

The May 11, 2011 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Chairman Susanne Murphy called the meeting to order at 7:00 P.M. with the following members present:

Susanne Murphy, Chairman
James M. Stanton, Vice Chairman
Daniel J. Cunningham, Jr., Clerk
Ted C. Case, Member
James S. DeCelle, Member

Matthew Zuker, Associate member

7:00 p.m. – JB Realty, LLC – Case #07-11

Ms. Murphy read the public hearing notice for **JB REALTY, LLC, Case #07-11**, with respect to property located at 11 Barstow Road, Walpole and shown on the Assessors Map as Lot No. 35-344, Residence B Zone.

The application is for:

A Special Permit under Section 9.5.B of the Zoning Bylaws to allow demolition of pre-existing single family house and to construct a new single family house on a lot that has 100 feet of frontage where 125 feet is required, and 12,000 square foot area where 20,000 square feet is required. The proposed house meets all zoning setbacks.

Andrea Chamberlain submitted a plan of the proposed house and pictures of the existing house. The current house does not meet the setback, but the new house will meet the front setback. The plan is to demolish the existing house. Joseph Derba owns the property, and intends to build to sell. Ms. Chamberlain also submitted pictures of other similar houses on the street.

Mr. Stanton asked the owner if he would consider renovating the existing house.

Mr. Derba said the existing house is in tough shape and is not worth investing the money to fix it up. He intends to clean up the lot and build a new house.

Ms. Murphy asked for comments from the public.

George Taksery, 16 Harding Rd., informed the Board he backs up to this property and is concerned that old trees may be removed for this construction.

Mr. Derba said he would leave the trees in the back of the property for privacy.

Dave Bowser and Elizabeth Cotter-Kruz, 17 Barstow Rd., was concerned about the stone wall remaining and because the proposed house would be approximately 20 feet from their property line. The proposed house would be different from the existing houses in the neighborhood.

Barbara Scheele, 2 Harding Rd., informed the Board that their property and others have water problems and would like that problem to be solved and not worsened.

Jeff Dodge, 317 High Plain St., was concerned because the new house would be larger than the existing house, and closer to his property, the danger of fire, and the existing problem with water in their basement. Mr. Dodge submitted a petition signed by abutters in opposition to the project.

Harald Ruda, 2 Barstow Rd., asked if special permits were becoming a common occurrence.

Mr. Derba said he would establish the grade from the street and does not intend to do anything drastic.

Mr. DeCelle asked for a plan showing the existing topography because he is concerned that if the land is raised up at all it might shed the water onto the abutting properties.

Ms. Chamberlain said they would do that for the Board.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to continue the hearing to May 25, 2011 at 7:45 p.m.

The vote was **5-0-0 in favor.** (Murphy, Stanton, Cunningham, Case, Zuker voting)

7:35 p.m. – Kenneth Fleming – Case #06-11 (cont'd from 4/13/11) (Murphy, Stanton, Cunningham, DeCelle, Zuker)

Ms. Murphy read the public hearing notice for **KENNETH FLEMING, Case #06-11**, with respect to property located at 14 Calvert Road, Walpole and shown on the Assessors Map as Lot No. 20-78, General Residence Zone.

The application is for:

A Variance from Section 6.B.1 of the Zoning Bylaws to allow construction of a farmer's porch with a 19.1 foot setback when a 30 foot setback is required.

Mr. Fleming explained that he had the plan redone by a land surveyor as requested by the Board. He submitted aerial picture of the neighborhood, a letter signed by three of the abutters in favor of the proposal, pictures of the existing house, the shrubs in front of the house that would be removed in order to build the deck, which take up most of the space the new deck would occupy, and pictures of other houses in the immediate area. He would build the steps on the side of the porch so as not to come out any further from the front of the porch.

Mr. Zuker pointed out to the Board that a Special Permit from Section 9.4.A would be more appropriate as an existing non-conforming one-family dwelling.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to amend the application from a Variance from Section 6.B.1 to a Special Permit under Section 9.4.A of the Zoning Bylaws.

The vote was **5-0-0 in favor**; therefore the application for a **Variance** is amended to a Special Permit under Section 9.4.A of the Zoning Bylaws. (Murphy, Stanton, Cunningham, Case, DeCelle voting)

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to grant a Special Permit under Section 9.4.A of the Zoning Bylaws to allow construction of a farmer's porch with a 19.1 foot setback when a 30 foot setback is required.

The vote was **5-0-0 in favor**; therefore the application for a **Special Permit** is hereby **granted, subject to the following conditions**: (Murphy, Stanton, Cunningham, Case, DeCelle voting)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, construction shall be pursuant to the plans, revision dated May 9, 2011, submitted at the public hearing.
2. As stipulated by the applicant at the public hearing, the stairs will be built onto the side of the porch in order to eliminate the protrusion of the stairs toward the street.
3. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS FOR DECISION:

It is the finding of the Board that the applicant has met the requirements under Section 3B of the Zoning Bylaws in that:

i. Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.

The construction shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.

ii. Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.

The construction shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.

iii. Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).

The construction shall not have a greater lot coverage than allowed in the zoning district in which the premises is located.

iv. Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.

The construction shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.

v. *Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.*

The construction shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.

vi. *Shall not adversely effect the character of the immediate neighborhood.*

The construction shall not adversely effect the character of the immediate neighborhood.

vii. *Shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.*

The construction shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located in that such enlargement or extension does not increase the non-conforming nature of the structure.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

MINUTES

For Approval:

October 27, 2010, January 19, 2011. January 26, 2011, February 9, 2011, February 23, 2011, March 9, 2011, March 23, 2011 and April 13, 2011.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to accept the minutes of October 27, 2010, January 19, 2011. January 26, 2011, February 9, 2011, February 23, 2011, March 9, 2011, March 23, 2011 and April 13, 2011 as written.

The vote was **5-0-0 in favor**. (Murphy, Stanton, Cunningham, Case, DeCelle voting)

DISCUSSION

Michael Viano, Oak St. Condominium

Ms. Murphy read the letter from Mr. Viano requesting a meeting with the Board to submit the Certified Cost and Income Statement. The Board advised that Mr. Viano send the Board the document for the file.

Confirm Summer Schedule

The Board confirmed the existing schedule with the following changes: added June 22 and changed July 13 to July 20.

There being no further business, the meeting was closed at 9:00 p.m.

Daniel J. Cunningham, Jr., Clerk

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Minutes were approved on August 10, 2011.