

Hull Zoning Board of Appeals

Minutes

November 21, 2017

The November 21, 2017 meeting of the Board of Appeals was held at 7:30 p.m. at the Hull Municipal Building, 253 Atlantic Ave., Hull, Massachusetts.

Members present: Patrick Finn, Clerk
Richard Hennessey, Associate
Scott Grenquist, Associate

Members absent: Neil Kane, Chair
Andrew Corson, Member
Corina Harper, Associate

Public Hearing: 121 Bay Street

Applicants: Beatrice Bergstrom and Steven Bergstrom

General relief sought: To apply for a special permit/variance to construct a new two-family home, each side with four bedrooms and 4 ½ baths, as per plans, pursuant to Hull Zoning By-laws Chapter 40-A, Sec. 61, Non-Conforming Uses, para 61-2. Building will replace previous three family unit. Proposed rear setback does not comply. Proposed front setback (13') may be waived.

Summary of discussion:

Steven Bergstrom spoke on behalf of the applicants, stating that the house on the property in question burned down and was demolished a year ago this month. He said that after evaluating the shape, style, and structure of the old home, they decided to reconstruct a new dwelling that would replace the former three-family house with a two-family house. They also made a decision to move the house out of the flood plain and away from the coastal bank. The house as designed is compliant with side setbacks; previously the left side setback was 4.7' and the new left side set back will be 14.3'. He said that the previous house was 70' in width; the new one is 58'.

Bergstrom further stated that the new structure improves the setbacks on every side, but the front and the rear are still noncompliant. The foundation is compliant, but the house itself is cantilevered 2' beyond the foundation, which puts it a foot into the setback. He stated that the new home will be more esthetically pleasing and better for the neighborhood.

Finn read a letter from Building Commissioner Peter Lombardo, dated October 5, 2017, which stated in part that "the proposed addition requires a special permit and/or variance from the Zoning Board of Appeals" and that "the proposed rear setback (19.0 and 16.3) does not comply with required (20'); proposed front setback 13' may be waived per footnote a. (section 50). All others appear compliant."

Finn stated for the record that the letter is addressed to Rosario Ferrante, but the application is for the Bergstroms.

Grenquist explained that Lombardo has the right to waive the front setback at his discretion because so many houses in Hull that are very close to the street, and that the applicants are before the board because of the rear setback. Finn explained the footnote to the table in Section 50 regarding the front setback waiver. He also stated that because the applicants were within the two-year time limit of rebuilding after a fire, their use has not expired, but because the rear setback doesn't comply, the project will require a special permit or variance. Because the building has been demolished and they are not building on the footprint, they will be creating a new non-conformity, which may require a variance, but since the previous structure was pre-existing nonconforming, there may also be an argument that they would only require a special permit.

Finn also read aloud the narrative description on the assessor's card, which states that this is "6000 square feet of land mainly classified as a three family." The assessor's card also lists the owner of the property is Bergstrom Beatrice Trust. Hennessey noted that in June 1, 1999, Ms. Bergstrom conveyed her entire interest into a revocable family trust. He explained that this is a very common practice and that there is usually an executor or administrator for a trust.

The board took a brief recess at this time.

Abutters were present at the meeting and expressed the following concerns:

- Debora Corbett stated that she owns the house across the street. She said that when the project went before the Conservation Commission, it was advertised as a single-family home and it was considered on that basis by the commission. Corbett also expressed concerns about the size of the project, the mass, the traffic, and potential congestion from the parking. She noted that 4 bedrooms and four bathrooms on each side is a huge home. [Note: Finn invited her to look at the site plans.]
- Susan Goranson, 118 Bay Street, stated that she is pleased that they will be improving the property, but expressed concerns about the height, the roof decks, and parking. She also said that there are 8 bedrooms and she is concerned about whether they will be rented or sold. She wanted to know if the board was going to take a look at whether the proposed parking spaces are compliant.
- John Cullen, 19 Island View Road, said that the previous building had two side-by-side units that were one bedroom and one bath. He expressed concerns about the scope of the project and the fact that it was advertised for the Conservation Commission as a single-family home. He said that it seems odd to him to have en suite bathrooms in every bedroom, and he wondered if this would be used as a rooming house and the neighborhood is not zoned for that.
- Peter Mezzetti, 113 Bay Street, asked if the applicants would be able to rent all of the bedrooms and pointed out that there are not eight parking spots, one per bedroom. He expressed concern that it would become a rooming house. He said that he already has problems parking on Bay Street.
- Mary Mezzetti 113 Bay Street, was concerned whether the parking was on or off street and she is worried that they will be using the property as an Airbnb.
- Cathy Morgan, 176 Kingsley Road, said that she manages property for Gus Karoubas, an abutter on Porrazzo Road and wondered how they are going to handle the parking because it is already difficult to drive in either direction on Bay Street. She also said that the property was going to be overbuilt and that there is a 30% lot coverage limit.

Grenquist reminded the abutters that the only thing that is before the board is the rear setback specified in Lombardo's letter. Finn stated that the board is taking the abutters' comments into account, but it has to rule on what is before it, not on conservation. Hennessey added that the board doesn't have anything to say about what is inside the house. Finn stated that the number of bedrooms and bathrooms brings up a lot of questions for the abutters, but the board can't make its decision based on that because Chpt. 40A is clear that zoning boards can't get involved on interior issues. He explained that any owner in an owner-occupied single family dwelling can rent up to three bedrooms. A home that is not occupied by the owner can be rented to a family, which is defined by as being up to four unrelated people.

Finn said that the bylaw allows 30% lot coverage. The lot is approximately 6000 square feet. Previous coverage was 30.6%, and was a preexisting nonconformity. It will now be 29.3%, which will be in compliance. He said that what is being proposed is less nonconforming than what was there previously.

Finn stated that parking is within the board's purview and will be examined. He further stated that parking spots are required according to the number of units, with two spaces required for each unit, which the applicants' plans meet. He stated that he would clarify the issue regarding the Conservation Commission hearing with the board's administrator Sarah Clarren, and that the board would look into whether there had been previous zoning decisions regarding the property.

He explained that abutters can appeal any decision made by the board to land court within 20 days. He read into the record the following: Any appeal to the Massachusetts Court shall be made pursuant to MGL c.40A s17 and shall

be filed within twenty (20) days of the date of filing of the decision with the Town Clerk, Hull, MA. This special permit bearing the certification of the town clerk that 20 days have lapsed and no appeal has been filed or an appeal has been filed and dismissed shall be recorded in the Plymouth County Registry of Deeds and evidence of said filing shall be furnished to the Board of Appeals. This special permit shall lapse at the expiration of two (2) years from the date it takes effect if a substantial use therefore has not sooner commenced except with the good cause or if construction has not yet begun except for good cause. (MGL c.40A Section 9.)]

Finn said that any special permit or variance decision that is granted will be mailed to people who received notice of the hearing, within 20 days have to file an appeal if they want to.

Hennessey assured abutters that the board would return to an open meeting after a site visit.

The applicant explained that the plan was originally for two bedrooms per unit, plus an unfinished basement and a loft, but the architect had suggested finishing the basement and configuring it and the loft as bedrooms. He acknowledged the abutters' complaints and stated that it was never his intent to have a rooming house. He stated that in hindsight he would consider not finishing the basement or calling the loft a bedroom. Ms. Bergstrom stated that they were not thinking of renting rooms and were creating two condos.

Finn asked if there was any way to revise the plans so that they are compliant with zoning. Grenquist stated that otherwise the board has to consider the setback issue. He stated that if the board were to allow zoning relief, abutters could appeal the decision for any reason, even if it wasn't regarding the setback, and then land court would have to decide. He suggested that the applicants talk with their neighbors and the architect. He pointed out that there is still time to change the one issue before the board.

Finn pointed out that for a special permit, the criteria is that it not be substantially more detriment to the neighborhood, but for a variance there has to be a hardship, and there may not be.

Action Taken: On a motion by Grenquist, seconded by Hennessey, the board voted unanimously to continue the hearing to its next scheduled meeting on the first Tuesday in December.

Vote: Finn – Aye
Hennessey – Aye
Grenquist – Aye

The board voted unanimously to adjourn the hearing at 9 p.m. on a motion by Hennessey, seconded by Hennessey. The meeting was adjourned at 9:05 p.m., on a motion by Hennessey, seconded by Grenquist.

Recorded by Catherine Goldhammer

Minutes Approved:  11/2/18

All actions taken: All action taken includes not only votes and other formal decisions made at a meeting, but also discussion or consideration of issues for which no vote is taken or final determination is made. Each discussion held at the meeting must be identified; in most cases this is accomplished by setting forth a summary of each discussion. A verbatim record of discussions is not required.