

MINUTES OF BOARD OF APPEALS MEETING OF AUGUST 7, 2012: Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS

Acting Chairman Francis Cox, Jr. – Opened the meeting at 6:00 p.m.

Quorum/Attendance

Members Present – Acting Chairman Francis Cox, Jr., Peg Cook, Joe Borelli, Rene Fleurent, Jr. (Assoc.), Al Silva (Assoc.)

Absent – Peter DeTerra, Daryl Manchester, Kenneth Kendall (Assoc.) and Joseph Morra (Assoc.)

Minutes: Acting Chairman Cox asked for a motion to accept the minutes. Mr. Fleurent, Jr. motioned to accept the minutes of July 3, 2012. Mr. Silva seconded. The vote was unanimous.

Bills: Mr. Fleurent, Jr. motioned to approve \$140 invoice payment to Fairhaven Neighborhood News, legal advertisement. Mr. Borelli seconded. The vote was unanimous.

Mr. Fleurent, Jr. motioned to open the meeting. Mr. Silva seconded. The vote was unanimous.

II. PUBLIC HEARING:

1. Petitioner: Tasha Cordero , 16 Central Avenue, Plat 23A, Lot 50; Book 10222, Page 215; 198-19 (B): No boundary fence, wall or hedge shall exceed six feet (6') in height , and no boundary fence, wall hedge or other landscape feature which obstructs vision shall exceed forty-two inches (42") in height within any required front yard area or within twenty feet (20') of a street, whichever is the lesser requirement.

The petition was read and there were 39 abutters notified. The petitioner presented a letter of explanation that was read and is part of this record. The petitioner also presented a petition signed by 11 neighbors who are in favor of granting the special permit. It was read and is part of this record. The request is to allow the newly planted row of arborvitae trees that are greater than 42" in height to remain along the north property line at Howland Road. The trees provide a security and sound buffer. If granted, the petitioner and her husband will ensure that the trees are well maintained and not allowed to grow beyond the 6' height they currently are. There were no abutters present at the meeting to object, approve or question the request.

Mr. Cox stated he had viewed the site and finds the trees obstruct the view from Central Avenue onto Howland Road.

Mr. Borelli stated he had viewed the site and spoken to a neighbor across the street. He would like to ensure the trees are kept trim so that traffic can be seen along Howland Road. The neighbor stated that the trees do slow traffic down at Central Avenue and that is good.

Mr. Fleurent, Jr. said he is against granting the special permit. The 42" height is for safety and granting the request is setting precedent.

The petitioner asked how she could assure the Board that she will maintain the trees.

Mr. Borelli motioned to approve the request with the conditions that the trees are not allowed to grow greater than 6' in height and to remove every other tree. Mr. Fleurent stated he believed the Board does not have that option. There was no second.

Mr. Silva motioned to approve the Special Permit. Mr. Borelli seconded.

Board members voting to approve the Special Permit: Ms. Cook, Mr. Borelli and Mr. Silva.

Board members voting not to grant the Special Permit: Mr. Cox and Mr. Fleurent, Jr.

The Special Permit is DENIED with a vote of 3 in favor and 2 opposed.

The petitioner questioned other residences that have the same situation. Mr. Cox stated if there are complaints, they should be brought to the Building Department.

2. Petitioner: Dana Morris, 243 Sconticut Neck Road, Plat 29, Lot 6B; Book 4154 and Page 286; 198-18: Short thirteen feet (13') of the required twenty feet (20') north side setback in a RR District.

The petition was read and there were 39 abutters notified. The petitioner was represented by Brian Patrick Dunn. He would like to remove the existing garage which has not been used in a number of years and replace it with a work shop-shed. On top of the new shed he would like to construct a 500 square foot deck that would extend from the shed and over to his existing dwelling. The second story deck would allow a view of the marsh. He currently has a surround deck on his home. This will allow the family to enjoy the outdoors.

Abutter Kathy Morris, 239 Sconticut Neck Road is in favor of the proposal. There were no other abutters. Mr. Borelli asked the height when completed. The structure will be less than 35' in height.

Mr. Fleurent, Jr. motioned to grant the Variance. Mr. Silva seconded.

Members voting to grant the variance: Mr. Fleurent, Jr. Mr. Borelli, Ms. Cook, Mr. Cox and Mr. Silva. The Variance is GRANTED with a vote of 5 in favor and none opposed.

3. Petitioner: Matthew Burlinson, 105 Howland Road, Plat 23, Lot 61; Book 9830 and Page 108; 198-21: A Special Permit is required for continuation of a pre-existing, non-conforming use.

The petition was read and there were 41 abutters notified. The petitioner presented a letter of explanation of the request that was read and is part of this record. He purchased the home more than 8 years ago. At that time it was used as a three-family home with two apartments on the first floor and one on the second. He occupies the second floor with his family. He hopes to refinance the house and the banks have now informed him that the house is classified by the Town as a two-family, even though it has been used as a three-family since the 1970's. He would like to get the matter rectified for his refinancing. He has done no work to alter the premise. There are three kitchens and three bathrooms. He has taken out all the necessary permits for work when it was required. He has been compliant with the Town's requirements.

Mr. Borelli asked if it was stipulated on the deed. No. But the petitioner understood it was known to be a two-family with an in-law apartment.

Mr. Fleurent, Jr. stated the assessors classify it as a two-family and the error is not with the Town but with the individual who made it into a three-family. Mr. Fleurent, Jr. further stated that he would like to add the condition that the home be owner occupied. The petitioner stated he eventually would like to own a single-family dwelling and rent this property. The condition as stated would not be agreeable.

Mr. Silva motioned to grant the Special Permit. Mr. Borelli seconded.

Members voting to grant the Special Permit: Mr. Borelli, Mr. Cox and Mr. Silva.

Members voting not to grant the Special Permit: Ms. Cook and Mr. Fleurent, Jr.

The Special Permit is DENIED with a vote of 3 in favor and 2 opposed.

4. Petitioner: Kelly & Shawn Dupe, 4 Maple Avenue, Plat 3, Lot 126; Book 9102 and Page 200 198-18: Short six feet (6') of the required ten feet (10') north side setback and fourteen percent (14%) over the maximum allowed building coverage of thirty percent (30%) in a RA District.

The petition was read and there were 49 abutters notified. The petitioners' contractor demolished and began to reconstruct a bump-out closet on the northeast side of the house without the necessary permits. The owners were away at the time. A cease and desist was issued. They would like to simply put back in the same place, what has always been there. It is a 2'x14' closet in the master bedroom.

Abutter Donald Tucker, 14 Green Street, is in favor and stated the house always had the same configuration. Abutter Linda Ferland, 6 Maple Avenue, wrote a letter in favor of the proposal that was read and is part of this record. She also stated that she is the abutter immediately affected and the bump-out closet has not been a problem. Mr. Borelli asked the setback to property line. 4'2".

Mr. Fleurent, Jr. motioned to grant the Variance. Mr. Silva seconded.

Members voting to grant the Variance: Mr. Fleurent, Jr., Ms. Cook, Mr. Silva, Mr. Cox and Mr. Borelli.

The Variance is GRANTED with a vote of 5 in favor and none opposed.

Mr. Fleurent, Jr. motioned for a recess at 6:55 PM. Mr. Silva seconded. The vote was unanimous.

Mr. Fleurent, Jr. motioned to re-open the meeting at 7:05 PM. Mr. Silva seconded. The vote was unanimous.

The meeting re-opened at 7:05 PM

III. OTHER BUSINESS:

Mr. Borelli stated that it has been brought to his attention that due to a conflict of interest for him, he should have abstained from voting on the petition and he asked to rescind his vote. Mr. Borelli removed himself from the meeting.

Mr. Fleurent, Jr. motioned to re-open the hearing on 2 Cowen Street. Mr. Silva seconded. The vote was unanimous.

The Board received a written request from the petitioner Stephen A Neron, 2 Cowen Street, whose petition was heard at the last meeting. The letter was read and is part of this record. Mr. Neron and a representative, Joe Taylor, discussed the proposal of placing an 8'x5' deck on the Cowen Street side of the second floor of 2 Cowen Street. The intent is to make it a garden and reading space which would beautify the neighborhood. The original request was for a 5'6"x8' deck.

Mr. Silva questioned if the request should be re-advertised. Mr. Fostin, Building Commissioner, stated as long as the request is less than the original, it does not need to be re-advertised.

Mr. Fleurent, Jr. asked what the height of the bottom of the deck would be. 18' from street level.

Ms. Cook expressed concern for the very small site and the proposal. It will be congested along the area and may be a safety issue.

Mr. Neron stated the neighborhood is not the best and any improvement will be beneficial.

Ms. Cook stated she believes it will be congested.

Mr. Fostin reminded the petitioner that four positive votes are required for the request to be granted.

Mr. Neron asked that the petition be allowed to be withdrawn without prejudice.

Mr. Silva motioned to allow the petition to be withdrawn without prejudice. Mr. Fleurent, Jr. seconded.

Vote was unanimous.

The petition is withdrawn without prejudice.

ADJOURNMENT

Mr. Fleurent, Jr. moved to adjourn the meeting. Mr. Silva seconded. The vote was unanimous. The meeting was adjourned at 7:20 PM.

Respectfully Submitted,
Patricia Fowle, Secretary
To the Board of Appeals