

Great Barrington Zoning Board of Appeals

Minutes of September 21, 2010, meeting. Attending were members Ron Majdalany, Carolyn Ivory, Kathy Kotleski, Madonna Bachman Meagher, David Thorne and alternate Don Hagberg.

The board at 7:35 p.m. opened the special permit hearing of **Susan Pettee and Michael Owen Wise** (ZBA 10-06), for a landing, stairs and small deck at the rear, southwest corner of the house at 173 Castle St. The secretary gave the notice and advised that the hearing had been advertised, posted and distributed to abutters by mail. The board received favorable letters from the Town Manager's office, Planning Board, Board of Health and Conservation Commission.

Mr. Wise explained that one corner of the house is within 10 feet of the sideyard setback, 20 feet is required. The deck would protrude no further into the setback. He submitted a four-page title search which established the lot as having a house by 1894. The town adopted its first zoning bylaw in 1932. This is the board's first application under the revised zoning bylaw. Chris Blair, project designer, said that while provisions of the new bylaw allow the building inspector to, in many cases, make a determination that a proposed change to a pre-existing nonconforming legal use is on a side of the structure other than the one at which the nonconformity occurs, and issue a building permit, in this case the proposed work is on the same side as the nonconformity, and thus is not a "by-right" area.

The board under Section 5.5 found the proposed change does not increase the non-conformity of the structure and does not increase gross floor area by more than 25 percent. Under 10.4.2 the board reviewed the six areas of interest and found they were either not applicable or were not affected. The changes to the dwelling, including the addition of a rear exist, in fact improved the safety of the building and its value. On a motion by Mrs. Ivory, seconded by Mr. Thorne, the board voted 5-0 to approve the SP. Mr. Thorne is to write the decision.

In other business, the board:

- Learned that the town now has a no-smoking policy for all buildings and immediate grounds
- Learned the Open Meeting Law in Massachusetts has new provisions
- Learned the board has a CD copy of information from consultant Bobrowski regarding SPs, including a sample decision
- Took no action on communications from Daniel Bell. His letters are to be added to his file
- Will look for a second alternate member
- Approved minutes for the July 7, 2010, meeting
- Heard from Ms. Meagher that she attended a Planning Board/Zoning Board of Appeals Citizen Planner Training Collaborative session and found it very useful. She said she learned, among other things, of changes in the Open Meeting Law and the need for a board member not to discuss cases with anyone outside the hearing venue.

At the request of the town manager, ZBA members discussed the merits of **Chapter 40B**, affordable housing. There is a November ballot question that would eliminate Chapter 40B.

ZBA members said they favor retention of 40B. The board has dealt with two 40B filings. One was Blue Hill Commons (Richard Stanley), 2001, off Commonwealth Avenue, 96 units with 24 affordable. This project is still in its first phase of three. The other was Hillside Avenue (CDC), 2005, 10 units, all affordable. This project has been completed. Board members said the law is the only incentive for construction of new affordable housing, and still gives the community a degree of control to bargain for tradeoffs. Members did point out that only 20 percent of a project's housing need be affordable in order that the applicant gain significant leniency in density and other issues. It makes planning sense that housing units be clustered, as has happened in these two applications, leaving more of a property open space. Chapter 40B encourages mixed development.

Respectfully submitted,
Bernard A. Drew, secretary