

HULL ZONING BOARD OF APPEALS

Applicant: Cynthia Stanley

Property: 14 Gunrock Avenue

Date: Thursday, November 1, 2012

Time Meeting Began: 7:33 p.m.

Time Meeting Concluded: 8:12 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

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

Peter Lombardo, Town Building Commissioner

Bartley Kelly, Asst. Building Commissioner

Hildred Parent, Board Secretary

Decision: Special Permit / Variance filed by Jeffrey M. Metcalfe, 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 is 42' and maximum height allowed is 35'. Therefore it requires a variance or Special Permit.

General Discussion: Jeffrey Metcalfe, 44 Jan Marie Drive, Plymouth, MA begins reintroducing Mr. and Mrs. Stanley and Mr. Flaherty in the audience. Mr. Metcalfe spoke of the elevation and observatory in question. He said that the owners decided to remove that structure all together with no other changes. He presents 3D images of what the house will look like without the observatory.

Ms. Swiec said that they will need copies of the new plan and Mr. Metcalfe presented the plans.

Mr. Atherton said that it is still at 38'. Mr. Metcalfe agrees. Mr. Atherton continues to state that the new bylaws allow existing homes to be lifted up to 4' higher than the 35' above average grade current zoning permits. It says 35' over average mean grade level and that is no reason for this particular house to get a special consideration above that. The Town, the Advisory Board, Conservation Committee and the Planning Board all looked at this and did not think it was necessary to change the bylaw requirement to all houses, the change only applied to existing houses. He admires the fact that the observatory is removed, but it is not necessary to break our accepted bylaw for this particular case. He looked at the site and saw another house at 35' just a few houses away and that's plenty high enough for this area.

Mr. Baringer agreed with what Mr. Atherton says. You should be able to accommodate the design to make the 35'. We always try to accommodate people's request and new construction in Hull, but he's not voting on this and has a hard time agreeing with anything above the 35'.

Mr. Einhorn said that he agrees with Mr. Atherton and Mr. Baringer. He doesn't think he sees it at any different in his mind, this is a unique situation and could look at it differently as it is near the water. The question is if the applicants can have a second floor without the 3' additional height.

Mr. Metcalfe said that he can take a look at that. If not the height of the setbacks, they would consider a variance. Mr. Einhorn stated that new construction should comply with the new bylaws. Mr. Metcalfe said that this is a new house that needs to be raised.

Mr. Atherton said Mr. Lampke is still working and researching this issue and promises to find something for this meeting but has not done so yet. He doesn't know if this should be a special permit or variance. In his mind, he is concerned about the height and the height is not within the requirements. A variance would make it more difficult to qualify.

Peter Lombardo spoke of the difference between a special permit and variance is a large one, the Special Permit applies to pre-existing non-conforming issues. This is a new structure that falls within the guidelines; the new non-conformity would require a variance decision. There may and could be arguments to justify a variance decision. Mr. Atherton also agrees that it should be a variance.

Mr. Sabatinni said that footprint of the house is the same and no one commented on his statement the Con Com required that it be rotated 90 degrees. If it had been left where it was, then it appears it would satisfy the requirements and get the benefits of raising the existing house. Mr. Lombardo added this location is starting over again, but the request by the ConComm could be the basis of a request for a variance. Mr. Einhorn said that new construction was not addressed in the new by-laws intentionally. He feels that this is a variance issue and he feels in his opinion that it does not meet that standard.

Mr. Atherton said that it is up to the applicants to come back and argue if it should be a variance. Mr. Einhorn agrees. They can make it a smaller house to meet the requirements of a variance. Mr. Einhorn said that the applicants should come back and make a variance argument. Ms. Swiec recommends a

continuation of the hearing. Mr. Lombardo offered several suggestions that would allow the applicant to meet the 35' by-law and still accomplish much of what is desired.

Ms. Swiec stated that she would like to read a letter for the record. She acknowledges a woman from the audience that would like to speak. Ms. Karis (?), 146 Atlantic Avenue, said she wanted to learn more about this project and supports the project and feels the new house would be appropriate. She stated that she is also a lawyer, it would be important to comply with the by-law, and feels for this to continue is good decision. Ms. Swiec reads of the notarized letter from Mr. O'Donnell, 21 Gunrock Avenue, Hull and it reads that he objects to the height variance of the project. The height would rob neighbors of sun and over shadows existing home and hopes to be present at this meeting.

Mr. Metcalfe asks if the flat portion of the roof is under 35', then we would not be looking for a variance and guard rail can be above that? Ms. Swiec agrees. Then he stated that he would like to withdraw without prejudice. Mr. Einhorn suggested we continue the hearing to keep the applicant's options open, and give them time to decide about a redesign or preparing a variance request.

Action Taken, if any:

Hearing continued to December 6, 2012 at 7:30 p.m.

Recorded by Karen Morgan

Approved by Roger Atherton

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 a meeting must be identified; in most cases this is accomplished by setting forth a summary of each discussion. A verbatim record of discussion is not required.