



TOWN OF MARION
ZONING BOARD OF APPEALS
2 SPRING STREET
MARION, MASSACHUSETTS 02738
Telephone (508) 748-3560; FAX (508) 748-2845
www.marionma.gov

MINUTES OF MEETING September 24, 2015

The Marion Zoning Board of Appeals convened at 7:30 p.m. on Thursday, September 24, 2015 in the main conference room of the Marion Town House to hear case numbers:

- Case # 711, that of Dale M. Allison, 359 Delano Road, for a special permit under section 6.1.5 of the zoning by-law to allow reconstruction of an existing non-conforming single family residence. The property is further identified on Assessors' Plan 5A as Lot 103.
- Case #664-Continuation, that of Tabor Academy, in the vicinity of Spring Street, Ryder Lane and Front Street to seek relief from a decision of the Building Commissioner. The property is further identified on Assessors' Plan 13 as Lot 44.

Zoning Board members present were Eric Pierce, Betsy Dunn, Domingo Alves, Michelle Ouellette, Marc LeBlanc and Kate Mahoney.

Also present: Barbara & Lucius B. Evans, 355 Delano Road; Shirley Muther, 371A Delano Road; Audrey Cross, 353 Delano Road; Sara Johnson, 120 Marion Road, Rochester; David W. Briggs, 375 Delano Road; Gertrude Heineken, 375 Delano Road; John A. Nardullo 52 Pilgrim Ave., Wareham; Susan & Richard Bonnar, 56 Hathaway Pond Circle, Rochester; Nelson Wicas, 15 Bass Point Road; Scott Shippey, 2 Spring Street; John Quirk, 66 Spring Street; Dale Allison, 371 Delano Road; Rick Charon, 323 Neck Road, Rochester

Upon arrival the Board was presented with the following information for the evenings Business:

- Agenda
- Materials for case #711, which include:
 - Legal Notice
 - Application form
 - Memo from Board of Health
 - Memo from Conservation Commission
 - Letter from abutters Dossot & Curti
 - Field Card
 - Architectural drawings by Sara C. Johnston
 - Site Plans by Charon Associates, Inc.

- 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
 - Copy of email received September 10, 2015 requesting a continuance to January 2016
- Letter from Bay Watch Realty Trust – Request for Final Release of Letter of Credit/Village Drive
- Minutes from September 10, 2015 to approve

At 7:30pm, Mr. Pierce opened the hearing of case #711. He read aloud the Legal Advertisement and memos from the Board of Health and Conservation Commission. The Board of Health had no objections to the application. The Conservation Commission approved the project at the September 9, 2015 meeting. Mr. Pierce also read aloud a letter in support of the project from abutters Dossot & Curti.

Rick Charon of Charon Associates, Inc. was there to represent Ms. Allison. He described the existing structure. It is a legal preexisting nonconforming lot. Existing house is at the southwest corner of the property. The existing setbacks are 5.4' from the south property line and 10.2' from the rear property line. The existing flood zone is AE zone, 16 feet elevation. He noted on the plan where they have shown this elevation line. He mentioned that they did receive approval from the Conservation Commission.

Mr. Charon gave the board copies of photographs and information on neighboring properties. The existing house will be removed and the new house will be larger but on the same site. The new house is bigger than the existing house. It will be expanded to the street and slightly into the flood zone. They are able to apply with F.E.M.A. for a Letter of Map Revision based on fill (LOMR-F). He described the process of that application. If that is approved it would remove that portion of the house out of the flood zone designation. Mr. Charon said that they did receive a Determination of Applicability from the Conservation Commission for based upon approval from the Zoning Board of Appeals and the issuance of the LOMR-F.

Mr. Charon said that the special permit is needed for the reconstruction of the existing nonconforming single family residence and replacing it with a newer house which is not substantially more detrimental than the existing structure to the neighborhood. The proposed house has a bigger footprint but there is a lot of decking. It will have approximately 1,200 sq. ft. footprint with over 500 sq. ft. of that being the decking. The driveway extends around the side of the house to the two car garage at the rear. The new setbacks would be 7' instead of the existing 5.4' and 11' instead of the 10.2'.

Mr. Charon said that it is currently a one floor house/cottage that was built in the 1930's. Many of the homes in the neighborhood have been upgraded over the years. He said the proposed house has a full second story as do many of the homes in the neighborhood.

Ms. Mahoney asked for clarification on the square footage of the dwelling. Mr. Charon said that

the 1,200 sq. ft. would be for the first floor so all together with the garage the square footage is approximately 3,000 sq. ft. Mr. Pierce asked about the height of the building. The maximum height is 28'. Mr. Leblanc asked about how much fill will be brought in. Mr. Charon said approximately 2', about 150 yards that would be needed and that the fill is just for that corner of the house.

Lucius Evans of 355 Delano Road addressed the board. He voiced concerns that he had regarding the size of the house and the effect it would have on his property. He also voiced his concern about water and moisture. He said he would like to see the house there but further into the lot. Mr. Evans said he liked the design of the proposed house. Ms. Mahoney asked if all of the decks were covered. Sara Johnson, the designer, explained that the front porch is covered but otherwise it is open.

Nelson Wicas of 15 Bass Point Road stated his support for the project. Ms. Allison read aloud a letter of support from Tom Dexter, 366 Delano Road. She submitted that letter as well as a letter of support from Nelson Wicas to the board for the file.

Ms. Mahoney asked for clarification of the size the proposed house. Mr. Charon said that the new house would be similar in size to houses that are currently in the neighborhood.

There were no further questions from the board or the audience. Mr. Alves moved to take case #711 under advisement; Mrs. Dunn seconded; voted unanimously.

Mr. Pierce started the conversation regarding Case #664, the continuance of Tabor Academy. Since the last meeting, he has spoken to both the Town Administrator and Town Counsel regarding the matter. Head of School at Tabor Academy, John Quirk called Mr. Pierce after reading of the previous meeting in The Wanderer. Mr. Quirk was present. He apologized for not appearing at the previous hearing. He was not aware that Tabor Academy was to be there. Mr. Quick said that he would like to see the issue of the backstop resolved in a way that is acceptable and to get it remediated quickly. He requested a further continuance so he may have more time to understand what options may be. Mr. Quick asked the board how they would like to see the matter resolved. Mr. Pierce said he would like to see it resolved for the betterment of both parties and without the diminution of the bylaws.

Mr. Pierce motioned to continue the hearing of Case #664 to Thursday, December 10, 2015; Mrs. Dunn seconded; voted unanimously.

Minutes from September 10, 2015 were approved.

The board voted to release the Letter of Credit that was requested by Bay Watch Realty Trust for the project at Village Drive which is 100% complete.

With no other business before the Board the meeting was adjourned at 8:12 pm

Approved: October 8, 2015

Submitted by: Eric Pierce, Chairman

RECEIVED
TOWN CLERK OF MARION, MA
OCT 14 8:41 AM 2015