



TOWN OF MARION
ZONING BOARD OF APPEALS
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MINUTES OF MEETING January 14, 2016

The Marion Zoning Board of Appeals convened at 7:30 p.m. on Thursday, January 14, 2016 in the main conference room of the Marion Town House to hear case numbers:

- Case #715, that of 20 OIT Realty Trust, c/o Jacqueline Gaffey, 20 Old Indian Trail, for a special permit under sections 6.1.3, 6.1.5 and 7.2 to allow razing of one dwelling and the construction of a single family residence (2 bedroom), with a height of 28', keeping the existing footprint as it relates to the property line. The property is further identified on Assessors' Plan 26, Lot 27.
- Case #716, that of Jeffrey Barrett, 16 River Road, for a special permit under sections 6.1.3 and 6.1.5 to allow the demolition and reconstruction of an existing non-conforming single family dwelling, which will decrease the current con-conformity but increase the building area and volume, as allowed under section 7 – Uses by Special Permit . The property is further identified on Assessors' Plan 9 as Lot 35.
- Case # 717, that of Tabor Academy, Front Street, for a variance for the placement of the Backstop currently located on the baseball field at Tabor Academy.

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

Also present: Jack Beck, 17 River Road; Pat & Tom DeCosta, 9 Parlowtown Road; Dana Nilson, 116 Converse Road; Lysa Riccardi, 15 Parlowtown Road; Joanne Singleton, 5 Parlowtown Road; Linda Dessert, 657 Mill Street; Ben Baptiste, 50 Old Indian Trail; John Quirk, Tabor Academy; Chris Winslow, Tabor Academy; Pete Smith, Front Street; Shirley Reynolds.

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

- Agenda
- Materials for case #715, which include:
 - Legal Notice
 - Memo from Board of Health
 - Memo from Conservation Commission

- Memo from Planning Board
 - Application
 - Field Card
 - Copy of plans prepared by GAF Engineering, Inc.
 - Locus Map
- Materials for Case # 716, which include:
 - Legal Notice
 - Memo from Board of Health
 - Field Card
 - Application
 - Plans prepared by N. Douglas Schneider & Associates, Inc.
 - Locus Map
 - Materials for Case # 717, which include:
 - Legal Notice
 - Memo from Board of Health
 - Field Card
 - Application including letter from Head of School, John H. Quirk
 - Locus Map
 - Minutes from October 8, 2015 and December 10, 2015 to approve

At 7:30pm, Mr. Pierce opened the hearing of case #715 with the reading of the legal advertisement. He also read aloud a memo from the Board of Health, no comments; memo from the Conservation Commission, not within their jurisdiction; memo from the Planning Board, they indicated the application information was not consistent with the plan. Mr. Pierce indicated that in the file there is a lengthy letter that was submitted by the DeCostas. He did not read it into the minutes but did say the information will be taken into consideration.

Dana Nilson of Southeastern Development was present to represent the homeowner. He described the project. They are planning on tearing down the existing single family home. A slight change from the plan that was submitted with the application, they are planning on going with a slightly smaller footprint. The existing footprint is 1,053.22 square feet including the deck and entry way. That represents 16.85% coverage of the lot. They have reduced the square footage to 747 square feet, which represents 12% lot coverage. Mr. Nilson noted that the home was condemned by the Building Inspector back in 2008. The Gaffey's upgraded the septic system in 2011-2012. They were going to renovate but the condition of the home made the cost unreasonable and they have decided to replace the structure instead.

Mrs. Dunn asked if the house will be elevated or if there will be fill. Mr. Nilson said the existing height of the house is 18'. The new house will not be on stilts. He also said that they are planning on matching the grade of the fill from the new septic system.

Mr. Pierce asked about the neighboring buildings. Mr. Nilson said that the majority of the homes in the neighborhood are two stories. He said they are proposing to raise the house approximately a foot. It will not be at the height of the Gaffey's current house at 647 Mill Street, which is directly in front of this house. Mr. Nilson noted the high groundwater table in this area. Mr. Leblanc asked how high above ground the new septic system is. Mr. Nilson said that is

approximately 18" to 2' above the old grade that was there. He said they would be meeting the grade immediately around the house, not the entire lot. Mr. Nilson said that they are going with a crawlspace and not a basement because of the high groundwater.

The plans that were submitted with the application were not stamped and signed by an engineer. Mrs. Dunn said that the board will need to have stamped and signed plans.

Mr. Nilson confirmed that the proposed height will be 28'. He said they are not increasing the number of bedrooms. The primary use of the house will be for the Gaffey's family members.

Patricia DeCosta, 9 Parlowtown Road, an immediate abutter of the property had submitted a letter to the board which is part of the file. She was present to voice her concerns. Mrs. DeCosta said that her concerns are regarding the water runoff from the property and the house at 647 Mill Street as well as the amount of fill that was brought in for the septic system at 20 Old Indian Trail. Mrs. DeCosta indicated that due to the water running off the Gaffey's properties she now has standing water in her backyard that was not there before the construction of the house and this septic system. She asked if more fill was going to be brought in for this project. She felt that if more is brought in that the surrounding properties will be flooded more than they are now. Mrs. DeCosta said that she does not have an issue with the house itself but she felt that any added fill would be a detriment to the neighborhood. Mr. Nilson said they are not importing any material for the project. They will use what is there. When they dig the new crawlspace they will spread that around the new foundation. Tom DeCosta, 9 Parlowtown Road, reiterated the concern about adding the fill around the foundation to elevate it and the concern of water runoff on to neighboring properties.

Joanne Singleton, 5 Parlowtown Road, noted that the back of her property is all water due to the runoff from the septic system that was installed. Mrs. Singleton said that they did not have that problem before that raised septic system was installed. She said they were assured at the time that the system was installed that water would be contained on the property. She said that has not happened. Lysa Riccardi, 15 Parlowtown Road, said that she has a vernal pool on her property and that the water runoff into the pool is not allowed. Ben Baptiste, direct abutter at 50 Old Indian Trail, said he also does not have an issue with the house. However, he reiterated the concern of the neighbors about the raising of the elevation. He said that he recently had to install a drainage system in his basement in order to handle the added water. Mr. Nilson said that the basement water is due to the ground water and not the surface water. Mr. Baptiste disagreed.

Mr. Pierce suggested continuing the hearing in order to give time for engineering to address the concerns that have been presented to be completed. Mr. Nilson agreed. Ms. Ouellette motioned to continue case #715 to March 10, 2016 at 7:30pm; Mr. Alves seconded; voted unanimously.

At 8:00pm, Mr. Pierce opened the hearing of case #716 with the reading of the legal advertisement. He also read aloud memos from the Marion Board of Health- no comment; Conservation Commission- not within their jurisdiction; Planning Board- recommended the Zoning Board look at neighboring properties in the area.

Dave Davignon of Schneider & Associates, Inc, was present to represent homeowner, Jeffrey Barrett who was also present. He described the original structure which has since been removed. The dwelling has town water and the new house will have a new septic system which was

approved by the Board of Health on January 12, 2016. The original dwelling had three bedrooms and the new will have four.

Mr. Davignon described the setbacks. The rear setback is 30.6 feet. That is the bulkhead which will be reused. The front setback is non-conforming to the front porch, currently at 26.5' from the sideline, required is 35'. He referred to the photographs that showed the concrete stairs which will be removed and replaced with wooden stairs. The original structure had large overhangs around the perimeter of the house. The new design does not include these overhangs. Mr. Davignon said that by using the same footprint and removing the overhangs they are reducing the non-conformity. He said the existing setback to the north is 7.5' and the new setback would be 10.2'. The existing setback for the south side is 6.9' which will be slightly increased to 7.6' due to a bumpout for a gas fireplace.

Mr. Davignon said described the slider doors that will open to a rooftop deck on top of the newly built garage. He noted that there had not been a patio on the property before. The garage would be one story. He said that the building coverage is nearly identical. The original structure was 1,829 square feet and the new dwelling will be 1,831 square feet. Lot coverage will increase from 22.9% to 23.6%. He noted that the living space square footage will go from 1,334 to 2,492. The height of the new dwelling will be 25' from roof top to existing grade. They compared six other homes in the area that are consistent with this project.

Mr. Pierce asked if the new septic system will change the contour of the yard. Mr. Davignon said it will not and that they have excellent soil conditions.

Jack Beck, 17 River Road, expressed his support of the project and said that it would be a fantastic improvement to neighborhood and that he is very much in favor.

Mrs. Dunn motioned to take case # 716 under advisement; Mr. Leblanc seconded; voted unanimously.

At 8:15pm. Mr. Pierce opened the hearing of case #717 with the reading of the legal advertisement. He also read aloud memos from the Marion Board of Health- does not object to the approval of the application; Conservation Commission- commented that if any digging, etc. or the removal of the backstop occur, Tabor Academy will need to file with the Commission.

John Quirk, Headmaster of Tabor Academy and Chris Winslow, CFO of Tabor Academy were both present.

Mr. Quirk addressed the Board and expressed their regrets and apologies that this matter has taken so long to be resolved. He said that they are going to explore safety features of the current backstop. They would also like to make it a safer environment along Front Street.

Mr. Quirk referred to the letter that was submitted with the application with the four points of a variance. He briefly reviewed them with the board. In order to receive a variance there are four criteria that must be met: topography, hardship, without substantial detriment to the public good and will not nullify or detract from the town's by-laws.

There was a discussion regarding potential changes to the current backstop including a possible extension to help protect balls from flying onto the street. Mr. Quirk said that they haven't

contacted engineers for plans as of yet. The board agreed that seeing plans would be ideal. Mr. Quirk mentioned that there is temporary netting that they use along Front Street during games for the baseball season. Mr. Pierce said that he believes the running of the netting during the season shows good faith on Tabor Academy's part.

Resident Pete Smith of Front Street said that his vehicles have been hit by balls on three different occasions. He was unsure as to what type of balls they were since he was unable to find them. At least one ball caused a dent in the roof. Resident Shirley Reynolds said that a baseball hit her vehicle. The last incident happened in October 2015. Mr. Quirk apologized to Mr. Smith and Ms. Reynolds and noted that the temporary netting is not usually in place in the fall since that field is used primarily for soccer.

Mr. Pierce recommended that the hearing be continued to allow Tabor Academy to prepare engineered plans for the proposed changes to the backstop. Mr. Quirk and Mr. Winslow agreed.

Mr. Alves motioned to continue case # 717 to February 11, 2016 at 7:30pm; Mrs. Dunn seconded; voted unanimously.

The board and Building Commissioner Scott Shippey discussed the background of the Tabor Academy backstop. Mr. Shippey commented that his main concern is with the safety of the backstop and the public. Board members agreed that public safety is a concern.

Minutes from October 8, 2015 and December 10, 2015 were both approved.

With no other business before the Board the meeting was adjourned at 8:50pm.

Approved: February 11, 2016

Submitted by: Eric Pierce, Chairman

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