



TOWN OF MARION
ZONING BOARD OF APPEALS
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MINUTES OF MEETING

December 11, 2014

The Marion Zoning Board of Appeals convened at 7:30 p.m. on Thursday, December 11, 2014 in the main conference room of the Marion Town House to hear case numbers:

- 681, that Marvin C. & Carol S. Bannon for a Special Permit under section(s) 6.1.3 and 6.1.5 of the zoning by-law to allow the demolition and reconstruction of an existing non-conforming single family dwelling, which will decrease the current non-conformity but increase the building area and volume, as allowed in section 7-Uses By Special Permit. The property, located at 22 Wilson Road, is also known as Lot 19 on Assessors' Plan 5A; and
- 664, that of Tabor Academy relief from a decision of the Building Commissioner, namely the denial of a building permit application dated August 31, 2012. The property, part of the existing Tabor Academy campus and located in the vicinity of Spring Street, Ryder Land and Front Street, is further identified on Assessors' Plan 13 as Lot 44; and
- 692, that of Pamela Oliveira for a Variance under section 6.1.4 of the zoning by-law to allow the extension of non-conforming structure with less than 20 ft. side & rear and 35 ft. front setback. The property, located at 85 Dexter Road, is further identified on Assessors' Plan 5A as Lot 48; and
- 693, that of Bernard & Eileen Bowers for a Special Permit under section 6.1.3 of the zoning by-law to allow the reconstruction, extension, alteration or change to a non-conforming single family structure. The property, located at 14 Bayview Road, is further identified on Assessors' Plan 19 as Lot 131; and

- 694, Withdrawn by the applicant

Also, an Appointment for Discussion at 8:15pm with Jon Delli Priscoli regarding a project at 91 Water Street.

Zoning Board members present were Chairman, Eric V. Pierce, Domingo Alves, Tom Cooper and Michelle Ouellette. Also present:

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|------------------------|------------------------|
| Pamela Oliveira | 85 Dexter Road |
| Marvin Bannon | 22 Wilson Road |
| Jean Perry | The Wanderer |
| Bernie & Eileen Bowers | 14 Bayview Road |
| Kate Mahoney | 40 Dexter Road |
| Rick Charon | Charon Associate, Inc. |
| Stephen Barron | 23 Wilson Road |
| Jon Delli Priscoli | 91 Water Street |
| Anthi Frangiadis | |

Upon arrival the Board was presented with the following information for the evening's Business:

- Agenda
- Materials for case #691, which include:
 - Legal Notice
 - Memo from Board of Health dated November 13, 2014, wherein the Board stated they had no objection to the approval of the application, as the dwelling is serviced by Town water and sewer
 - Memo from the Conservation Commission dated November 17, 2014, wherein the Commission stated that the Commission approved the proposed project on October 23, 2014 (Determination of Applicability #41D-1550)
 - Memo from the Planning Board dated November 21, 2014, wherein the Board stated that the Zoning Board would attempt to verify the setbacks of the development and meet all the requirements as presented by Schneider & Associates.
 - Application form
 - Assessor's field card for the property in question
 - Site plan for the property in question showing the proposed reconstruction of a dwelling at 22 Wilson Road. Lot #19 on Assessors Map #5A
- Materials for case #664, which include:
 - Legal Notice
 - Application form
 - Copy of letter from Building Commissioner to Tabor Academy
 - Copy of letter from Blatman, Bobrowski & Mead, LLC including

attachments

- Copy of Land Court documents

- Materials for case #692, which include:
 - Legal notice
 - Memo from the Board of Health dated November 13, 2014, wherein the Board stated they had no objection to the approval of the application, as the house is serviced by Town water and sewer
 - Memo from the Conservation Commission dated November 17, 2014 wherein the Commission states that the Commission approved this project by an Order of Conditions dated October 28, 2014
 - Memo from the Planning Board dated November 24, 2014, wherein the Board stated that the Zoning Board should verify what the setbacks are of the new structure versus the old
 - Assessors Field Card
 - Drawings of proposed project
 - Site plan for the property in question showing proposed alterations to residence at 85 Dexter Road. Lot 48 on Assessors Plan 5A

- Materials for case #693, which include:
 - Legal Notice
 - Memo from Board of Health dated November 17, 2014, wherein the Board stated they had no objection to the approval of the application, as the dwelling is serviced by Town water and sewer
 - Application form
 - Assessor Field Card
 - Letter from Anthi Frangiadis Associates describing project
 - Vision Field Card
 - Site plan for the property in question showing the proposed plans and exterior elevations dated November 17, 2014
 - Variance Plan for 14 Bayview Road dated November 14, 2014

At 7:30, Mr. Pierce opened the hearing by reading the legal notice in case number 691, as well as the correspondence from the Conservation Commission and Board of Health. Mr. Pierce asked if the Bannons were present. They were. Mr. Pierce asked Mr. Bannon to give an overview of the project and when Dave Davignon arrives he can take it from there. Mr. Bannon stated they are tearing down the existing dwelling and rebuilding. Members reviewed the plans in their packets. Mr. Pierce asked Mr. Bannon if the porch facing Wilson Road will be covered or uncovered. Mr. Bannon said it will be uncovered.

Mr. Davignon arrived at 7:45pm to represent the Bannons. Mr. & Mrs. Bannon purchased

the property earlier this year. The property is on the corner of Dexter and Wilson Roads and has 202 ft of frontage. It contains a cottage built in 1948. It is ready to come down. The Bannons would like to build their retirement home on this site. Mr. Davignon said they are proposing improvements to the non-conformity or not make them any worse. The current house is 29.1' off of Wilson Road. The new house is proposed to be 25.7' with the deck across the front.

The setback from Dexter Road is currently 51.1' and the new will be 46'. They are trying to nestle the house toward the easterly part of the lot. The current rear setback of the deck is 12.4', the setback of the stairs is 8.3' and the shed is setback 3.5'. The new rear setback will be 10.7'. Mr. Pierce asked if this is in Zone C or Zone B. Mr. Davignon said it is currently in Zone C. He confirmed all of the setbacks with Scott Shippey, Building Commissioner, before beginning the project.

Mr. Davignon said that the site is located in a flood zone and have gone through Conservation Commission already. Part of the project is to go higher than needed so they can have a garage under the house.

Lot coverage including the new deck and stairs will cover 25.3% of the lot. Currently it covers 9.5% of the lot. Currently there is not a formal driveway. They are proposing a new formal driveway off of Dexter Road. The lot coverage with the driveway will be 37.2%.

The building height will be 31.5' grade. There will be an elevated planter in the front with a 2.5' wall in front of the deck. The back will have a walkout basement. The house is proposed two stories and the second floor is not a complete second floor. There is a vaulted ceiling. The volume has increased as stated in the application.

Mr. Pierce has a concern under 6.1.3. He would like to take a drive and take a look at other properties in the area since this is a significant change to the property. Mr. Pierce said he understood the logic behind it and was not making any judgment, it just that it is a big change.

Mr. Alves asked Mr. Davignon about the garage under the house and the 31.5' height. Mr. Davignon said that 31.5' is to the average finished grade. Mr. Pierce asked if the garage will be open or walled in. Mr. Davignon stated it will be a solid wall foundation with flood openings as required by FEMA.

Mr. Cooper asked about the existing grade. Mr. Davignon said that it is slightly above 10'. The proposed grade along the rear is 11', under the covered porch is will be 11', along the front they are proposing to raise it almost like a planter bed to break the grade. Mr. Cooper asked what the average finished grade will be. Mr. Davignon stated it is approximately 13'. The current grade is 10-10.5'.

Mr. Pierce asked if anyone has further questions. No questions received. He said he would entertain a motion to take this case under advisement. Mr. Alves motioned to take Case #691 of 22 Wilson Road under advisement; Mr. Cooper seconded; voted unanimously.

Case # 664, Tabor Academy: Mr. Pierce moved to continue to January 8, 2015 at 7:35pm. M. Ouellette seconded; voted unanimously.

At 8:00pm Mr. Pierce opened the hearing of case number 692 with the reading of the legal notice as well as correspondence from the Board of Health and the Planning Board. Rick Charon of Charon Associates representing Pamela Oliveira who was also present. Mr. Charon described the current dwelling as a two bedroom house that was built in 1966 with rear setbacks of 21' and side setbacks of 13.5'. It is in a flood zone so they are proposing to raise the house and have a full drive under foundation with a driveway off of Julian Road. A part of the existing house shows as an "L" shape. A second floor will be added onto that with a couple of bedrooms. This will make it a three bedroom house from a one bedroom house. They are also installing new stairways as well as a deck is being put onto the front of the house.

The setbacks on the Julian Road side and the opposite side are the same. The front setback is currently 34.6' but will change to 26.6' with the addition of the deck. Mr. Pierce asked if the deck is covered. Mr. Charon said no, it is an open deck but the new roof line will cover a portion of the deck.

Mr. Charon said that the overall height of the house comes in at 32.6'. He had it listed as being in Residence Zoning C with 2 acre lots and 30' setback requirements. He said there is clearly a hardship here in terms of the size of this lot it's a legally existing nonconforming lot of 5,540 sq. ft. as opposed to 2 acres. It's much smaller than the current zoning is. He said the proposed house is relatively modest with the increase in size.

Mr. Pierce asked what the coverage of the lot will be with the addition of the decks. Mr. Charon said it will be 29% coverage of the lot as noted on the plan. Mr. Alves asked if it on town water and sewer. Mr. Charon said yes, it is all there now. Mr. Pierce asked about the garage and storage under the house. Mr. Charon said yes.

Ms. Oliveria asked Mr. Charon to clarify that it is a two bedroom home changing to a three bedroom home.

Mr. Cooper asked about the existing height to the peak. Mr. Charon said it is approximately 13'-15' and going to be 32.6'.

Mr. Pierce asked why they were here under 6.1.4. Mr. Charon said they believed they didn't qualify under 6.1.5 because they are increasing the height of the building by more than 10%. Mr. Pierce said variances are very difficult. He asked where they created the new nonconformity. Mr. Charon said at the front setback. If we don't count the decks, we don't have a nonconformity.

Mr. Pierce stated that this project is similar to the last. He thought it would fit under 6.1.3 and 6.1.5. Mr. Charon though they were bounced out of 6.1.5 because of the increase in height. Mr. Pierce reviewed the wording in the by-laws. Mr. Charon said if it is possible to do as a Special Permit, they will. He also said that the alterations of the reconstruction are not detrimental to the neighborhood. Mr. Pierce said he will be taking a ride to take a look in the neighborhood.

Mr. Pierce said that this would be better served as a Special Permit. He suggested withdrawing without prejudice and reapplying. The problem is, this was advertised as a hearing for a Variance so they cannot just "change it on the fly" to a Special Permit. Mr. Charon asked for clarification as to which to re-file under, 6.1.3 or 6.1.5. Mr. Pierce said that he cannot tell Mr. Charon what to do, but he would recommend to come back with a Special Permit application under 6.1.3.

Mr. Charon requested to withdraw this application. Mr. Pierce noted it. Mr. Charon asked about the deadline for January 8, 2015 and about the filing fee. Mr. Pierce offered to waive the remainder of the fee, and they will pay the advertising costs.

Mr. Pierce opened the hearing of case number 693 with the reading of the legal notice as well as correspondence from the Board of Health and the Conservation Commission. Anthi Frangiadis, the architect for Mr. & Mrs. Bowers (who were also present). The Bowers own the existing single family dwelling at 14 Bayview Road. It is a preexisting nonconforming lot and a preexisting nonconforming structure. The structure was built in 1939. Ms. Frangiadis had pictures of the cottage and the site plan on display.

Ms. Frangiadis explained the existing front yard setback is nonconforming. The current setback is 20.1' from the northern property line, the proposed is 25.5'. The addition to the east nears the massing to the west. Their plan is to add a side wing to mirror the front elevation in keeping with the street scape. They are not raising the height of building. The current height is 15' above grade and the plan is to maintain it. The structure is in Flood Zone AE15. Ms. Frangiadis has confirmed that with Building Commissioner Shippey. The existing structure is above the base flood elevation at 18.4'. The proposed addition will meet that requirement and they will be using a flood resistant foundation. Ms. Frangiadis also mentioned the floor plan and the three bedrooms that are currently there that will be maintained. They are expanding the living space of the home but not adding bedrooms.

Mr. Pierce asked about the back of the lot and the relocated deck. Ms. Frangiadis said that there is a 16x26' deck on the back of the building. They are extending the back by 4' so the deck will be bumped out. They are not changing the size of the deck, just moving it out the 4'. Mr. Pierce asked if the deck is covered. Ms. Frangiadis said that the deck is not covered. The rear setback of 30.3' includes the deck, 23.4' not including the deck.

Ms. Frangiadis said the Bowers received one piece of mail they would like to share with the board. It is from Woody & Sharon Hartley, in support of the project. Mr. Pierce read the letter and submitted it to the file.

Mr. Pierce asked for clarification that this is not a new nonconformity. Ms. Frangiadis said no, they are extending the existing nonconformity.

Mr. Pierce asked if any questions from the board or the public. No questions were received. In Mr. Pierce's opinion, he said this is pretty straightforward. He would entertain a motion to take this under advisement. Ms. Ouellette motioned; Mr. Cooper seconded; voted unanimously. It will be discussed at the January 8, 2015 meeting.

Case #694, was withdrawn due to an error on the application and will be resubmitting.

The 8:15pm appointment with Jon Delli Priscolli regarding 91 Water Street. Mr. Delli Priscoli was looking for guidance. He recently purchased the property and is renovating and restoring. The house was built in approximately 1931. He is looking to have 36" doorways with the extension of the bedroom and bathroom. There is a 5' discrepancy that is why he is before the board. Mr. Delli Pricolli showed the board his plans. The mass of the house is not changing, the height of the house is not changing. The current garage is 5' off the property line. The addition will be hidden from road by the garage. The new addition is 15'. If it were 10' that would put the setback at 20'. The addition would be only 15' to the property line. He described the 36' doorways and how they are needed in the addition.

Mr. Alves asked if there was to be any work on the garage. Mr. Delli Pricoli said not at this time. It will need to be taken down at some point and he would like to replace it on the existing footprint, but not now. He is planning on a covered farmer's porch which falls within the limits. He currently has a Building Permit for the interior work being done so Mr. Shippey is aware of the project. Mr. Delli Pricoli said that when he came up with this design Mr. Shippey said he should speak to the board.

Mr. Delli Pricoli mentioned that he is keeping the house within the character of the neighborhood and the fact that the addition will be hidden by the garage that is actually closer to the property line than this addition will be. Mr. Pierce asked if there is a stone wall there. Mr. Delli Pricoli said that there is not, just what is basically a grass waddle. There was discussion about the strip of land next to the property.

Mr. Delli Pricoli noted that he will be filing with the Conservation Commission a Request for Determination since the property is within the VE Flood Zone.

Mr. Delli Pricoli would like to file for a Special Permit if the Board thinks it is viable. Mr. Cooper asked if there are any other options. Mr. Delli Priscoli said he really doesn't unless he makes massive changes to the house and he really doesn't want to do that. The way it is set up now, you would never know it is an addition. It is keeping with the period look of the house.

Mr. Pierce said they are constrained by the numbers pretty tightly. By the same token, the reasons for those numbers are safety, light and air. If there was a large stone wall running down there and that means a fireman has to run between a burning house and stone wall, to him that is no game at all. But there could be a discussion that there is open land there is more than 20' between you and any obstruction. Mr. Delli Pricoli noted that right now that land is being used as a staging area for construction materials and equipment.

Mr. Pierce said that it is worthy of discussion. If there could be any minimization of the 5', that would be recommended, but it is worthy of discussion. The Board thanked Mr. Delli Pricoli for his presentation. Mr. Delli Pricoli thanked the Board for their time.

In other matters, Ken Steen of Bay Watch Project submitted a letter regarding a bond they are currently holding that needs to be reduced. They are asking the Board to vote to approve of the reduction. A letter will be signed by Mr. Pierce and sent to Mr. Steen so he may submit it to the bank. Mr. Pierce made a motion to agree to the bond for Bay Watch; Mr. Alves seconded; voted unanimously.

Mr. Pierce signed invoices for payment.

With no other business before the Board the meeting was adjourned at 8:55 p.m.

Eric V. Pierce, Chairman

Date: _____

EVP/dmh