

BOARD OF APPEALS  
TOWN OF MARBLEHEAD

Minutes of Meeting of July 28, 2015

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, Moriarty, Barlow, Krasker and Lipkind.

**HEARINGS:**

<b>7:30 PM</b>	<b>151 WEST SHORE DRIVE</b>	<b>Parcel ID 100-20</b>
	<b>JAMES GLEASON</b>	<b>File Date: 5/11/2015</b>

The Board held a hearing on a request to vary the application of the present Zoning By-law by allowing a Special Permit to expand the existing deck and construct a new shed below the deck at **151 West Shore Drive** in a Single Residence District. The new construction is in the side yard setback and exceeds the 10% expansion limit on a pre-existing non-conforming property with less than the required lot width, frontage and side yard setback. The application was presented by Architect Heather Deschenes of Marblehead, accompanied by James Gleason. The applicant proposes to expand the existing deck at the rear of the house, and build a deck beneath the proposed deck expansion. The applicant presented the Board with a plan dated April 29, 2015 prepared by Gail L. Smith, PLS, as well as architectural plans dated April 27, 2015 prepared by HND Architects of Marblehead. The applicant also presented a GIS map showing the location of properties owned by persons in support of the application. Written evidence of support for the application was presented on behalf of the owners of 150, 152 and 153 West Shore Drive, and 23 and 25 Hawthorne Road. The applicant presented a written Project Summary with a photo of the existing structure, information on the project and photos of nearby structures. Nobody else spoke regarding application. The application was unanimously approved, with conditions. Mr. Tubridy is to write the decision.

<b>7:30 PM</b>	<b>63 BEACH STREET</b>	<b>Parcel ID 92-1</b>
	<b>DOUGLAS SCHLUTER</b>	<b>File Date: 3/13/2015</b>

**Continued from May 26, 2015 with no evidence taken:**

Pursuant to Chapter 40A, §8 of the General Laws and Chapter 200-2-I of the Marblehead Zoning Bylaw and Section 7 of the Rules and Regulations of the Board of Zoning Appeals, the Board held a hearing on an appeal of an action taken or not taken, or determination made by the Building Commissioner for a cease and desist order dated February 12, 2015 regarding the construction of a new single family dwelling at **63 Beach Street** in a Single Residence District. The appeal was presented by Attorney Michael T. Sullivan of the Conn Kavanaugh Rosenthal Peisch & Ford, LLP law firm in Boston, accompanied by Mr. Schluter. The applicant presented the Board with his letters to the Board of March 12, 2015 and May 12, 2015, which included

multiple exhibits. The Board was presented with the Decision of the Building Commissioner dated February 12, 2015, a 2010 Special Permit Decision, a letter from the Petitioner to the Building Commissioner dated March 5, 2015, the Building Commissioner's response dated March 11, 2015, a copy of scheduling agreement between Petitioner and the Building Commissioner dated March 10, 2014, a copy of a Special Permit revocation letter dated August 29, 2013, photographs of the house and carriage house on the property, a copy of a scheduling proposal from Petitioner to Building Commissioner and Town Administrator, dated October 7, 2013, a response from the Building Commissioner to that scheduling proposal, dated December 4, 2013; the Petitioner's revised schedule for completing house exterior, dated August 5, 2014, a letter from the Petitioner to the Building Commissioner and Town Administrator, dated March 28, 2014, a construction update from Petitioner to Building Commissioner and Town Administrator, dated April 22, 2014, an email exchange regarding neighbor complaints and Petitioner's response, dated June 20, 2014, an email from Petitioner to the Building Commissioner and Town Administrator, dated August 5, 2014, an email from Petitioner to the Building Commissioner and Town Administrator summarizing Building Commissioner's site visit, dated October 16, 2014, and an email from the Building Commissioner to the Town Administrator dated October 17, 2014. The Board also received letters in support of permit reinstatement from Lisa and Steve Miller, 75 Beach Street, Fiona and Geoffrey Lubbock, 9 Goldthwait Road, Nina and David Hutchison, 6 Goldthwait Road, Anne Tassel Todisco, 60 Beach Street, William Burke, 12 Goldthwait Road, Marianne and Charles Ives, 4 Page Road, William Blake, President of the Goldthwait Reservation, Inc. and Martha Strohecker, 55 Beach Street. The Board also received a letter from the Petitioners regarding their intention to videotape the July 28, 2015 hearing. At the commencement of the hearing, Chairman Moriarty advised of the Petitioner's videotaping of the proceedings, and counsel for the Petitioner agreed to have the videotape turned off if any person desiring to address the Board wanted the tape turned off while such person was addressing the Board. Attorney Sullivan advised the Board of the history of this project and dealings with the Building Commissioner. Mr. Schluter advised the Board that the fact that this project is not complete is not due to a lack of effort. He apologized to the neighborhood and his family for the delay. Marianne Ives of 4 Page Road spoke in favor of Mr. Schluter's appeal, and said that Mr. Schluter is her son in law. Charles Ives of 4 Page Road, as well as Lisa and Steve Miller of 75 Beach Street spoke in favor of the application. Jack Attridge of 67 Beach Street addressed the Board and discussed the history of this project, delays in the project, and negative impacts of this project on the neighborhood. He provided the Board with a list of proposed conditions. Peter Dailey of 62 Beach Street and Jeff Lubbock of 9 Goldthwait Road addressed the Board and said that they agreed with Mr. Attridge. Chris Adam of 56 Beach Street said he wants the project completed, and that no occupancy permit should be granted on the Carriage House before the Main House is completed, a point previously raised by Mr. Attridge. Peter Conway of 53 Orchard Street made this same point, and provided the Board with a photograph of the property. The Board then voted unanimously to close the evidence. The Board also voted unanimously to deny the Petitioner's Appeal of the decision of the Building Commissioner, but also voted unanimously to modify the previously issued special permit, including conditions that the Carriage House be completed by December 31, 2015, and that the Main house be completed by December 31, 2016. There were conditions imposed concerning hours of work, landscaping, as well as a condition that if the main house is not completed by December 31, 2016, any previously issued certificate of occupancy for the carriage house shall be revoked. Mr. Moriarty is to write the decision.

**7:45 PM      5 WOODFIN TERRACE      Parcel ID 160-10, 9A, 37,**  
**MHD BOARD OF HEALTH      38, 39 & 153-1, & 161-2&3**  
**File Date: 6/9/2015**

The Board held a hearing on a request to allow an extension of a previously issued special permit (demolish existing transfer station and construct a new transfer station and accessory structures) at **5 Woodfin Terrace** in an Unrestricted District. Andrew Petty presented the request, which was unanimously approved. Mr. Moriarty is to write the decision.

**7:45 PM      6 VILLAGE STREET      Parcel ID 109-16**  
**OLIVER LOEWEN      File Date: 6/10/2015**

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 rebuild a garage at **6 Village Street** in a General Residence District. The new construction is in the front yard setback, 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, front yard setback, side yard setback and parking. The application was presented by Architect Craig Bosworth of Marblehead, accompanied by Mr. Loewen. The applicant seeks to knock down an existing garage, rebuild it in its current location, and connect it to the main house. The applicant presented a plan dated April 23, 2015 prepared by Gail L. Smith, PLS, architectural plans dated June 3, 2015 prepared by Mr. Bosworth, as well as a Project Description prepared by Mr. Bosworth. Written support for the application was received from residents at 5 and 7 Vine Street, as well as 8, 9 and 11 Village Street. The application was unanimously approved, with conditions. Mr. Krasker is to write the decision.

**8:00 PM      25 CEDAR STREET      Parcel ID 52-6**  
**COLIN COLEMAN      File Date: 6/10/2015**

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 at **25 Cedar Street** in a Single Residence District. The new construction is in the 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, front yard setback, rear yard setback, side yard setback, parking and an existing detached garage in the rear and side yard setback. The application was presented by Mr. Coleman. The applicant presented the Board a plan dated June 1, 2015 prepared by Gail L. Smith, PLS, as well as undated architectural plans. Nobody else appeared at the hearing on this application. The application was unanimously approved, with conditions. Mr. Barlow is to write the decision.

**8:00 PM      38 POND STREET      Parcel ID 163-10**  
**ERIC GLASS      File Date: 6/16/2015**

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 at **38 Pond Street** in a Central Residence

District and Unrestricted District. The new construction exceeds the 10% expansion limit on a pre-existing non-conforming property with less than the required side yard setback and an existing shed in the side yard setback. The application was presented by Mr. Glass, who presented a plan dated April 29, 2015 prepared by Gail L. Smith, PLS, as well as architectural plans dated May 8, 2015 prepared by Pitman & Wardley Architects of Salem, MA. Nobody else appeared regarding this application. The application was unanimously approved, with conditions. Mr. Lipkind is to write the decision.

**8:15 PM      7 MERRILL ROAD  
KEITH HERSEY**

**Parcel ID 4-50  
File Date: 6/24/2015**

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 at **7 Merrill Road** in a Single Residence District. The new construction is in the side yard setback on a pre-existing non-conforming property with less than the required lot area, lot width, frontage, front yard setback, side yard setback, parking and an existing detached garage in the side yard setback. The application was presented by Mr. Hersey, who presented a plan dated June 11, 2015 prepared by Kirk W. Benson, PLS as well as architectural plans dated May 29, 2015 prepared by William J. Peterson, Registered Architect. Nobody else appeared regarding this application, which was unanimously approved, with conditions. Mr. Tubridy is to write the decision.

**8:15 PM      22 FOSTER STREET  
RALPH & MERYL SEVINOR**

**Parcel ID 908-4  
File Date: 6/26/2015**

The Board commenced a hearing on a request to construct a single family structure to replace an existing single family structure and garage at **22 Foster Street** in a Shoreline Expanded Single Residence District. The new construction is in the side yard setback and exceeds the 10% expansion limit on a pre-existing non-conforming property with less than the required lot area, lot width, frontage, rear yard setback, and side yard setback, where an existing structure exceeds the maximum height allowed and the lot also contains an existing detached accessory building. The application was presented by Attorney Paul Lynch of Marblehead, accompanied by Meryl Sevinor and Architect Walter Jacob of Marblehead. The applicant presented existing and proposed site plans dated June 6, 2015 prepared by Peter J. Ogren, PLS, architectural plans dated July 28, 2015 prepared by architect Walter Jacob of Marblehead, a Site Plan Special Permit dated July 16, 2015, as well as an assessors map. Elizabeth Blando of 26 Foster spoke in favor of the application. Attorney George Atkins of Salem spoke in opposition to the application on behalf of Mr. and Mrs. Nutt of 20 Foster Street and 1 Parker Lane. The issue of building height was discussed by counsel for both parties and members of the Board. The applicant's request to withdraw the application without prejudice was unanimously approved.

**8:30 PM      16 HERITAGE WAY  
EDWARD & JEANNIE ROMBACH**

**Parcel ID 108-30C-16  
File Date: 7/8/2015**

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 **16 Heritage Way** in a General Residence

District. The new construction further reduces the required open area on a pre-existing non-conforming property with less than the required lot area, front yard setback, side yard setback and open area. The application was presented by architect Veronica Hobson of Marblehead accompanied by Edward and Jeannie Rombach. The applicant presented a plot plan dated July 8, 2015 prepared by Peter J. Kane, PLS as well as architectural plans dated July 1, 2015 prepared by architect Veronica Hobson of Taproot Design Inc. of Marblehead. The addition requested is to accommodate a wheelchair lift for the applicants' daughter. Written support for the application was received from neighbors at 9, 10, 21 and 25 Heritage Way, as well as the 14-16 Heritage Way Condominium. The application was unanimously approved, with conditions. Mr. Barlow is to write the decision.

**ADMIN        78 FRONT STREET, U1  
                 DANIEL DEVAN**

**Parcel ID 148-42-1  
File Date: 6/25/2015**

The Board heard a request to approve certain window and roof changes for 78 Front Street, Unit 1 on an administrative basis. Mr. Devan presented the application. He advised the Board that the changes were approved by the Old and Historic Districts Commission on June 9, 2015. He presented the Board with a plan dated June 13, 2015 prepared by Gail L. Smith, PLS, architectural plans dated June 4, 2015 prepared by architect D. Bruce Greenwald of Marblehead, as well as a copy of a special permit that had been filed with the Town Clerk on February 28, 2014. Nobody else appeared regarding this application, which was unanimously approved.

The Board approved the Minutes of the Meeting of March 24, 2015.

The meeting was then adjourned.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Alan E. Lipkind', with a long horizontal flourish extending to the right.

Alan E. Lipkind