

## BOARD OF APPEALS

### TOWN OF MARBLEHEAD

Minutes of Meeting of November 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 Tubridy, Drachman, Moriarty, Barlow, and Lipkind.

#### HEARINGS:

7:30 PM	30 PEARL STREET	Parcel ID 150-84
	TERRENCE & ALINE LAVELLE	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 at 30 Pearl Street, Map 150 Parcel 84, in a Central Residence District, Unrestricted District and Historic District. The new construction is within the side yard setback, further reduces open area and exceeds the 10% expansion limit on a pre-existing non-conforming property that has less than required lot area, frontage, side yard setback, open area and parking. The application was presented by Architect D. Bruce Greenwald of Marblehead, accompanied by Terrence and Aline Lavelle. Mr. Greenwald presented photos to the Board, and reviewed the application. The applicant presented architectural plans revised on September 10, 2012, which were prepared by Mr. Greenwald, as well as an instrument survey dated September 6, 2012 prepared by Peter J. Kane, Professional Land Surveyor. Mr. Greenwald stated that the Old and Historic Marblehead District Commission had issued a certificate of appropriateness. Nobody else appeared regarding this application, which was unanimously approved, with conditions. Mr. Tubridy is to write the decision.

7:30 PM	37 CORNELL ROAD	Parcel ID 71-33
	NEIL GEARY	File Date: 9/20/2012

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 an existing dwelling and construct a new dwelling at 37 Cornell Road, Map 71 Parcel 33, in a Single Residence District. The new construction is within the front yard setback and exceeds the 10% expansion limit on a pre-existing non-conforming property that has less than required lot area, lot width, front yard setback and side yard setback. Neil Geary presented the application accompanied by his engineer, Scott Petrowicz. The applicant presented architectural plans prepared by KRK Design of Wilmington, Massachusetts, as well as a plan dated September 10, 2012 prepared by Gail L. Smith, Professional Land Surveyor. Board members expressed concerns regarding the topography of the lot, and structures that the applicant intends to construct which are not shown on the plan provided by Surveyor Smith. Catherine Cronin of 31 Dartmouth Street appeared at the hearing and expressed concerns about the size of the house, the increased area and drainage issues. Attorney Joe Dever also appeared at the hearing to oppose the application on behalf of Ms. Cronin. Attorney Dever said that the new structure is three times as high as the existing structure, and the proposed

structure will result in loss of view, light and air. Mr. Dever said that the proposed structure is out of character with the neighborhood, will result in the loss of too much open space, and will negatively impact drainage. It was apparent the plot plan had a scrivener's error with regard to house numbers for abutting properties. John Homan of 29 Dartmouth Road expressed concern regarding the height of the proposed structure. The hearing was continued to January 22, 2013 at 8:00 p.m. with evidence taken. Mr. Drachman is to write the decision.

7:45 PM      69 CLIFTON AVENUE  
ARYN FERREIRA

Parcel ID 10-34  
File Date: 9/26/2012

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 and allow an existing shed and a play structure to remain at 69 Clifton Avenue, Map 10 Parcel 34, 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 required lot area, lot width, frontage, side yard setback and open area. Greg LaBombard of builder Red Phoenix Construction presented the application, accompanied by Ms. Ferreira. The applicant presented architectural plans prepared by Ebben Creek Architecture of Essex, Massachusetts, as well as a plan dated September 19, 2012 prepared by Gail L. Smith, Professional Land Surveyor. Ms. Ferreira advised the Board that all neighbors had approved the application, and that the shed at the right rear corner of the lot had been there for more than ten years. She also stated that if the play structure in the right side yard setback were moved, the basement could not be accessed. Nobody else appeared at the hearing. The application was unanimously approved, with conditions. Mr. Barlow is to write the decision.

7:45 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

Continued from October 23, 2012 – no evidence taken

The Board continued hearing a request to vary the application of the present Zoning By-law by allowing a Special Permit to allow an existing new fence to remain at 1 Ware Lane, Map 23 Parcel 21, in a Single Residence District. The new fence is in the corner of a lot bounded by two streets in violation of the corner lot visibility requirement (Zoning By-law 200-16 F) on a pre-existing non-conforming property that has less than required lot area. The applicant presented a letter from Town Engineer William C. Lanphear dated October 9, 2012, regarding the fence at issue. Nobody else appeared in favor of or opposed to the application. The application was unanimously approved, with conditions.

8:00 PM      4 MOHAWK ROAD  
FARIDA PETERS-ABBADI  
REQUEST TO CONTINUE TO 1/22/2013

Parcel ID 86-4  
File Date: 10/9/2012

Mr. Barlow resumed his position on the panel for this and the remaining hearings tonight. The Board was prepared to commence hearing a request to vary the application of the present Zoning By-law by allowing a Special Permit to allow an existing play structure to remain at 4 Mohawk Road, Map 86 Parcel 4, in a Single Residence District. The structure is within the side yard setback on a pre-existing non-conforming property that has less than required lot area, lot width, frontage and side yard setback. The applicant's request to continue the hearing to January 22, 2013 at 7:45 p.m. was unanimously approved.

8:00 PM      16 WALDRON COURT  
LISA GLASS

Parcel ID 130-25  
File Date: 10/9/2012

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit to remove an existing entry landing and stairs and replace it with a new entry landing and stairs at 16 Waldron Court, Map 130 Parcel 25, in a Shoreline Central Residence District, Central Residence District and Historic District. The new construction will conform to zoning setbacks on a pre-existing non-conforming property that has less than required lot area, lot width, frontage and side yard setback. Architect Walter Jacob of Marblehead presented the application, accompanied by Ms. Glass. The applicant presented architectural plans dated October 4, 2012, prepared by Mr. Jacob, as well as a plan dated September 21, 2012, prepared by Gail L. Smith, Professional Land Surveyor. The applicant presented Certificate of Appropriateness #4152 from the Old and Historic Marblehead District Commission, as well as a letter from Robert Merrigan and Deborah Bohnert, owners of the abutting parcel at 16 Waldron Court, in support of the application. The application was unanimously approved, with conditions. Mr. Lipkind is to write the decision.

8:15 PM      95 PITMAN ROAD  
CHRISTINA & RONALD OLDHAM

Parcel ID 156-28  
File Date: 10/9/2012

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 roof over the main entrance and a deck over an existing roof at 95 Pitman Road, Map 156 Parcel 28, in a Shoreline Single Residence 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, lot width, frontage, rear yard setback, side yard setback and open area. The applicants presented architectural plans dated August 20, 2012 prepared by Brigitte Fortin of Marblehead, as well as a plan dated October 1, 2012 prepared by Gail L. Smith, Professional Land Surveyor, and several photos. Letters in support of the application were received from residents of 93 and 99 Pitman Road. The application was unanimously approved, with conditions.

8:15 PM      9 BLUEBERRY ROAD  
BLUEBERRY ROAD LLC

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

Continued from October 23, 2012 with evidence taken: Tubridy, Krasker, Drachman, Barlow & Rudolph

The Board, comprised of the members described 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 subdivide two lots which have merged as a result of common ownership into three lots at 9 Blueberry Road, Map 173 Parcels 29 & 30, 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 maximum front yard setback. Attorney Paul Lynch of Marblehead presented the application. Mr. Lynch presented a new survey relocating the lot lines at issue. Nobody else appeared with regard to this application, which was unanimously approved. Mr. Krasker is to write the decision.

ADMIN      77 BUBIER ROAD  
GREGORY MAHAN

Parcel ID 94-27  
File Date: 11/6/2012

The Board, comprised of the members that began tonight's meeting, considered requests for changes on an administrative basis, i.e., omit stone columns, omit masonry chimney, add box for gas fireplace, multiple window changes, extend portion of deck. Mr. Mahan presented the application, accompanied by Architect Veronica Hobson of Marblehead. The Board did not approve the request pertaining to the extension of a portion of a deck. The remaining changes were approved unanimously, although dimensional limits were placed on the requested change for the box for the gas fire place.

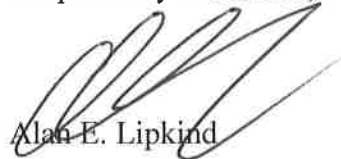
ADMIN      17 & 21 DARLING STREET  
EMILY GAFFNEY

Parcel ID 132-32 & 33  
File Date: 11/8/2012

The applicant sought a lot line change on an administrative basis. The application was denied unanimously.

The Board approved Minutes of the Meeting of September 25, 2012.

Respectfully submitted,



Alan E. Lipkind