

BOARD OF APPEALS

TOWN OF MARBLEHEAD

Minutes of Meeting of May 22, 2012

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

HEARINGS:

7:30 PM 13-15 MAVERICK STREET Parcel ID 97-4
(cont.) ALISON BADGER File Date: 11/1/2011
Continued from December 6, 2011 with evidence taken: Tubridy, Krasker, Moriarty,
Schaeffner & Lipkind. Continued from February 28, 2012 with 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 or Variance for the construction of an exterior elevator shaft at **13-15 Maverick Street, Map 97 Parcel 4** in a Single Residence District. The new construction will add no additional non-conformities on a pre-existing non-conforming property that has less than the required lot area, frontage, front yard setback and has less than required parking. The applicant, upon being advised that only four of the Board members who sat at the 12/6/2011 hearing were present, then requested a postponement. The hearing was rescheduled to June 26, 2012 at 7:45 PM.

7:30 PM 4 MANSION ROAD Parcel ID 92-14
JOHNATHAN DANFORTH File Date: 3/6/2012

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 an existing shed to remain at **4 Mansion Road, Map 92 Parcel 14**, in a Single Residence District. The shed is within the rear yard setback and side yard setback and reduces open area to less than required on pre-existing non-conforming property that has less than required lot area, frontage and side yard setback. The application was presented by Mr. Danforth who stated that the shed had been erected in November of 2011 without his having applied for a Special Permit. Several Board members questioned the applicant's reasons for constructing the shed without making an application particularly since a prior Special Permit in 2000 had already reduced the open area to the required minimum. Paul Setz, son of abutter Matilda Zompetta of 39 Beach Street appeared in opposition to the application stating that Mr. Danforth had obtained a number of Special Permits for the property over the years and should have known that the shed was non-conforming. Chairman Lipkind advised the applicant that he could either withdraw the application without prejudice in which case the matter would be decided by the Building Commissioner or he could go to a vote. Mr. Danforth requested a vote. The Board voted three to two against the application. The application was denied. Mr. Krasker is to write the decision.

**7:45 PM 27 & 31 TICEHURST LANE
HENRY HAMMOND II
MIRIAM NEUMAN**

**Parcel ID 46-44 &45
File Date: 3/27/2012**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit to subdivide the two properties located at **27 & 31 Ticehurst Lane Map 46 Parcels 44 & 45** to realign the property lines between those two lots of land. The new lot at 27 Ticehurst Lane will have less than the required frontage and lot width and contains an existing dwelling that has less than the required side and rear yard setbacks. The new lot at 31 Ticehurst Lane will be conforming but contains an existing dwelling with less than the required side yard setback and rear yard setback. The lots are located at in a Shoreline Single Residence District and a Single Residence District. The application was presented by attorney Paul Lynch who explained that the subdivision would combine Parcel A as shown on the survey plan with Lot 44 at 31 Ticehurst Lane in order to provide two parking spaces on that lot. The application was unanimously approved, with conditions. Mr. Lipkind is to write the decision.

**7:45 PM 7 BRISTOL ROAD
(cont.) ELENA NOVAK**

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

Continued from March 27, 2012 with evidence taken: Tubridy, Drachman, Moriarty, Schaeffner & Lipkind

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 an addition and deck and to allow an existing shed to remain at **7 Bristol Road, Map 29 Parcel 11**, 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 applicant submitted revised plans at the beginning of this hearing. Several Board members expressed concern that this did not provide sufficient time for review of the plans. The applicant was also advised that only four of the Board members who sat at the 3/27/2012 hearing were present. The applicant requested a postponement and the hearing was rescheduled to June 26, 2012 at 8:00 PM.

**8:00 PM 174 JERSEY STREET
MICHAEL LYONS**

**Parcel ID 122-82A
File Date: 3/29/2012**

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 dormer and deck addition at **174 Jersey Street, Map 122 Parcel 82A**, in a Shoreline Single Residence District. The new construction is within the rear yard setback and side yard setback and exceeds the 10% expansion limits on a pre-existing non-conforming property that has less than required lot area, lot width, frontage, rear yard setback and side yard setback. The application was presented by the owners, Michael and Catherine Lyons, with architectural plans prepared by Don Dennis, Architect of Marblehead dated January, 2012 and a plot plan dated February 21, 2012 prepared by Peter J. Kane,

Registered Professional Land Surveyor of South Hamilton. In addition to the dormer and deck construction, a former basement garage that was converted to basement-only use is being re-converted to a garage. The applicants maintained that in their review with the Building Commissioner they were told that this change did not create any new dimensional non-conformities nor did it constitute a change of use. Board members asked the applicants whether they had discussed an 8ft. high privacy screen to be constructed on the west end of the proposed deck with their abutting neighbors at 3 Stone Terrace. The Applicants said that the abutter was in favor of the new construction, including the screen, as it blocked their view of the Salem Power Plant! No one appeared at the hearing to speak either in favor or against the application. The application was unanimously approved, with conditions. Mr. Drachman is to write the decision.

**8:00 PM 14 COUNTRYSIDE LANE
ZHANETA LITI**

**Parcel ID 50-22
File Date: 3/29/2012**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit to construct a shed at **14 Countryside Lane, Map 50 Parcel 22**, in a Single Residence District. The shed is within the rear yard setback and side yard setback on a pre-existing conforming property. The application was presented by the applicant, Zhaneta Liti with an undated hand-drawn sketch showing an 8ft. deep x 12 ft. wide x 10ft. high shed. Also provided was a plot plan dated February 23, 2012 prepared by Gail L. Smith, Registered Professional Land Surveyor of Salem. Several Board members questioned the single slope roofline on the shed as well as a proposed rear deck shown on the plot plan that is not a part of this application. Also noted on the plot plan were A/C units that were labeled as "future". The applicant maintained that all of their neighbors were in favor of the shed roof slope, that the deck was conforming, that the A/C units were shown for information only and that these improvements would be constructed in the locations shown on the plot plan. No one appeared at the hearing to speak either in favor or against the application. The application was unanimously approved, with conditions. Mr. Schaeffner is to write the decision.

**8:15 PM 30 BAYVIEW ROAD
DIANE LEES**

**Parcel ID 122-52
File Date: 4/4/2012**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit to demolish the current dwelling and construct a new dwelling and detached garage at **30 Bayview Road, Map 122 Parcel 52**, in a Single Residence District. The construction is within the front yard setback and side yard setback and exceeds the 10% expansion limits on a pre-existing non-conforming property with less than the required lot area, lot width, frontage, and side yard setback. The Applicant was represented at the hearing by Attorney Paul Lynch together with undated plans drawn by Designer Dan Tyree of Blakesville GA in addition to a survey plot plan drawn by Robert G. Applegate, Professional Land Surveyor of Milton MA and dated March 15, 2012. Board Members questioned whether the two lots shown on the plot plan had been merged into one, to which Attorney Lynch responded in the affirmative. Board members discussed the location of the proposed dwelling on the unusually narrow lot and its relationship to the abutting property at 28 Bayview Road. It was also noted in

discussion that the existing dwelling was uninhabitable and that the size, dimensions and placement of the proposed construction appeared to be a reasonable solution to the redevelopment of the lot.

Mr. Clemson of 37 Bayview Road appeared in favor of the application and Debra Egge of 28 Bayview Road appeared in opposition stating that the new dwelling would block her views and sunlight. Devon Hildreth of 16 Manataug Trail questioned whether vehicles could access the proposed garage from Manataug Trail due to its narrowness but did not speak either in favor or in opposition to the application. No one else appeared at the hearing to speak either in favor or against the application. The Board voted 4 to 1 to approve the application, with conditions. Mr. Tubridy is to write the decision.

**8:15 PM 29 BENNETT ROAD
EDGARDO CORA**

**Parcel ID 139-17
File Date: 4/9/2012**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit to construct a new detached garage at **29 Bennett Road, Map 139 Parcel 17**, in a Single Residence District. The new construction is within the rear yard setback on a pre-existing non-conforming property with less than the required lot area, frontage, and front yard setback. The application was presented by the applicant, Edgardo Cora together with architectural plans prepared by Derek Bloom, architect of Marblehead dated April 5, 2012 and a plot plan prepared by Thomas P. Bernardi, Professional Land Surveyor of Gloucester MA dated April 5, 2012. Board members questioned the applicant about whether the proposed garage would contain a commercial use. The applicant stated that the garage would be exclusively residential and that the only utility provided to the garage would be electricity. The applicant also stated that he had spoken with all of the abutting neighbors and all of them were in favor of the project. No one else appeared at the hearing either in favor or opposed to the application. The Board voted 4 to 1 to approve the application, with conditions. Mr. Krasker is to write the decision.

**8:30 PM 35 CURTIS STREET
STUART SLEEMAN**

**Parcel ID 136-36
File Date: 4/10/2012**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit to construct a new shed and allow an existing shed to remain at **35 Curtis Street, Map 136 Parcel 36**, in a Single Residence District. The new construction is within the front yard setback, rear yard setback and side yard setback on a pre-existing non-conforming property with less than the required lot area, frontage, front yard setback and side setback. The application was presented by Stuart Sleeman with undated sketches showing an existing 10ft. wide x 6ft. deep x 6ft. high woodshed and a proposed 14ft. wide x 8ft. deep shed. The proposed shed shows an eave height of 7'-6" but no height is shown at the ridge. Also provided was a plot plan prepared by Daniel L. Lynch, Professional Land Surveyor of Marblehead dated March 15, 2012. No one appeared at the hearing either in favor or opposed to the application. The application was unanimously approved, with conditions. Mr. Krasker is to write the decision.

8:30 PM **11 CALUMET LANE**
(cont.) **KATHRYN MCCREEDY**

Parcel ID 101-6
File Date: 2/22/2012

**Continued from April 24, 2012 with evidence taken: Tubridy, Drachman, Moriarty,
Schaeffner & Hintlian**

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 additions at **11 Calumet Lane, Map 101 Parcel 6**, in a Single Residence District. The new construction is within the side yard setback and exceeds the 10% expansion limits for a non-conforming building on a pre-existing non-conforming property that has less than the required frontage and side yard setback.

The application was presented by the applicant, Kathryn McCreedy together with Architect Derek Bloom, of Marblehead with revised architectural plans prepared by Mr. Bloom dated May 14, 2012. Also provided was a plot plan prepared by Peter J. Kane, Registered Professional Land Surveyor of South Hamilton MA dated February 23, 2012. In its review of the revised plans the Board noted that the modifications, particularly the front façade, were much more in keeping with the scale of houses in the surrounding neighborhood. No one appeared at the hearing to speak either in favor or against the application. The Board noted to the applicant that only four of the Board members who sat for the prior hearing were present and that the hearing could be continued if desired. The applicant requested that the Board go to a vote. The application was unanimously approved, with conditions. Mr. Drachman is to write the decision.

OLD AND NEW BUSINESS:

- The Board approved Minutes of the March 27 Meeting.

The meeting was then adjourned.

Respectfully submitted,

David Tubridy,
Board Member