

Town of Deerfield
Zoning Board of Appeals

December 2, 2004

Minutes

- I. Hearing convened at 7:00 p.m., Main Meeting Room, Municipal Offices, So. Deerfield.

Present: F. Olszewski (Chair), R. Bohonowicz, L. Grybko, Sr., Roger Sadoski,
S. Barrett

Absent: G. Friary, R. Calisewski

- II. **Chair Olszewski opens the continuance on the application of Kathryn Brown who is requesting to divide her current property located at 117 Hillside Road, South Deerfield, MA into 2 parcels in order to create a building lot on the new parcel for a future single family dwelling including a driveway with bridge and septic system. (Map 138, Lot 7)**

Also in attendance were Devoe and Colleen Brown, father and mother to Kathryn Brown.

The continuance of this hearing began with Mr. Bohonowicz reading four letters to the Zoning Board of Appeals for the record. The first letter dated November 2, 2004 is from Kathryn Brown. Letter #2 dated November 17, 2004 is from Brien Laporte, Building Commissioner and Zoning Enforcement Officer. Letter #3 dated November 26, 2004 is from Devoe Brown. Letter #4 dated November 29, 2004 is from Kathryn Brown.

Ms. Brown shows the Board the new plot plan which shows the new boundary lines should the variance be granted. Mr. Sadoski asked Ms. Brown how far would the sideline be from the existing home. She stated that it is 10 feet or more. She believes that it's more like 12-15 feet. Therefore, the sideline requirement has been met. Mr. Sadoski then asked what the square footage of the new lot would be. Ms. Brown states that the square footage of the divided property is 60,700 feet. Mr. Sadoski states that the portion that drops below 100 feet cannot be calculated into the total square footage.

Ms. Brown now asks the Board to direct the questions to her father, Devoe Brown, who better understands the codes and regulations. The whole square footage issue was discussed in depth. Mr. Devoe Brown and Mr. Sadoski appear to have different interpretations of the Zoning codes and regulations. Mr. Sadoski is certain that Ms. Brown does not meet the 60,000 square foot requirement. Mr. Devoe Brown is certain that Ms. Brown does meet the 60,000 square foot requirement.

The Board moved on to make a motion to waive the procedure requiring Ms. Brown to go to the Planning Board before petitioning the ZBA for a variance. Ms. Brown requested such a waiver in writing in a letter that was read at the start of the meeting. The vote was unanimous to waive the procedure (5-0). The board proceeded to go through the list of 4 items that needed to be taken care of before this hearing. Ms. Brown did bring a new plot plan showing precise boundaries – front and back.

Mr. Bohonowicz asked Ms. Brown if Mr. O'Rourke signed anything to show support of this request for a variance. She responded by saying that she does not have anything that Mr. O'Rourke was willing to sign.

Mr. Olszewski closes the meeting.

The Board begins their discussion of the issues in order to render a decision.

Mr. Grybko asked what type of precedent would be set for the future if we grant this variance to split the lot? Mr. Bohonowicz feels that each case needs to be looked at for their individual merit.

With regards to the issue of hardship, Mr. Bohonowicz states that since Ms. Brown owns this property, there is nothing that states that she cannot stay on that property or sell it and buy property elsewhere. He doesn't see the hardship in this case. There are options here.

Mr. Barrett mentions that Ms. Brown should be informed that up until the time of the vote, she is able to withdraw her request for variance without prejudice but if she proceeds to go forth, she will not be permitted to come before the ZBA again for two years. Mr. Bohonowicz explains her rights and also mentions that the vote must be 4 – 1 in favor in order for the variance to pass. If the property is sold, the new property owner could come before the ZBA asking for the same variance.

Mr. Bohonowicz made a motion to deny Ms. Brown's request for a variance on the premise that Ms. Brown has not shown a significant hardship and that there are alternatives for this piece of property. Ms. Brown is reminded that before the actual vote, she has the opportunity to withdraw her request. Ms. Brown wants to move forward with this variance request. Mr. Grybko seconded the motion to deny the variance request. The vote to deny Ms. Brown's variance was unanimous based on the fact that she did not meet the criteria (5-0).

Ms. Brown is advised that she can now contact her attorney to find out how to move forward. There are other procedures that can happen here that her attorney can explain.

III. New Business

Mr. Barrett made a motion to accept the minutes as they are. Vote to accept the minutes as they are was unanimous (5-0).

Hearing adjourned.

Respectfully submitted,

Patricia Kroll
Clerk to the Zoning Board of Appeals

Attachments : letters to ZBA (4)