plans dated February 7, 2012 as well as a plot plan dated February 1, 2012 prepared by Gail L. Smith Professional Land Surveyor. An addition was constructed and by mistake it was constructed one foot into the front yard setback from Atlantic Avenue. Nobody else appeared in favor of or opposed to the application. The application was unanimously approved, subject only to the condition that no permit be pulled until 20 days after the decision is filed with the Town Clerk, and the decision is recorded. Mr. Moriarty is to write the decision.

**8:30 PM      18 STACEY STREET  
BASLAND DEVELOPMENT CORP.**

**Parcel ID 165-74  
File Date: 2/15/2012**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit for the construction of a deck in a Central Residence District & Historic District. The new construction is within the side yard setback on a pre-existing non-conforming property that has less than the required lot area, frontage, side yard setback and lot width. The application was presented by Chris Sweeney, a partner in the ownership venture. The applicant presented architectural plans dated February 12, 2012 prepared by Taproot Design, Inc. of Marblehead, as well as a plot plan dated February 7, 2012 prepared by Vernon J. LeBlanc, PLS. Ronald Killiany of 8 Pickett Street, an abutter, spoke in favor of the application. The application was unanimously approved, with conditions. Mr. Moriarty is to write the decision.

**ADMIN      31R RUSSELL STREET  
ROBB & NICOLE LABOSSIERE**

**Parcel ID 150-13  
File Date: 3/13/2012**

Nicole Labossiere appeared before the Board regarding a special permit filed with the Town Clerk in June of 2011. She wants to omit a mudroom and new chimney. The applicant provided to the Board the original decision, a letter from Architect Walter Jacob of Marblehead explaining the revisions, and plans dated March 2012 showing the changes. The requested changes were unanimously approved on an administrative basis.

**OLD AND NEW BUSINESS:**

- The Board approved Minutes of Meetings of February 28, 2012 & March 13, 2012.

The meeting was then adjourned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alan E. Lipkind', written over a horizontal line.

Alan E. Lipkind,  
Secretary