

**BOARD OF APPEALS**  
**TOWN OF MARBLEHEAD**

Minutes of Meeting of October 23, 2012

Meeting Begins at 7:30 PM

Legal Ads Run: 10/4/2012 & 10/11/12

The regularly scheduled and noticed meeting of the Board of Appeals was called to order by Acting Chairman Krasker at or after 7:30 p.m. on Tuesday October 23, 2012 in the Selectmen's Room at Abbot Hall, Marblehead, Massachusetts. Present were Board Members Barlow, Tubridy, Drachman, and Rudolph. Mr. Tubridy was Acting Secretary.

**HEARINGS:**

**7:30 PM      1 WARE LANE  
                 RAYMOND KELSEY**

**Parcel ID 23-21  
File Date: 7/20/2012**

**Continued from August 28, 2012 with evidence taken: Tubridy, Krasker, Lipkind,  
Drachman & Hintlian**

The applicant requested a Continuance to November 27, 2012. Continuance form signed.

**7:30 PM      3 MANSIONROAD  
                 GORDON & MARY CLOUGH**

**Parcel ID 90-22  
File Date: 8/31/2012**

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 two story addition and dormer extension in a Single Residence 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, lot width, frontage, and side yard setback. The application was presented by Architect Veronica Hobson of Marblehead, accompanied by Gordon and Mary Clough. The applicant presented architectural plans dated August 26, 2012 prepared by Architect Hobson, as well as a plot plan dated August 14, 2012 prepared by Paul J. DeSimone, Professional Land Surveyor. The applicant also presented Applications previously submitted and approved by the Board: An Application for an addition dated August 10, 1982 – not constructed. An Application for a shed dated October 10, 2006 – constructed and An Application for an addition dated September 23, 2008 – not constructed. No one appeared at the hearing either in support or in opposition to the application. The application for Special Permit was unanimously approved 5-0, with conditions. Mr. Drachman is to write the decision.

**7:45 PM      5 EUSTIS ROAD  
LEE D. ROBERTS**

**Parcel ID 189-6  
File Date: 9/7/2012**

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 a garage addition and decks in a Shoreline Expanded Single Residence District and Expanded Single Residence District. The new construction exceeds the 10% expansion limits on a pre-existing non-conforming property that has less than required lot area, side yard setback and exceeds the maximum height allowed. The application was presented by Architect Peter Pitman of Salem, Attorney Paul Lynch and accompanied by the applicant, Lee Roberts. The applicant presented architectural plans dated August 23, 2012 prepared by Architect Pitman, as well as a plot plan dated August 14, 2012 prepared by Gail L. Smith, Professional Land Surveyor. The applicant represented that the Planning Board had approved the application and also made a verbal change to the architectural plans that described the moving of three patio doors on the rear elevation so as to be centered under the new balcony at the floor above. The applicant also presented a letter in favor of the application from Paul and Katherine Redmond of 12 Crowninshield Road. Rolf Stutz of 3 Eustis Road appeared to speak in favor of the application. No one else appeared at the hearing either in support or in opposition to the application. The application for Special Permit was unanimously approved 5-0, with conditions. Mr. Rudolph is to write the decision.

**7:45 PM      90 HARBOR AVENUE  
MARK FORZIATI**

**Parcel ID 918-5  
File Date: 9/11/2012**

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 pool shed in a Shoreline Expanded Single Residence District and Expanded 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 the required lot area, front yard setback and side yard setback. The application was presented by Builder Thomas M. Jacobs, Attorney Paul Lynch and was accompanied by the applicant, Mark Forziati. The applicant presented architectural plans dated August 21, 2012 prepared by Architect Rob Bramhall, as well as a plot plan dated August 23, 2012 prepared by Gail L. Smith, Professional Land Surveyor. This application follows a prior application for addition and renovations to the residence that was approved by this Board on October 25, 2011. In reviewing the drawings, members of the Board noted that the fences at the side and rear corner location of the proposed shed were not located on the property lines however the dimensions from the lot lines showing the location of the shed in the plot plan were correct. It was also noted that the architectural drawings showed a discrepancy in the overall height for the shed. After review of the drawings it was established that the overall height from grade to the peak of the shed roof was intended to be 10'-6". Also noted was that the shed would have electricity and gas to service the pool heating equipment. John Shea of 86 Harbor Avenue appeared to speak in favor of the application. No one else appeared at the hearing either in support or in opposition to the application. The application for Special Permit was unanimously approved 5-0, with conditions, including a requirement that the shed height be corrected on the drawings. The applicant also requested administratively that two windows on the second floor east elevation of

the residence be moved slightly apart. The requested changes were unanimously approved on an administrative basis. Mr. Barlow is to write the decision.

**8:00 PM      9 BLUEBERRY ROAD  
BLUEBERRY ROAD LLC**

**Parcel ID 173-29&30  
File Date: 9/11/2012**

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 two previously merged lots into three lots in a Single Residence District. Lot 1 will contain the existing single family dwelling which will have less than the required lot area, frontage, lot width, front yard setback and side yard setback. Lots 2 and 3 created by this subdivision will each contain a single family dwelling with each lot having less than the required lot frontage, lot width, and exceeds the minimum front yard setback. The application was presented by attorney Paul Lynch along with architectural plans prepared by architect John Minton dated September 11, 2012 and a plot plan dated September 12, 2012 prepared by Hayes Engineering Inc., Professional Land Surveyor. This application is one of three prior applications to this Board for subdividing the currently merged lot into four lots. All of these applications were withdrawn without prejudice. In discussing the current application, several Board members had concerns about the orientation of the two additional residences to be located on the subdivided pie-shaped lots. Also of concern was the comparatively smaller lot that will be occupied by the existing residence. The applicant upon observing the deliberations of the Board requested a postponement. A hearing was rescheduled to November 26, 2012 at 8:15 PM.

**8:00 PM      12 COOLIDGE ROAD  
DANIEL RICCIO**

**Parcel ID 47-35  
File Date: 7/19/2012**

**Continued from August 28, 2012 with no evidence taken.  
Continued from September 25, 2012 with no evidence taken.**

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 existing dwelling and construct a new dwelling and accessory building 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 the required lot width, frontage and side yard setback. The application was presented by Attorney Paul Lynch and Architect Jonathan Poore and was accompanied by the applicant Daniel Riccio. Attorney Lynch presented architectural plans dated July 16, 2012 prepared by Architect Poore, as well as a plot plan dated July 11, 2012 prepared by Gail L. Smith, Professional Land Surveyor. At the hearing Attorney Lynch submitted copies of an Order of Conditions from the Conservation Commission dated 9/6/12 and a Decision from the Planning Board dated 10/23/12 describing a landscape plan for the view corridor. Attorney Lynch also noted that the 3,356 sq. ft. GFA of the proposed new dwelling was significantly smaller than that of the 4,005 sq. ft. existing dwelling. Richard Rockett of 15 Coolidge Road appeared to speak in opposition to the application stating that the higher roof on the proposed two story dwelling would block ocean views from the first floor windows of his dwelling. Mr. Rockett and the applicant both submitted photographs to the Board showing various ocean views from the 15 Coolidge Rd. property. Architect Poore also

submitted three-dimensional renderings showing various views of the proposed dwelling as it will be seen from the 15 Coolidge property and dwelling. No one else appeared at the hearing either in support or in opposition to the application. The application for Special Permit was approved by a vote of 4-1 (Rudolph dissenting) with conditions. Mr. Krasker is to write the decision.

**8:15 PM      22 DENNETT ROAD  
SCOTT CURRAN**

**Parcel ID 912-17  
File Date: 9/18/2012**

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 additions to an existing dwelling including a mud room, porch, relocated fireplace and two roof dormers in an Expanded Single Residence 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, lot width, frontage and side yard setback. The application was presented by Molly Frey, designer accompanied by applicant Scott Curran. The applicant presented undated plans prepared by Ms. Frey in addition to a plot plan dated August 21, 2012 prepared by Rod Carter Associates, Land Attorney Surveyors of Upton, MA. The Applicant submitted a list of four neighbors: Paul and Ann Misoda of 23 Dennett Rd; Tracy and Marc Oroff of 19 Dennett Rd; William Maag of 24 Dennett Road and Sheila Peretti of 20 Dennett Rd, all of whom were in favor of the application. No one else appeared at the hearing to speak either in favor or in opposition to the application. The application for Special Permit was unanimously approved 5-0, with conditions. Mr. Tubridy is to write the decision.

**8:15 PM      50 ATLANTIC AVENUE  
JOHN PAUL COMELLA**

**Parcel ID 114-13  
File Date: 9/18/2012**

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit or Variance for a change of use from retail to restaurant in a Business One District. No external construction is contemplated on a pre-existing non-conforming property that has less than the required lot area, side yard setback, rear yard setback, open area and parking. The application was presented by the applicant, John Comella with an interior floor plan dated September 13, 2012, prepared by Richard Alvord Architects of Roslindale, MA as well as a plot plan dated August 23, 2012 prepared by Bradford Engineering Co. Professional Land Surveyor of Haverhill, MA. The applicant stated that the proposed restaurant would be a take-out and delivery operation with only twelve seats for dining on-premises and would be open on Monday through Sunday with hours of operation from 11am to 9pm. Neighbors Barbara Sheffts and Peggy Farrell appeared at the hearing to request that the applicant provide adequate trash containers and frequent trash pickup, that the rear door of the restaurant be kept closed during operating hours, and that the kitchen exhaust fan and air conditioning units be located on the roof as close as possible to the Atlantic Avenue end of the building, in order to minimize noise and cooking odors for abutting residents behind the restaurant. The applicant noted that the largely take-out operation would produce limited trash and agreed that he would accommodate the neighbor's requests to the greatest extent possible. No one else appeared at the hearing to

Speak either in favor or in opposition to the application. The application for Special Permit was unanimously approved 5-0, with conditions. Mr. Drachman is to write the decision.

**8:30 PM      59 ORNE STREET  
DEIDRA COLCORD**

**Parcel ID 187-13  
File Date: 9/18/2012**

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 an addition and deck in a Shoreline Central Residence District, Harborfront District and Historic District. The new construction is within the rear yard setback and exceeds the 10% expansion limits on a pre-existing non-conforming property that has less than the required rear yard setback, side yard setback and exceeds the maximum height allowed. The application was presented by Architect Walter Jacob accompanied by the applicants Kevin and Deidra Colcord with architectural plans dated October 18, 2012 prepared by Mr. Jacob, as well as a plot plan dated August 29, 2012 prepared by Gail L. Smith, Professional Land Surveyor. Mr. Jacob submitted Documents from the Old and Historic District Commission and the Planning Board, both approving the project. No one appeared at the hearing to speak either in favor or in opposition to the application. The application for Special Permit was unanimously approved 5-0, with conditions. Mr. Krasker is to write the decision.

**ADMIN      52 VILLAGE STREET  
SCOTT MAUDE, TRUSTEE**

**Parcel ID 107-10  
File Date: 9/20/2012**

Scott J. Maude appeared before the Board regarding a Special Permit approved by the Board on July 24, 2012 and filed with the Town Clerk on August 6, 2012. Mr. Maude seeks permission to delete a window and skylight. The applicant provided to the Board the original decision and updated plans drawn by architect Craig Bosworth dated September 12, 2012 showing the changes. The requested changes were unanimously approved on an administrative basis.

**ADMIN      26 COOLIDGE ROAD  
STEVEN BARATZ**

**Parcel ID 47-29**

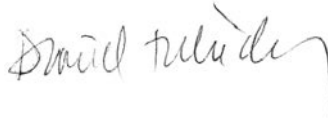
Ryan McShera of Pittman and Wardley Architects appeared before the Board on behalf of Steven Baratz regarding a Special Permit approved by the Board on August 31, 2010 and filed with the Town Clerk on October 21, 2010. Mr. Baratz seeks permission to add several skylights and window changes. The applicant provided to the Board the original decision and updated plans drawn by the Architect and dated July 2, 2010 showing the changes. The requested changes were unanimously approved on an administrative basis.

**OLD AND NEW BUSINESS:**

- No additional business was conducted.

The meeting was then adjourned.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David Tubridy", with a stylized flourish at the end.

David Tubridy,  
Acting Secretary