

Hull Zoning Board of Appeals

Minutes

December 5, 2017

The December 5, 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
Andrew Corson, Member
Richard Hennessey, Associate
Scott Grenquist, Associate
Corina Harper, Associate

Members absent: Neil Kane, Chair

Also present: Sarah Clarren, Board of Appeals Administrator

Public Hearing: 51 Main Street

Applicants: David Flynn

General relief sought: To apply for a special permit/variance to construct a 1½ story two-car garage with porch connecting to existing structure; install pergola at side entrance, as per plans, pursuant to Hull Zoning By-laws Chapter 40-A. The proposed 1½ story two-car garage height is 23' that exceeds the 14' allowable height limit for a detached structure.

Summary of discussion

In order to provide for timely abutter notification and based on the request of the applicant made to Clarren prior to the meeting, the board voted to continue the hearing to December 19, 2017 at 7:35 p.m., on a motion by Corson, seconded by Grenquist.

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

This is a continuation of a hearing begun on November 21, 2017. The applicants are asking permission to build a two-family house to replace a three-family house that burned down a year ago. The property is grandfathered as a multi-family house. The proposed new structure will encroach on the rear setback. The sides are compliant. The front is noncompliant, but may be waived at the discretion of the building commissioner.

At the previous meeting several abutters expressed concern about the project's scale and its impact on the parking problems of the neighborhood. The board encouraged the applicants to discuss with their architect the possibility of changing the plans so as to make the project conform to zoning bylaws. Hennessey stated that there was also concern from abutters about the number of bedrooms and the property being used as a rooming house or an Airbnb.

This evening the applicant stated that he had discussed modifications with the architect and had decided that he would not get the interior space he wanted if he changed the dimensions of the house. Therefore, he has not changed the plan.

Finn noted that the board had been hoping for some movement or compromise between the applicant and the abutters. He stated that there is no issue regarding use and the parking spaces are in compliance being setback 3 feet from property lines. However, he pointed out that there is a handwritten note on the existing plan, which has not been initialed by the engineer. He would like to have that updated.

There were no abutters present to speak in favor of or against the project, but the board had received a notarized letter from James Mahoney, 125 Bay Street, expressing concerns about parking, drainage, and erosion to his property. Finn read this into the record. [See archives.]

The board took a brief recess at this time.

Regarding Mahoney's letter, Finn said that the property is compliant with parking regulations and that the board has no authority regarding conservation or drainage issues. He further stated that lot coverage is within zoning limits.

Bergstrom stated that the former house has been gone for about a year and he is not sure how the new building would have any effect on soil erosion on the neighbor's property. He pointed out that they have to follow the Order of Conditions from the Conservation Commission and that David Ray, of Nantasket Survey Engineering, has a drainage plan for the property.

Ms. Bergstrom said that the abutters were concerned about the numbers of bedrooms, but pointed out that the top floor could not be a bedroom. She said they have had some very difficult tenants in the past. She would like to sell the units, and stated that she has no intention of renting them out as rooms. She stated that she had her hand up at the last meeting but did not get to say this. Finn pointed out that he was going by the board's order of business and it was the abutters' turn to speak. The abutters had left by the time it was her turn to speak. [According to 11/21/17 minutes: Ms. Bergstrom stated that they were not thinking of renting rooms and were creating two condos].

Mr. Bergstrom said that they had not reached out to the abutters and he had thought that they would have the chance to do so this evening.

Grenquist pointed out that the only reason the applicants need relief is the rear setbacks, which cannot be waived. Finn stated that the only way to avoid appeal would be to make it compliant. Grenquist said that moving the house forward would move it further out of the flood zone. Bergstrom said that flood insurance is no longer required now that it is out of the flood zone.

At the previous meeting, abutters stated that when the Conservation Commission considered the Petitioners' application, it was advertised as a single-family home. Clarren, who also works with the Conservation Commission, stated that the application before the Commission had a box checked off stating it was a single-family home and was advertised as such. During the hearing, towards the end, David Ray stated that the project would have to go before the Zoning Board of Appeals to be a two-family home and if it is not approved, it would be a single-family home. Clarren stated that the Commission approved the project and she has called Town Counsel James Lampke about this matter and is awaiting his reply on how to proceed. Grenquist said that if it had been advertised as a two-family house, people might have gone to the meeting who didn't otherwise go. Bergstrom said that there is no option for a multi-family home on the Conservation Commission's application.

Bergstrom said that if they moved the house forward, the stairs would go into the parking spaces. He said that regarding a variance, he thinks there is a hardship. Finn read into the record the applicant's responses on the variance application. He said that the question specifically asks what is preventing the applicant from complying with zoning bylaws. Bergstrom said that it would "destroy" the inside of the house. He said that he was confused as to whether it was a special permit or a variance. Finn explained that the building department's practice has been to follow special permit applications when there's pre-existing, non-conforming conditions, but when you tear down a structure, it may be a variance. However, when there is a loss due to fire, they have a right to rebuild on the footprint and the multi-family use is grandfathered. For a special permit it has to be not substantially more detrimental to the

neighborhood, but for a variance you have to prove hardship and answer why you can't make it compliant. He said that his concern was the possibility of appeal.

Finn stated that the neighboring houses have front setbacks of 14.4 and 17' and so the applicants would need zoning relief for the proposed 9' front setback as well. He said that the property had not had any previous decisions with the Board of Appeals.

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

Vote: Finn – Aye
Hennessey – Aye
Grenquist – Aye

The meeting was adjourned at 8:48 p.m., on a motion by Corson, seconded by Grenquist.

Recorded by Catherine Goldhammer

Minutes Approved: Patricia Finn clerk 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.