

HULL ZONING BOARD OF APPEALS

Applicant: Cynthia Stanley

Property: 14 Gunrock Avenue

Date: Thursday, October 4, 2012

Time Meeting Began: 8:30 p.m.

Time Meeting Concluded: 9:52 p.m.

Place of Meeting: Hull Municipal Building, Main Meeting Room

Zoning Board Members Present for Hearing:

Alana Swiec, Chair	Sitting	Attending	Absent	Abstain
Dr. Roger Atherton, Clerk	Sitting	Attending	Absent	Abstain
Atty. Mark Einhorn, Member	Sitting	Attending	Absent	Abstain
Jack Baringer, Associate	Sitting	Attending	Absent	Abstain
Phillip Furman, Associate	Sitting	Attending	Absent	Abstain

Others in Attendance:

Cynthia Stanley, Applicant, Trustee

Jeffrey M. Metcalfe, Registered Architect on property owned by Cynthia Stanley

James Lampke, Town Counsel

Lenny Stanley, Relative of Applicant, 68 Milbrook, Ave., Walpole, MA

Robert Sabatini, Applicant's General Contractor

Mark Flaherty, Flaherty and Stefani, PC., Engineer/Surveyor

Michael Norton, Abutter

Robert Souza, Abutter

Bartley Kelly, Asst. Building Commissioner

Hildred Parent, Board Secretary

Karen Morgan, Recording Secretary

New Hearing: Special Permit / Variance filed by Jeffrey M. Metcalf, Registered Architect on property owned by Cynthia Stanley as Trustee of 14 Gunrock Avenue seeking to demolish existing house and build new structure in same location. The height of new structure is 42' and maximum height allowed is 35'.

General Discussion: Jeffrey Metcalfe, 44 Jan Marie Drive, Plymouth, MA begins by introducing the other members present. He starts by discussing the site and asks Mr. Flaherty to speak about this site in question.

Mr. Flaherty, 67 Samoset Street, Plymouth, MA shows the Board an existing condition plan of the site, this is Lot 66 with its 9800 sq. ft. The existing house is 6.1 ft. off the property line, 13.7 ft. off the side line. It's in FEMA velocity zone with elevation 21. The existing first floor is at elevation 20.2. The basement elevation is 10.7. The sea wall is in the back of the property. The FEMA guidelines says that if you are in a velocity zone and you have a structure, the lowest structural member has to be 2 ft. above that velocity zone elevation. The top of the piles to support the new structure would have to be at elevation 23. The existing grade around the property is at elevation 11. It's about 12 ft. on the top of the piles before you begin the construction of the house. The closet setback in the street is 6 ft. The minimum front yard is required to be 25 ft. and the existing house is 6 and the minimum side yard is 10 and its showing 13.7 ft., the rear yard being 20, we're showing 51 ft. This is the existing house that's in place.

Mr. Atherton asks about the VE zone that was said to be 21 ft. and the AE zone is 15 or 16 feet. , he asks about why would the proposed plan is for the house to be in the AE zone and the decks that surround it on the outside in the new plan are to be are in the VE zone. His question to Mr. Kelly is why are they using the 23 ft. that was discussed instead of the 15 ft. because the house is in an AE zone and not in the VE zone. Mr. Kelly explained to Mr. Atherton that any part of the house or structure that is proposed in the velocity zone, that then is the dominant one that drives what height of any of the pier heights should be. It sounded to him that the higher one is more desirable than the lower one, but it's really part of the building code. Mr. Flaherty said it's close enough and the photographs in the Town Hall and the last storm that took place, he has photos of that where it shows the devastation. The Federal Government signed this as the edge of the zone and he feels that in his standpoint that it's in the VE velocity zone and should be treated as such. Mr. Atherton said that he has no choice, building code says that if part of the structure is in the velocity zone that you have to do that. Mr. Flaherty said that the top of the piles is 23 and the ground is about 10 or 11. So the piles are 12 ft. above the ground. He presents the plan for the new structure. The set back is being 10 ft., we're showing 10 ½ ft. The front set back being 25 ft., we're showing 15 ft. to the front. The deck work has a setback of 42 ft. The Board should realize that they went through a series of meetings with Con Com and they approved this project with an order of conditions. We are talking about the structure itself. We have the deck in back. The setbacks, they are going to be 16 in the front, 10 on the sides. At this point, this is the site itself.

Mr. Atherton asked about the ground level at about 11 to 12 ft. Mr. Flaherty said 10 or 11. Mr. Atherton said that his calculation is 12, Mr. Kelly's letter said 11. He asked where on these plans that was specified as to what the mean grade level is because that is how Hull determines how high to build a structure.

Mr. Flaherty said that he has an elevation 10, elevation 11 back where there is a concrete pile, an elevation of 13.6 ft., so 11, 10, for argument sake, elevation 10 ½ ft. would be the starting average grade around the structure itself. Mr. Kelly refers to the original plan and he sees 11.3 on one side and 10.2 on another side and it goes to 9.2 by the seawall and 13.7 for the concrete side in the back, and 11.1 to the property down by the street. He said it's not an exact science. Mr. Atherton said that on this plan it shows the spot in elevations and this is not relevant to that diagram but relevant to the other diagram, when we start talking about how high the structure can be.

Mr. Metcalfe speaks of the building itself. Just for reference, he had some photos of the existing site that he presented to the Board and also to point out that they do have a projected picture of the proposed building itself in the same location of the house on the site as well. He speaks of the plans pointing out the dining room, bedrooms, etc., and the piles as they meet the ground. The main question we are looking at is the height of the building. He shows the street elevation and the various entries. He shows the stairwell on the second floor, the master bedroom end and an open deck. For the most part, the roof is hip because they are trying to keep it as low as possible and not a lot of connections in relation to the wind and ocean. On the ocean side there is a screen porch and an opening on the deck off of the living and dining room area. Mr. Atherton asked about the bottom line of the drawing and if that is at the mean or average grade level or is it someplace else on the property? Mr. Metcalfe said that it was the mean. Mr. Atherton asked about the 20 ft. top of the piers. Mr. Metcalfe points out the top of the piers and says its 12 ft. off of the mean. Mr. Atherton said that is not right but he's trying to understand the diagram. At this point, Mr. Atherton and Mr. Metcalfe go over the diagram together.

Mr. Kelly said that we have to certify to FEMA and the building inspector that the elevation of the lowest structural member is 23 ft. above mean sea level. It's relative to mean sea level and so this all across Hull and MA. Mr. Atherton said the critical issue that to have 42 ft. 4 inches which is 7 feet 4 inches higher than our zoning bylaws permit. So, where that line is and what it means determines to whether the measurements that are indicated are the ones that need to be looked at as he understands now.

Ms. Swiec speaks of the additional room on top. Mr. Flaherty said we are looking at it as an observation deck, an enclosed widow's walk. He said it's 12x16. She said that minus that observation deck, the maximum height of 42.4 ft., to the peak of that observation deck, to remove the deck which is not a bedroom or living room, what would the height be back down to? Mr. Atherton answered her by stating it would 37 ft. 11 inches.

Mr. Atherton refers to a conversation between him and Mr. Lampke about a structure being taken down and replaced by another structure, does the new structure wipe the slate clean and everything new that is not to the bylaw required to have a variance to have an exception made to it or are things that are not compliant with the old structure grandfathered. Mr. Einhorn added that this particular case is a little more complicated in that it is not being built exactly on the same foot print. Mr. Lampke said that if you take a non-conforming structure and remove it and build another non-conforming structure on the site, does the new non-conforming structure qualify for a special permit under the analysis of Section 6 findings or because you have removed the non-conforming structure you are starting with a blank piece of land and thus it must comply and get a variance. He doesn't have the answer today to that question; it comes down to whether or not the work that is being proposed falls within the definition of the statute. Mr. Kelly said that there is language in the zoning bylaws that allows a house that is being torn down to be rebuilt in the same footprint within two years of it coming down with the non-conformities. You can't create a new non-conformity. Mr. Lampke said that they are creating a new non-conformity. The existing is non-conforming on the front set back (which can be waived) and the new structure could be waived for the front setback. The question is if this is an alteration to an existing structure or is this a new structure all together? Mr. Kelly said that this is a new structure all together. Mr. Kelly said that the proposed roof is new non-conformity because it has to be above 35. Mr. Flaherty said that elevation

of 23 is the added height on stilts of the building. If it were not on stilts, the building would be 30 ft. tall. Mr. Atherton said that the bylaw is 35 ft. Mr. Lampke added that from the ground up, it is 12 ft. for a total height of 42.4 ft.

Robert Sabatini, 16 Old County Road, Harwich Port, MA speaks of the footprint that at the request of Con Com, we took the existing house and turned it 90 degrees. The existing house was 30x40 ft. with a 40 ft. line from the street towards the sea wall, the new house is 30x40 ft. with 30 ft. line from the street to the seawall, that's why the new house doesn't fit on the old footprint. The bedroom addition wing is the exact same size as the existing house. At the Con Com's request to get the structure further from the seawall, that's why they did that. He came up with steel decking that would allow splash over as it comes up right through it and bounces off the deck.

Michael Norton, 11 Gunrock Ave., Hull, MA said that with his observation that when the Board looks at this, to take in consideration, the request by the builders and architect to go forward with this. It is a great design and someone taken on a distressed property and making it look so much better in the neighborhood. He hopes the observation deck doesn't stop the project. He thinks it's a fantastic design. He fully supports the program.

Robert Souza, 9 Gunrock Ave., Hull, MA said he thinks this is a great project. He thinks that it is a big improvement. That some people that stepped forward to spend some money and build a beautiful house. He doesn't object to the observation deck.

Ms. Swiec asked whether Con Com requested to have that extra non-porous material lifted. Mr. Metcalfe said that they didn't want anyone to move anything.

Ms. Swiec discusses the need to do a site visit. Mr. Einhorn discusses the need to hear and read the letter of someone opposing the project. Ms. Swiec supports the current engineering and design but she believes that she has an obligation to make sure that all the plans as presented are presented properly. Mr. Einhorn added that Mr. Lampke needs time to decide whether a SP or Variance is required. Ms. Swiec asked about the consideration of removing the observation deck. It's not a functioning space of the property. Mr. Metcalfe suggested making it a flat roof on the observation deck. Ms. Swiec said she would like to see the observation deck gone to make it more compliant. Otherwise she is 100% supportive of the project and since a unanimous decision is required the applicant needs to look at alternatives to the observation deck that is adding unnecessary height. Several options were discussed, some even as a matter of right, and the applicant indicated these would be considered.

Action Taken, if any: The Hearing was continued to November 1, 2012 at 8:30 p.m.

Recorded by Karen Morgan

Approved by Roger Atherton, Clerk

