



TOWN OF SALISBURY

Zoning Board of Appeals Hearing

Colchester Room @ Town Hall, 5 Beach Rd

MEETING MINUTES – PUBLIC HEARING

Hearing Date: September 12, 2017 @ 7:00 pm in the Colchester Meeting Room

Members Present: Susan Pawlisheck (**Chair**), Derek DePetrillo, Kevin Henderson, Joseph Stucker, Linda Tremblay.

Members Not Present: None

Staff Present: Scott Vandewalle, Zoning Enforcement Officer/Building Inspector (**Inspector**)

Chairperson Pawlisheck (**Chair**) called the meeting to order @ 7:15 pm.

1. New Public Hearings

- A. Case No. 17-14 Petition for Finding by Special Permit:** A request for relief for extension/alternation of a pre-existing, non-conforming structure.

Address: 77 North End Boulevard

Applicant: Robert Smith (**Applicant**)

(**Applicant**) stepped to podium and is requesting an addition of a bedroom and extension of the kitchen in the ground floor apartment. It is currently occupied by son/family. Wants to extend rear out 10 feet for the additional bedroom/extend kitchen. This addition would be 2.1 feet from the rear boundary.

(**Chair**): You are extending this non-conformity?

(**Applicant**): Will be 2.1 feet from boundary/better than now.

Ms. Tremblay: are you keeping the shed?

(**Applicant**): Yes. Not moving.

Ms. Tremblay: Reducing rear set back by 10 feet??

(**Applicant**): Ample room on back side.

Mr. Henderson: Non- conformity will not be worse.

(**Chair**): Any abutters present?

Abutter Comments:

Abutter 1: Herbert Allen, 569 No End Blvd. No problem with this addition.

Abutter 2: Dan Gelinas, 579A No. End Blvd. No objection to this addition.

(Chair) asked for motion.

MOTION: Board Member Henderson moved to grant the relief by special permit as requested as it is not detrimental to the neighborhood. Board Member DePetrillo seconded.

Voting members: Chairperson Pawlisheck, Ms. Tremblay, Mr. Henderson, Mr. Stucker, D. DePetrillo

VOTES: 5 in favor, 0 opposed; motion is approved.

B. Case No. 17-15 Petition for Relief; Finding by Special Permit for an extension/alteration of a pre-existing, non-conforming structure.

Address: 10 Beach Road

Applicants: Thomas and Susan DeFronzo

Applicant Representative is Attorney Cornetta (**AttyCornetta**)

(**AttyCornetta**) stated the proposed dwellings would be built behind the current 1 family home. The current dwelling was discussed as having a few different owners and alterations. He continued to explain frontage and setback. Current zoning is non-conforming. Three units are being proposed; One (1) bedroom and two (2) bedrooms. All footage is over the bylaw requirements of .61 acres.

(Chair) asked why are we not looking at a variance? Side setback is 30 feet and going down to 28.5. Existing site is in excess.

(**AttyCornetta**) conveyed that comparing the current design to the presented one, it is not substantially more detrimental to the neighborhood and is more consistent with the surroundings.

(**AttyCornetta**) also discussed the landscape, grass area, pavers, plantings etc. He noted a rain garden will pick up the drainage from the perimeter of the lot; which has been approved by the Conservation Commission.

Mr. Stucker questioned an old 2013 email mentioning an occupancy permit.

(**Inspector**) replied that the Town has determined current use is unlawful. It was created as a motel and is now an apartment building. This was never approved by town.

(Chair) explained applicant wants to extend nonconformity.

(**AttyCornetta**) stated that General Laws 48 Section 7, coming from a perspective from being present for 10 years, is legally non-conforming.

(Chair) an older email was read by Mr. Stucker; 3 years ago town did not feel this was legal use. Town has not changed their mind.

(**AttyCornetta**) stated that notice should have been registered at Registry of Deeds. There is nothing on record this was illegal. "We are entitled to relief."

(**Inspector**): General Law 48 Section 7 was clarified. No permit was created for this use.

Mr. DePetrillo: was the permit recorded?

(**Inspector**): In 2002. The use variance went away in 1989 so the Town could not grant it. No construction on this permit so it was never used. Board approved inaccurate info.

(Chair) If not pre/nonconforming, what would applicant need? A variance as it is not meeting the setback?

(Inspector): Applicant needs to look at the underlying districts; commercial and village. It is explained what is allowable under each.

(Chair): the only way to get this approved is if they got special use in that zone; but that is NOT allowed. This section was taken out by town vote in 1980's.

(AttyCornetta): it doesn't matter if the Board had wrong information. We want to improve the property; it is no more detrimental to the neighborhood. Please make this finding.

Ms. Tremblay: there seems to be a series of errors on the way to the present.

(Chair): Board cannot ignore the Zoning bylaws that the town votes in and sets in place. Bylaws in village district have certain criteria.

Ms. Tremblay: request to delay this case in order to gather more information?

(Chair): we should not delay unnecessarily. What more do we need?

Ms. Tremblay: I suggest we go through the file and look at any bylaw changes.

Mr. Tucker: We need to study usage....but no variance for usage is allowed

Motion: Board Member Tremblay makes a motion to grant the continuance to Sept. 26, 2017 if a meeting is held. Board Member DePetrillo seconded.

Voting members: Chairperson Pawlisheck, Ms. Tremblay, Mr. Henderson, Mr. Stucker, D. DePetrillo

Votes: 5 in favor, 0 opposed. Motion is approved.

(Chair): Attorney Cornetta advised to speak with Town Counsel.

C. Case No. 17-16 Petition for Finding by Special Permit: A request for relief from the front setback dimension.

Address: 15 Second Street

Applicant: Stephen Spaulding and Helen Mahan (**Applicants**)

Ms. Tremblay recused herself from this case as she is an abutter.

Applicants Stephen Spaulding & Helen Mahan began to speak from the audience.

(Chair): explained to the applicants that without Ms. Tremblay only 4 people were present to vote and she was not sure when the Board will be back to 5 members.

(Inspector): will talk with the Town Manager to see if a Selectperson could sit in on some cases.

Case No 17-16 was never opened and the applicants will return to a 5 member board.

Motion: Board Member Henderson makes a motion to grant the continuance to August 8, 2017 if a meeting is held. Board Member seconded.

Voting members: Chairperson Pawlisheck, Mr. Henderson, Mr. Stucker, D. DePetrillo

Votes: 4 in favor, 0 opposed. Motion carries.

A. Minutes

No minutes were presented for consideration.

B. Correspondence and Other Board Business

No correspondence was presented for review.

(Chair): There are two 40 (b) units to be closed out. A vote is needed by the Board to close out two 40 (b) units.

54 Beach Road: the original development plans contained a child's play area. The current Board of Trustees prefers that the developer make a contribution to a playground in the area in lieu of the play area. The developer will work with N. Harrington and S. Vandewalle to negotiate a price comparable to the original plan.

Motion: Board Member Stucker made a motion to authorize Mr. Harrington and Mr. Vandewalle to negotiate a settlement of the price and close out the 40B. Board Member DePetrillo seconds the motion.

Voting: 5 in favor, 0 opposed. Motion carries.

North Pointe at Seabrook: Upon completion of this development, the owners presented the developer with a punch list of remaining items. Because the list is minimal, the Board of Trustees has presented the developer with an amount of money equal to the remaining work to be done.

Mr. Stucker asked if the amount of money being given will cover the remaining work.

(Inspector) responded that the Board of Trustees from the development presented the requested money figure to the Developer. Both sides agreed on the amount.

In this development, the developer was required to give a bond to the Town. Once this Board authorizes the town to close out the project, the Town can return the cash bond to the Developer.

Motion: Board Member Stucker made a motion to release all outstanding bonds and to release the project upon the transfer of funds from the Developer to the Board of Trustees at North Pointe. Mr. DePetrillo seconded.

Voting members: Chairperson Pawlisheck, Ms. Tremblay, Mr. Henderson, Mr. Stucker, D. DePetrillo

Voting: 4 in favor, 0 opposed. Motion carries.

C. Items Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting

There were no items brought forth for review

D. Adjournment

Motion for adjournment was made by Board Member Stucker and approved by a 5-0 vote.
Meeting is adjourned at 8:15pm.

- The Board reserves the right to consider items on the agenda out of order. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

Next Regularly Scheduled Public Hearing: Tuesday, September 26, 2017

Respectfully submitted by Teresa Mahoney, Board Secretary and accepted at the 12/12/17
meeting of the Zoning Board of Appeals.

Accepted as Presented;

Susan M. Pawlischeck Date 12/12/17
Chairperson Susan Pawlischeck

Cc: Town Clerk