TOWN OF MARBLEHEAD
BOARD OF APPEALS
Minutes of Meeting
June 25, 2019

A 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 Lower Level Conference Room at the Mary Alley Building, 7 Widger Road, Marblehead, Massachusetts. Present were Board members Moriarty, Krasker, Barlow, LaBrecque, Lipkind, as well as Becky Curran, Town Planner and Rich Baldacci, Building Commissioner. May 28, 2019 ZBA Minutes were approved.

7:30 PM – 12 Phillips Street – Joann Maglio
The Board of Appeals held a public hearing on the request of Joann Maglio to vary the application of the present Zoning By-law by allowing a Special Permit to enclose and expand a porch on an existing single family structure on a preexisting nonconforming property with less than the required lot area, lot width, frontage, side and front yard setback and parking located at 12 Phillips Street in a Single Residence District. The new construction will be within the side yard setback. Present for the hearing were Joann Maglio (owner) and Christophe Monaco of 3 Elm Place. Mr. Monaco spoke to a revised application that would enclose the existing porch and not expand the space. The space will have a bathroom and laundry. The enclosure will have a similar façade, slider door, and windows. Working within the existing porch still requires relief from setback. No one spoke in favor or opposition of the application. A motion was made and seconded to close the public hearing. All in favor 5-0. A motion was made and seconded to approve the special permit for enclosing the porch with the same roofline (permit does not approve work for an addition; which was on the original application but taken off). All in favor 5-0. Krasker, Barlow, LaBrecque, Lipkind, Moriarty.

7:30 PM – 53 Rockaway Avenue – Mira Kucharsky
The Board of Appeals held a public hearing on the request of Mira Kucharsky to vary the application of the present Zoning By-law by allowing a Special Permit to enclose and expand a porch on an existing single family structure on a preexisting nonconforming property with less than the required lot area, lot width, frontage, side and front yard setback and parking located at 53 Rockaway Ave in a Single Residence District. The new construction will be within the front yard setback. Veronica Hobson presented the application seeking a special permit to enclose a 9’ x 4.5’, creating a vestibule, and adding a new 3’ x 4’ porch with steps. This request exceeds front setback by 6’, right setback by 7’, and left setback by one foot. The construction puts the steps 3’ closer to the street. The addition is similar to other homes on the street that extend the front elevation. Letters of support from immediate neighbors was submitted. No one spoke in favor or opposition of the application. A motion was made and seconded to close the public hearing. All in favor 5-0. A motion was made and seconded to approve the special permit with the usual conditions. All in favor 5-0. Krasker, Barlow, LaBrecque, Lipkind, Moriarty.

ADMINISTRATIVE HEARING 10 Prince Street – Chris Hayes – Skylight
Christopher Hayes made his request to include a skylight for a project construction project that was previously approved on March 26, 2019. The Board agreed that there was not a material change and the request was approved.
8:00 PM – 16 Turner Road – Stacey and John Barnes
The Board of Appeals held a public hearing on the request of Stacey & John Barnes to vary the application of the present Zoning By-law by allowing a Special Permit for a special permit for temporary trailer (mobile home) located at 16 Turner Road in a Single Residence District. Stacey and John Barnes appeared before the Board and explained that they would be working on interior construction projects at a cousin’s house and would like to park their trailer in the boat location until November. Mr. Lipkind inquired about the length of the interior home project work and asked that the trailer be in the back of the house, not the front. Mr. Barlow affirmed that this is the Barnes’ second request; they were approved for a trailer at that address in 2018. Mr. Moriarty confirmed the trailer location to be 6’ easterly edge and 18’ feet westerly edge from property line; positioned next to the shed. The Chairman asked if there was anyone to speak in favor or opposition. Louise Antonelli, 14 Taft Street, commented that her neighbor has a view of the trailer and she doesn’t like it. She thinks that it is nice that Barnes’ are helping their cousin. The trailer can be noisy. A conversation took place about possibly moving the trailer to the other side of the yard. A motion was made and seconded to close the public hearing. All in favor 5-0. A motion was made and seconded to approve the special permit and allow a temporary trailer while construction is taking place. The permit has a six-month life from the day of the application. Permit expires on November 20, 2019. All in favor 5-0. Krasker, Barlow, LaBrecque, Lipkind, Moriarty. The Barnes’ were advised to present a more precise application, one that includes a survey, should they go in front of the board again. Subsequent to the hearing, two neighbors spoke in opposition to the special permit. Bryan Segee, 12 Turner Road, spoke in opposition. Alisha Hill, 12 Taft Street, recently moved to Marblehead in October and is a direct back neighbor. She has a bad view of the camper which was located along the fence. She submitted a photo of the view of the trailer from her back window. The trailer has been moved slightly. She inquired about how far the trailer should be from the property line and asked if the current location had been approved. The Board explained that the permit was granted for six months and they can apply for a new permit each year. The application and hearing does not guarantee approval and issuance of a special permit. The Town Law is that a trailer can be on a property for six months; the Board can grant a one-time extension. They can apply for a new permit, doesn’t mean they get one each time. Mr. Moriarty explained that she could appeal the decision, if she thought that she was prejudiced by the decision (by not being heard when the hearing took place).

8:00 PM – 14 Naugus Avenue – Ernest Greer
The Board of Appeals held a public hearing on the request of Ernest Greer to vary the application of the present Zoning By-law by allowing a Special Permit to construct a deck addition to an existing single family structure on a preexisting nonconforming property with less than the required lot area, front yard, rear yard and side yard setbacks located at 14 Naugus Ave in a Single Residence District. The new construction will be within the rear and side yard setback. Mr. Greer presented his application for a deck addition and new shed and explained that he would like extend decks in the back and on the side of the house northwest by 2’ and 3’ north east. A new 8 x 12 shed will be built as well. Mr. Barlow inquired about the height of the deck and possible new space underneath; not a concern. Mr. Greer said that he has the support of neighbors on the side and back of his property. No one spoke in favor or opposition of the application. A motion was made and seconded to close the public hearing. All in favor 5-0. A
motion was made and seconded to approve the special permit on an undersized lot with the usual conditions. All in favor 5-0. Krasker, Barlow, LaBrecque, Lipkind, Moriarty.

8:00 PM – 111 Beacon Street – Robert Leeson
The Board of Appeals held a public hearing on the request of Robert and Laura Leeson to vary the application of the present Zoning By-law by allowing a Special Permit to construct an accessory structure to a single family structure on a preexisting nonconforming property with less than the required lot area, side yard setback and exceeds the maximum height located at 111 Beacon Street in an Expanded Single Residence District. The new construction will be dimensionally conforming and requires a special permit due only to a previous special permit condition. Tom Saltzman (architect) represented the Leeson application for an accessory structure (greenhouse) at 111 Beacon Street. There are no new dimensional conformities and the application was before the Board to comply with the June 7th special permit condition (any new construction requests must appear before the Board). The greenhouse is a free-standing, glass, prefabricated structure that will sit on a stone half-entry on top of a concrete patio (new concrete). No one spoke in favor or opposition of the application. A motion was made and seconded to close the public hearing. All in favor 5-0. A motion was made and seconded to approve the special permit on an undersized lot with the usual conditions. All in favor 5-0. Krasker, Barlow, LaBrecque, Lipkind, Moriarty.

8:15 PM – 4 Garnet Street – Craig and Colleen Murray (continued – evidence taken)Craig and Colleen Murray were present for the hearing, continued from May 28th 2019. Mr. Murray proposed relocating the shed so there’s an even amount of space (3.5 feet) on all sides and so that arborvitae can be planted to shield the view for neighbors at 154 Atlantic and 146. The Murray’s spoke with arborist in town who would help them find shade-loving trees or evergreens or English Ivy to provide screening. The Murray’s spoke with the neighbor at 146 Atlantic (Capstaff) and she said that if the Town is okay with shed, she’s okay with it. Mr. Krasker asked if there would be enough room to go around the back and sides of the shed to maintain trees. The Murrays answered in the affirmative. The Chairman asked if there was anyone to speak in favor or opposition of the shed. Rhonda Steele of 38 Beach Street, spoke in favor of the shed, commenting that she has a full front view of the shed. It’s a nice shed. Phil Dicarlo of 36 Garnet Street, spoke in favor of the shed, and said that he has a good view of the shed and isn’t bothered by it. He said the Murray’s have young children and having the shed could be considered good safety for them, storing equipment. Alex Forsythe, 34 Beach Street, spoke in favor. Stowaway Sweets (John Heinritz) of 154 Atlantic, spoke in opposition to the shed, commenting that their concern had to do with procedure and what the Town permits for structures. He said that the shed is three times the size and that no surveys were prepared for the project. He objects to the construction and then appearing before the board for the forgiveness. Mr. Lipkind inquired if he had other concerns or other impacts created by the shed. Mr. Heinritz commented about the height of the shed. Diane Capstaff of 146 Atlantic, spoke about her concern about the size of the shed and its proximity to property lines. Emily Dewitt of 154 Atlantic, spoke in opposition of the size and violation of the setback.

A motion was made and seconded to close the public hearing. All in favor 5-0. The Board discussed shed height and bulk of shed, and the possible issue of care and maintenance behind the shed if it were to be moved. Mr. Moriarty explained that the Board could make a permit
decision about the shed or the Murrays could withdraw their application without prejudice, however the property would be in violation. The Murrays decided to withdraw their application without prejudice. A motion was made with four affirmative votes to allow the withdrawal. All in favor 5-0. Krasker, LaBrecque, Lipkind, Moriarty.

8:30 PM – 14 Mechanic Square – Charles Hibbard (continued – evidence taken)
Bob McCann, attorney, and Charles Hibbard were present for the hearing for reconstructing a wall at 14 Mechanic (continued from May 28th). Mr. McCann read a letter from Raymond and Rita March supporting the reconstruction of the wall. Another letter from Peter Ballis stated that the 6-inch encroachment is not an issue.

Mr. McCann stated that the encroachment on the Henderson property would be removed. The special permit application called for a wall that was straight up. Mr. McCann is proposing a revised wall that is reconstructed with railroad ties and is tiered alongside the Henderson property. He stated that Mr. Baldacci, Building Commissioner, told him that neither zoning nor a building permit would be required for the front portion of the wall along Henderson property, that relief would be needed from Zoning for the back portion. He further commented that the owners at the back of the property are fine with the wall being built. Mr. McCann asked that the Board could include, as part of any written decision, that a special permit for the front part of the wall would not be required. Pictures, with dimensions, were shown to the board, indicating that the proposed wall ends up being the same height (4 - 5 inches taller) in the back and lower in height and have steps/tiers along the Henderson home. There would be a fence along the back of the property but not along the Henderson property.

Tom MacMillan of 145 South Main, Bradford, Mass. represented Cheryl Henderson, a direct abutter. He stated that the proximity of the wall to the house remains an issue. The staggered/tiered solution is helpful and that the newly proposed wall is shorter, but it does remain higher than the original wall. He stated a concern about the wall being taken down without a demolition permit and he and his client did not like having to rely on and interpret architectural design and not engineering plans. He and Ms. Henderson were seeing the revised plans for the first time this evening. Ms. Henderson acknowledged that the revised plans she saw earlier in the afternoon are good start and thinks they can come to an agreement. She would like to better understand the details of the plan. The Chairman asked if there was anyone to speak in favor or opposition of the wall. Mark Schmidt, 19 Mugford Street, spoke in favor portion of the wall next to Henderson’s and said that the wall that was there – was in a deteriorating state and needed to be replaced. The Board advised having proper engineering plans created and that Mr. Hibbard and Mr. McCann come back to the Board in July. A motion was made and seconded to continue the public hearing to July 23, 2019 at 7:30 p.m.. All in favor 4-0. Krasker, LaBrecque, Lipkind, Moriarty.

Respectfully submitted,

Lisa Lyons
Senior Clerk Engineering