

BOLTON BOARD OF APPEALS
Minutes
May 24, 2010 (Monday)
Bolton Town Hall

Present: Chairman Gerard Ahearn, Jacqueline Smith Brad Reed, Alexander Kischitz, Kay Stoner, Matthew Hurd and Town Planner, Jennifer Atwood Burney.

Not Present: n/a

HEARING

7:30 pm Variance and Special Permit (PENC) for 68 Nourse Road, Bolton Ma.

Applicant: Gregory and Patricia Childs

Present: Gregory and Patricia Childs

The Applicant is seeking a Special Permit and Variance for property located 68 Nourse Road, Bolton Ma. The Applicant is seeking to add an addition to a Pre-existing Nonconforming Structure.

1. Issuance of a Special Permit to expand or alter a Pre-existing Nonconforming Structure pursuant to Section 2.1.3.3 of the Bolton Zoning Bylaw to allow an addition to an existing structure.
2. A Variance for relief from a provision of the Bolton Zoning Bylaws, Section 2.3.5.2 which requires a front yard set back of fifty (50) feet. The proposed addition is no closer than thirty nine and half feet (39.50) from the front yard set back.

PROCEDURAL HISTORY

An application for a Variance from a portion of Bolton Zoning By-Law Section 2.3.5.2 was made by the above referenced party and filed with the Board of Appeals on May 4, 2010. The application contained the following items:

1. Application for Hearing: Part I Background Information requesting relief from the provision of Section 2.3.5.2 which requires a front yard set back of fifty (50) feet. The proposed new addition is no closer than thirty nine and half feet (39.50) from the front yard set back.
3. Certified Abutters List dated April 27, 2010 from the Town's Assessor's office;
4. A plot plan showing abutting properties and location of proposed garage;
5. Photographs.

A duly posted hearing was held on May 24, 2010 pm. Members present were Gerard Ahearn, Brad Reed, Kay Stoner, Alexander Kischitz, Jackie Smith and Associate Member Matthew Hurd.

FINDINGS

A. General

1. The subject property is located on 68 Nourse Road (Assessor Map 5G, Parcel 4) and is currently owned by Gregory and Patricia Childs (deed reference Book 34472, Page 84). The property is a residential lot and consists of 1.13 acres and is zoned residential.
2. The Applicant submitted a complete application in accordance with the Board's Rules and Regulations.

The Hearing was called to order on May 24, 2010 at 7:35 p.m. by Chairman, Gerard Ahearn. During this hearing date the Board heard testimony from Applicant Gregory Childs. The Applicant is seeking to add an addition to a Pre-Existing Nonconforming Structure that does not meet the current front yard set back requirement of fifty feet (50). The house is set back fourteen feet (14) from the property line. The addition would be no closer than thirty nine and half feet (39.50) from the front yard set back and will be located on the rear of the house. The house is currently 2034 square feet including a finished basement space. The addition will add a kitchen and bath and free up space in the existing house for a bedroom. A Tennessee Gas Easement exists on one side of the house and a barn is located on the other side. The only remaining option is to add the addition to the rear of the house. The total space including the proposed addition will be 2488 square feet an increase of 454 square feet or a 22.5% increase.

Public Comments: There were no comments from the public or abutters.

The Conservation Commission provided a letter dated May 11, 2010 stating that the Commission issued an Order of Conditions approving the proposed addition and proposed wooden deck. The proposed work is approximately 80 feet from the vegetated wetlands and within a previously disturbed area. Any change or plan modification will require further review of the Commission.

The Bolton Police Department submitted an email dated May 10, 2010 stating that the police department had no issues or concerns with the request.

A. Variance Criteria

Statutory criteria for granting a Variance under M.G.L Chapter 40A, Section 10 is as follows:

1. That there are circumstances that exist relating to the soil conditions, shape, or topography of the land or structures that uniquely affect such land or structures, but that do not affect generally the zoning district in which such land is located; and,

2. That literal enforcement of the provisions of the Bolton Zoning Bylaws would involve substantial hardship, financial or otherwise, to the applicant; and,
3. That the desired relief may be granted without substantial detriment to the public good; and
4. That the desired relief may be granted without nullifying or substantially derogating from the intent and purpose of Bolton Zoning Bylaws.

All criteria must be met to grant the Variance. During its deliberations, the Board of Appeals considered whether all of the above-referenced criteria were met in the application.

B. Specific Findings

1. There are circumstances that exist relating to the soil conditions and topography that uniquely affect such land but do not affect generally the zoning district in which such land is located. It would be difficult to site the addition in another location due to the location of the Tennessee Gas Easement and the location of the barn. The house is located 14' from the front yard set back therefore the addition could not be located to the front of the house.
2. Literal enforcement of the provision of Section 2.3.5.2 would involve substantial financial hardship because there are no other options. An addition to the house on any of the other sides of the house would not be feasible and still would not meet the setback requirement.
3. The desired relief from the documented provision of Section 2.3.5.2 may be granted without substantial detriment to the public good. There was no abutter opposition or any concerns expressed from any of the boards or committees.
4. The Board found that the intent and purpose of the Bolton Zoning Bylaw was not being nullified or substantially derogated from.

A motion was made by Brad Reed, seconded by Gerard Ahearn to close the hearing.

Vote: 5/0/0

A motion was made by Gerard Ahearn, seconded by Alexander Kischitz to approve the issuance of a Special Permit as substantially provided with the application and site plan dated August 14, 2009.

Vote: 5/0/0

A motion was made by Gerard Ahearn , seconded by Brad Reed to approve the request for a Variance to allow an addition that would be no closer than thirty nine and half feet (39.50) from the front yard set back and will be located on the rear of the house.

Vote: 5/0/0

These decisions are granted in accordance with the terms and conditions stated below.

1. The proposed new addition can be no closer than thirty nine and half feet (39.50) from the front yard set back.
2. The proposed addition must be substantially the same as the plan presented at the hearing entitled "Site Plan of 68 Nourse Road" dated August 14, 2009.

GENERAL BUSINESS

None

Next Meeting

TBA

Meeting adjourned at 7:55 pm

Minutes submitted by Jennifer Atwood Burney, Town Planner