

**Zoning Board of Appeals
April 25, 2013 Regular Meeting**

Location Meeting Room #1
Town Hall
7A Spofford Road
Boxford, MA 01921

Present William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice-Chair
Robert W. Conroy, Clerk
Barbara Jessel, Alternate Member
Robyn Kotarski, Alternate Member
Paula Meagher, Secretary
Pat Canonica, Planning Board Liaison

7:02 p.m. William Cargill called the meeting to order

6:40 p.m. **Case #919 Thomas L. Chaffee
283 Ipswich Road**

Special Permit to construct 24x32 addition for an accessory apartment on the property from Article V, §196-13 (C) of the zoning bylaw.

Members Sitting William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice Chair
Robert Conroy, Clerk

Applicant Present Thomas Chaffee

Plans Submitted As-Built Foundation Plan consisting of two (2) pages prepared by Goodwin-Gallagher Associates, Inc. dated Sept. 29, 1981

Proposed Elevation and floor Plans consisting of four (4) pages

Bob Conroy read aloud the legal notice.

Mr. Chaffee presented his case giving a little background on himself and also why he would like to construct an accessory apartment. His wife has pre senile dementia. Her son and future wife would be moving into the primary house and Mr. Chaffee and his wife proposing to live in the accessory. He has designed it to look exactly like the main house. The plan meets all dimensional setbacks but the exact square footage was not figured out on the plan to determine the 25% according to the bylaw requirement. The apartment has to be either 1000 square feet or 25% upon completion but can never construct larger than 1000 square feet. The plans did not clearly indicate the exact sizes; therefore the applicant was instructed to calculate the exact dimensions of the gross living areas for both existing and proposed and to also have that information for the Planning Board when he attends their meeting for a review and recommendation. It was determined by board members that everything meets the criteria of the bylaw being a family member and that it met all

setbacks. There were no further questions and nobody in attendance to oppose or speak in favor of the petition.

Motion Robert Conroy – continue to a date certain of 5/23/13 Case #919 pending Planning Board recommendation

Second Paula Fitzsimmons

Unanimous vote

7:20 p.m. Discussion – Robin Phelan, Town Clerk present to discuss a potential Open Meeting Law violation of October 27, 2011 meeting and decision on Boxford library. The Chair said that he spoke with town hall and they suggested they refer the matter to Town Counsel. He said the Vice Chair has spoken with Town Counsel on the matter. Paula Fitzsimmons said she has discussed with Town Counsel and they said there is to be no discussion at this meeting in regards to the open meeting law complaint filed against this Board with the Attorney General because it subjects us to litigation and they have not had much time to consult with them other than one conversation and documents sent. No comments, no discussion.

**7:25 p.m. Case #914 Joseph Hill for Alison Chase
41 High Ridge Road**

Special Permit to construct a 26x32 detached two (2) bay garage which will yield garage space for more than three automobiles on the property from Article V, §196-13 (B) (11) (h).

Members Sitting William Cargill, Chair
Paula Fitzsimmons, Vice Chair
Robert Conroy, Clerk

Applicant Present Paul J. Donohoe, RLS of Donohoe Survey, Inc.

Additional Documents Site plan prepared by Donohoe survey, Inc. dated 2/4/13 and Revised 4/23/13
Drainage Study from ASB Design Group consisting of five (5) pages dated 4/24/13
Letter from High Ridge Property Owners Assn. to Joe Hill dated 12/1/12
Plans consisting of four (4) pages prepared by Thistle Design dated 3/13/13
Letter from Joe Hill and Alison Chase to Bob Fanning of High Ridge Property Owners Assn. dated 4/14/13
Letter from Noblitt to High Ridge Property Assn. dated 4/15/13
Letter from Bob Fanning of High Ridge Property Owners Assn. dated 4/16/13

This case was continued from the 11/25/12 hearing with extension forms signed and filed with the Town Clerk pending Planning Board review and recommendation. The Chair clarified that there have been issues raised regarding the neighborhood covenants, but that this Board has no jurisdiction. It is an evidentiary hearing and this Board deals with zoning issues.

Paul Donohoe was present for the Applicant and requested to amend the permit to include §196-6 (B) of the bylaw because the existing dwelling showed the front setback of forty nine feet, eight inches (49'8") and current setback is fifty (50') feet.

The proposed garage is 26'x32' (832 square feet) and is twenty (20') feet high at the ridge. It meets current setbacks with a side setback of 27'7" and front setback of 55'8". There are no new curb cuts proposed. It is a low impact design with respect to drainage.

At the Planning Board hearing a neighbor Mr. Noblitt raised concerns on siting, lighting and drainage. The Applicant will be hiring a landscape architect and putting up sufficient screening to satisfy the neighbor. The last letter addressed the neighbor stated they were satisfied with the siting and lighting but had not seen the drainage study yet. They would have received that yesterday or today. The report was reviewed by Thad Berry, P.E. and he was satisfied and there will be zero increase in 100 year storm.

Bob Conroy read aloud the Planning Board recommendation from their 4/10/13 hearing with a unanimous vote to grant.

Motion Robert Conroy – close evidence
Second Paula Fitzsimmons
Unanimous vote

There were no further questions from the Board and no abutters in the public to speak in favor or opposition of the proposal.

Motion Paula Fitzsimmons – grant the application to Joe Hill for property owner Alison Chase requesting a Special Permit to construct a garage as per the plan submitted pursuant to Article V, §196-13 (B) (11) (h) and Article III, §196-6 (B) of the zoning bylaw
Second Robert Conroy
Unanimous vote

Paula Fitzsimmons will write the decision.

7:45 p.m. Case #915 David Murphy
38 Glendale Road

Special Permit to remove existing platform and construct 4x8 bump-out for front entry and 3x8 roofed platform entry on the property from Article III, §196-6 (B) of the zoning bylaw.

Members Sitting William Cargill, Jr., Chair
Paula Fitzsimmons, Vice Chair
Robert Conroy, Clerk
Applicant Present David Murphy

This case was continued from the 3/28/13 hearing pending Planning Board review and recommendation.

The Applicant had no further evidence to submit or questions to ask.

Bob Conroy read aloud the Planning Board minutes from their 4/10/13 hearing with a unanimous vote to grant.

Motion Bob Conroy - close evidence
Second Paula Fitzsimmons
Unanimous vote

There was no one in the public to speak in favor or opposition of the petition.

Motion Paula Fitzsimmons – grant the application of property owner David Murphy requesting a Special Permit as per the plan most recently submitted to reconstruct a platform entry pursuant to Article III, §196-6 (B) of the zoning bylaw for 38 Glendale Road.

Second Bob Conroy

Unanimous vote

Robyn Kotarski will write the decision.

**7:55 p.m. Case # 918 Peter P. & Pauline E. Jenkins
20 Laurel Hollow Road**

Special Permit to construct a 28x42 barn with cupola for storage which will yield garage space for more than three (3) automobiles on the property from Article V, §196-13 (B) (11) (h) of the zoning bylaw.

Members Sitting William Cargill, Jr., Chair
Paula Fitzsimmons, Vice Chair
Robert Conroy, Clerk

Applicant Present Peter Jenkins

This case was continued from the 3/28/13 pending Planning Board review and recommendation.

Peter Jenkins said that he spoke with his neighbor regarding the concerns he had about an accessory apartment and he's satisfied now with that but that he was still concerned with the size. He offered him to have the neighbor talk with his architect Ben Nutter. He also wrote a letter to all neighbors and that if anyone was concerned to please come forward. One other person did in fact come forward and was also concerned with the size.

Bob Conroy read aloud the Planning Board recommendation from their 4/10/13 meeting with a unanimous vote to grant.

No one was in the public to speak in favor or opposition of the petition.

Motion Robert Conroy – close evidence

Second Paula Fitzsimmons

Unanimous vote

Motion Paula Fitzsimmons – grant the application of Peter P. & Pauline E. Jenkins requesting a Special Permit to construct a 28x42 barn with cupola for storage which will yield garage space for more than three (3) automobiles on the property pursuant to Article V, §196-13 (B) (11) (h) of the zoning bylaw for the premises located at 20 Laurel Hollow Road as a condition thereof that it be noted in the decision that the structure does not meet the setback for housing of animals.

Second Robert Conroy

Unanimous vote

Robert Conroy will write the decision.

8:05 p.m. Case #916 & 917 Richardson Green, Inc.

Middleton Road

Special Permit and Variance to construct a single family home on an undersized lot created by the relocation of Middleton Road by the County Commissioners acting on behalf of Boxford Board of Selectmen by petition 9/13/63 and County Layout 6/6/67 Registry Book 5587 Page 443 on the property from Article III, §196-6 (B) and Article VI, §196-24 (B) (3).

Members Sitting William Cargill, Jr., Chair
Paula Fitzsimmons, Vice Chair
Robert Conroy, Clerk

Applicant Present Attorney David Ankeles
Paul Richardson
Peter Richardson
Chris Richardson

Additional Documents

This case was continued from the 3/28/13 hearing pending supplemental information from counsel to be submitted and also a brief to address the variance issue. He addressed some of the major issues in those documents with regard to taxes, taking and title.

He believes the land was owned by the Richardson's back to 1903 forward and that there is no evidence that the family was paid basically because the town information read 'party unknown' and you cannot make a payment to somebody who is not known. The town has no records of payment being made. The information he got from town hall from the Treasurer and Assessor was that all taxes have been paid and it was billed out as a bulk bill including other land owned by the same family off Middleton Road consisting of 82½ acres. The town started to break down billing in the 1980's.

Chris Derocki – 297 Middleton Road spoke against the application and that the Applicant has the burden of proof and they have still not shown proper ownership. They failed to show at the time of the taking that it was a buildable lot. It's not fair that they can wait almost fifty years to ask for a variance for a house lot. Bulk tax bills do not show ownership of this one piece of property. There is no proof that this is not a self-imposed hardship.

Board members said that it should be determined and shown evidence that it was in fact a buildable lot at the time of the taking and the entitlement of a variance because you didn't take the money at the time that it was available.

The Chair suggested the Applicant consider withdrawing without prejudice. Applicant requested to withdraw without prejudice which means they can come back to the ZBA within two (2) years without Planning Board approval.

Motion Paula Fitzsimmons – accept Richardson Green's request to withdraw Cases #916 and #917 without prejudice.

Second Robert Conroy

Unanimous vote

9:00 p.m. Peter Angle was present seeking a position as an alternate on this Board and was interviewed at the 3/28/13 hearing. All members agreed that he would be a good candidate to serve. They agreed that a letter of recommendation would be sent to the Board of Selectmen and they are the appointing authority.

9:10 p.m. Review draft minutes from 10/27/11.

Motion Robert Conroy – approve as amended

Second Paula Fitzsimmons

Unanimous vote

Review draft minutes from 7/26/12.

Motion Paula Fitzsimmons – approve as amended

Second Robert Conroy

Unanimous vote

9:35 p.m. There were three (3) agreements of extension forms to approve.

Motion Paula Fitzsimmons – grant extension for time for a decision for Case #912 Town of Boxford Community Center to a date certain of 5/23/13

Second Robert Conroy

Unanimous vote

Motion Robert Conroy – grant extension for time for a decision for Cases #910 and #911 InSite Towers, LLC, Metro PCS, LLC and Parisi Law Associates, PC to a date certain of 5/23/13

Second Paula Fitzsimmons

Unanimous vote

Motion Robert Conroy – grant extension for time for a decision for Case #908 Haynes Land Committee to a date certain of 6/27/13

Second Paula Fitzsimmons

Unanimous vote

Motion Paula Fitzsimmons – adjourn at 9:37 p.m.

Second Robert Conroy

Unanimous vote

*Respectfully submitted,
Paula Meagher*

APPROVED AS AMENDED 6/13/13