



## **Town of Marblehead Zoning Board of Appeals**

Mary Alley Municipal Building  
7 Widger Road  
Marblehead, MA 01945  
Telephone: 781-631-1529  
Fax: 781-631-2617

### **MEETING MINUTES SEPTEMBER 25, 2012**

**Meeting begins at 7:30 PM**

**Legal Ads Run: 9/6/2012 & 9/13/2012**

**Sitting are David Tubridy, Bruce Krasker, Bill Moriarty (chairman), Christopher Casey and Paige Hintlian (acting secretary).**

#### **HEARINGS:**

**7:30 PM 2 SCHOOL STREET  
BARRY EDELMAN**

**Parcel ID 116 - 58  
File Date: 8/1/2012**

Request to vary the application of the present Zoning By-law by allowing a Special Permit to allow an existing roof to remain at **2 School Street, Map 116 Parcel 58**, in a Business One District. The new construction is within the side yard setback and further reduces open area on a pre-existing non-conforming property that has less than required lot area, rear yard setback, side yard setback, open area and parking. Applicants are seeking to add a roof to cover the landing in the rear of the alley. (Moriarty absent from this hearing so only four members sitting). Emily Edleman and builder Mr. Havens for the applicant. Put up a temporary roof because there was rain coming in the door. Built it and asking for relief. No one in favor or opposition. Reasonable addition and on the back of the building. 4-0 voted in favor, usual conditions. Tubridy to write.

**7:30 PM 24 ROSE AVENUE  
CHRISTINE & CHARLES  
TROWBRIDGE**

**Parcel ID 24-42  
File Date: 8/9/201**

#### **REQUEST BY APPLICANT TO WITHDRAW – Letter of 9/10/2012**

Application withdrawn.

**7:45 PM 17 & 21 DARLING STREET  
EMILY GAFFNEY**

**Parcel ID 132-32 & 33  
File Date: 8/10/2012**

Request to vary the application of the present Zoning By-law by allowing a Special Permit to subdivide a portion of the lot at **17 Darling Street, Map 132 Parcel 33** and add it to the lot at **21 Darling Street, Map 132 Parcel 32**, in a Central Residence District, Harborfront District and Historic District. The remaining lot at 17 Darling Street would further reduce the side yard setback and open area on a pre-existing non-conforming property that has less than required lot area, side yard setback, open area and parking. Chris Casey sitting out due to conflict. Hintlian to write. Emily and Luke Gaffney present on the application. Two properties owned by family and there is a shared driveway in the middle of the property. Lot line runs down the middle of the lots. They will purchase #21. Want to move the whole lot line over so driveway will belong in total to #21, can have deeded parking for #21. Create new lot parcel A and take it from Lot 2 and move it to Lot 1. Making a small lot smaller and a large lot larger. Reason for doing it is to get the driveway all on one lot. To right of 17 and left of 21 both have no access on either side due to telephone pole. #17 would not have deeded parking. Property in a complicated Trust which is irrevocable. Currently both parcels are owned by Nancy Coffin Trust. Her 50% she has willed to her children and the other 50% will be in Trust by National Grand . If they do not buy the house, it would not be purchased by a Coffin, and the bank, as trustee, will have the same problem if they go to sell the property. Those appearing in favor - 36 Front Street, Dan Grayton, so he abuts the property, he is in favor, the family conforms to the essence of living downtown and they should do what they can to keep them. Two letters in support from Michael Rubino and Kiekie Pabbruwe. No one in opposition. Assuming there are actually two lots in law and they have not merged, Board votes 4-0 to approve application with the usual conditions.

**7:45 PM     13 KNIGHT AVENUE**  
**CHARLES NORDSTROM**

**Parcel ID 122-4**  
**File Date: 8/14/2012**

Request to vary the application of the present Zoning By-law by allowing a Special Permit to demolish an existing garage and construct a new garage at **13 Knight Avenue, Map 122 Parcel 4**, in a Shoreline Single Residence District and a Single Residence District. The new construction is within the rear yard setback and side yard setback on a pre-existing non-conforming property that has less than required lot area, lot width, front yard setback, rear yard setback and side yard setback. Krasker to write. Moriarty not present for this hearing. New garage would be 24x16. New garage would extend 4 feet over the old, original garage. Distance from rear lot line will not change. Wherever garage increased, it did so in toward the applicant's yard. Talked with neighbors (all abutting) and showed them the plans. 15 Knight Ave (Pizziferri), 5 Tidewinds Terrance, in favor. No opposition. 4-0 approved.

**8:00 PM     247 PLEASANT STREET  
MARBLEHEAD FOR TEENS INC**

**Parcel ID 86-45  
File Date: 8/15/2012**

To vary the application of the present Zoning By-law by allowing a Variance or Special Permit to change the use of a currently vacant building from educational to philanthropic, including signage, and sub-lease of a portion of the premise to a conforming non-profit at **247 Pleasant Street, Map 86 Parcel 45**, in a Single Residence District. No external construction is anticipated. Casey to write. Molly Williams, executive director for Marblehead for Teens. Entered new plot plan into evidence due to misdirection of signage. No external work to be done, only interior. Looking for change of use. Met with neighbors. Signs for traffic flow propose a right turn only out of the parking lot. Traffic stops in front of the driveway and is an awkward intersection. Will work with the town to fix this. Single residence district. Sign at front of building, but want teens to vote on the name. Will go where the sun sign is now. Members will consist of 7-12 graders attending Marblehead schools. Want to sublease part of the building to a nonprofit they chose that has something to do with the teen center. Drop in teen center, but is teen managed and adult supervised. Hours 3-10:30 on Saturday. In favor, Ellen Petersen 1 Driftwood Road, on Board of Directors, working on this for almost 7 years. Bob Hugo, owns Spirit of '76 book store. Ike Van Otterloo, owner, in favor of plan. Paul Crosby, Board of Director for Marblehead for Teens. Opposed – Stephen & Michelle Weed, 253 Pleasant Street, concern about the traffic going in and out of intersection. Concern of noise level if propose bands at night. Worried about the language of kids outside the building, concerned about what will happen outside the building. Concerned about the safety of kids at that intersection crossing. Teen center lowers the property value of the area houses. Jody and Nicole Norton, 251 Pleasant Street, 20 feet from the teen center. Trash removal and storage is an issue. Is there a dumpster? Outside use. Concerned about the hours of operation on the weekend and summer hours/vacation. Thinks 9:00 pm is a more reasonable time to close. He is a high school teacher and coach. Rides don't show up and kids will be loitering around waiting for rides. In four years, eight people hit by cars in that area. Dangerous spot for all the walkers and dangerous without a traffic cop. Different experience with preschool because those kids were dropped off and picked up, no walkers. Anticipate an increase in trash. How will they ensure a drug and alcohol free place? Concern about the change in the zoning – actually a change in use for the philanthropic purpose. Concerned about the sublease of the property. 3 Devereux Terrace, Jen Spungin, when was previously the preschool, there was a problem with people entering and exiting the area. Molly Williams says are fully aware of the issues and want to be responsive to the issues. Kids will govern themselves and have adult supervision.

Will responsibly dispose of trash. Aware operating in a family neighborhood. Hope for 200 members and aim for 400-500 members. Asking to expedite the decision. Sally Shriber –Comb member of Board of Directors. Spoke with police and fire chief regarding the traffic in the area. Fire chief says he overlooks the intersection and the kids crossing do an excellent job. Proposal to grant the application for the change of use to a philanthropic use for the Marblehead for Teens Center, upon conditions: hours of operation are Monday – Thursday 2:30 a.m-6:00pm school days, and 2:30-10:30 on Friday, 10:00 a.m. -10:30 p.m. Saturday, and Sunday 10:00 a.m.-6:00 p.m; non-school days to have same time as Saturdays; outdoor activities to end by 9:30, right entrance and exit only signs posted; responsible disposal of trash in conformity with health regulations; comply with MHD noise bylaw; any subtenant to have a philanthropic use. If want to change the hours will have to apply for a modification of hours. 4-1 vote in favor allowing with the conditions. Hintlian dissenting.

**8:00 PM     123 PLEASANT STREET  
                 123 PLEASANT STREET LLC**

**Parcel ID 116-25  
File Date: 8/15/2012**

To vary the application of the present Zoning By-law by allowing a Special Permit to allow outdoor dining for thirty two seats pursuant to section 200-11A (4) with less than the required parking and 2.) request for finding under M.G.L Chapter 40A Section 16 that the new application has specific and material changes from the unfavorable action taken on July 24, 2012 with regard to **123 Pleasant Street, Map 116 Parcel 25**, a pre-existing non-conforming property that has less than the required side yard setback, exceeds the maximum height allowed and has less than required parking in a Business One District. Moriarty to write. Paul Lynch and Mr. Van Otter Loo. Proposed seating for 40 outdoor seats. Under section 16 need a finding that this is a material change from the old application. Reducing the seating by 8 seats - specific. Material change is the 20% reduction. Believe they have met the two prong test. Only relief requested is the seating. Board finds the chapter 40A section 16 requirements have been met. Vote 5-0. Allowed 8 seats as a matter of right. Approximately 80 feet from the nearest house on Anderson Street. Table service and no outdoor bar. Feel 84 parking spaces sufficient given Roundhouse Road. Have tenants on 2<sup>nd</sup> and 3<sup>rd</sup> floor occupied as office space. Anticipate the 2<sup>nd</sup> & 3<sup>rd</sup> floors will not be occupied during the major restaurant hours of operation. Trying to establish a complex to be run by one principal. Determined the outdoor seating brings people to the area and endorsed in urban development plan. Other controlling factors such as the Selectmen issue of liquor license and hours. In favor – Ralph Sweetland 1 Davenport road, doesn't seem like a lot of seats and seasonal, don't see risk to public health. Bob Hugo, owns Spirit of '76, outside dining makes the place alive. Angelo Arena, own 17-21

Essex Street, and fully supports seating and merchants. Kristin Carlson, 3 Pilgrim Road, thinks is a great amenity for the town and good complimentary use for the theatre. Candance Gould, 14 Brookhouse Drive, great for downtown, great place to go and sit outside. Opposed - Tanya Hawley, 22 Anderson Street, questions parking study because not adequate parking currently. Where will the employees park? Once the entrance to the lot is open, the AA meeting people will be forced to park elsewhere. She is a resident who relies on Roundhouse Road because she does not have a parking spot. Changes in plans to the garbage placement. She sent letter with 8 pictures of parking on Anderson and Roundhouse Road. Question if restaurant fails, would the seating be grandfathered? Yes. 137 Pleasant Street, Michael L'Cones, seating is reduced by 8 seats, but really 8 to 32 instead of 8 to 40. Argument goes to the merits of the application. Concern about the noise of the restaurant outdoor dining. Paul Lynch reiterated here for the outdoor dining strictly. Determined that the lack of 3 spaces will not be an issue because of the mixed use of the tenants of the building. Board discussion – reasonable 32 seats. Issue of complimentary use is very normal. Proposal to modify the existing special permit to allow 32 outdoor seating. Tanya Hawley concerned that Mr. Lynch did not answer her questions. Mr. Moriarty asked Mr. Lynch to answer. Pointed out that this was a hearing only about the 32 seats and the rest was already allowed. Vote approved 5-0.

**8:15PM      12 COOLIDGE ROAD  
                 DANIEL RICCIO**

**Parcel ID 47-35  
File Date: 7/19/12**

**Continued from August 28, 2012 with no evidence taken.**

**Request to continue to October 23, 2012 with no evidence taken.**

To vary the application of the present Zoning By-law by allowing a Special Permit to demolish the existing dwelling and construct a new dwelling and accessory building at **12 Coolidge Road, Map 47 Parcel 35**, in a Shoreline Single Residence District. The new construction is within the side yard setback on a pre-existing non-conforming property that has less than required lot width, frontage, and side yard setback. Paperwork signed.

**8:15 PM      24 MAVERICK STREET  
                 BETHANY & LOU PORRAZZO**

**Parcel ID 86-56  
File Date: 8/20/2012**

To vary the application of the present Zoning By-law by allowing a Special Permit to convert an existing two family dwelling to a single family dwelling and construct additions at **24 Maverick Street, Map 86 Parcel 56**, in a Single Residence District. The new construction is within the front yard setback, 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, front yard setback and side yard setback. Moriarty writing. Two family house and want to modify to make a one family. Judge Dever appeared in favor. No opposition. Very reasonable to go from two to one family in a single residence district. With usual conditions, 5-0.

**8:30 PM     34 ATLANTIC AVENUE  
SRP 34 ATLANTIC AVE LLC**

**Parcel ID 114-39  
File Date: 8/20/2012**

To vary the application of the present Zoning By-law by allowing a Special Permit to demolish an existing building and construct a new commercial building at **34 Atlantic Avenue, Map 114 Parcel 39**, in a Business One District and General Residence District. The property will have less than the required open area and less than the required parking. Paul Lynch for applicant. Moriarty writing. Want to tear down the Fruit of the Four building and build a new structure. Submitted the Design Review Board memo. Broken up into two store fronts. Building complies with all setback dimensional requirements. 22'1/2 feet high. Relief for parking and open space. Eliminate the Atlantic Ave parking and put them all on Barnard Street. By eliminating the curb cut, will get two more parking spots on Atlantic Ave. Propose 7 spaces including 1 handicap space. Design Board wants to eliminate 1 spot for green space, snow storage. Moved a spot to be tandem for employee/tenant. Edward Nilson, VP of Planning Board, highly endorsed by the Planning Board. No Opposition. With changes suggested by the Design Board to be included, with usual conditions, approved 5-0.

**ADMIN     25 WILLOW ROAD  
ADAM FALL**

**Parcel ID 103-14  
File Date: 2/22/2012**

Window Changes

Deleting the window relocation. Add front and replace 2 faux doors in front to break up facade. Fermano to write letter to Ives.

Minutes of July and August approved 5-0.

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Paige Hintlian, acting secretary