

Marlborough, MA  
Zoning Board of Appeals  
Minutes  
August 24, 2016

**Members Present:** Paul Giunta-Chairman, Theodore Scott, Thomas Golden and Ralph Loftin

**Petition:** The applicant is proposing to construct an attached 2 car garage (22 ft. x 26 ft.) with a 6.6 ft. breezeway. The proposed garage (corner) is some 2.0 ft. from the corner of the existing house. The proposed garage will be 15 ft. from the front lot line vs. the 20 ft. minimum required. The proposed side lot line setback will be 7 ft. at its' closest point. (built prior to 1969) The applicant is seeking a variance in accordance to Mass General Law Chapter 40A §10.

The property in question is located in Zoning District A-3, being Map 6, Parcel 95 of the Assessor's Maps. The existing street line of the lot is a 90° angle rather than a radius causing the front lot corner to be located into the lot. The topography is very steep extending from the patio area to the shore of Ft. Meadow Reservoir. The lot contains some 14,885 ± sq. ft. It appears that a majority of the abutting lots in the neighborhood are smaller in area. 185 Cullinane is one of the largest lots in the area with #181 Cullinane containing some 17,000 ± sq. ft. All other lots in the area contain 5,000 ± sq. ft.

**Submittals:**

- The applicant submitted a plan entitled: Certified Plot Plan in Marlborough, MA 185 Cullinane Dr. Prepared by Savello & Associates, 32 Pearl St. Marlborough, MA dated: April 19, 2016 (Rev. June 10, 2016) – in Board's file.
- A statement letter from the applicant, dated July 26, 2016 (in Board's file) which was read by the applicant.
- The applicant submitted to the Board for their file a few photos of lots in the area being built with structures that do not conform to current setbacks. (photos in Board's file)

Present this evening was the applicant Shawn McCarthy and his wife, their representative – Karen Keegan of Guarantee Builders. Also in the audience was Virginia Daluise owner of 181 Cullinane Dr.

**Site specifics:**

- On the lot is a shed at the rear of the property.
- At the side of the house where the proposed garage will be constructed, is a side egress and a bulk head.
- At the rear of the lot is Ft. Meadow Reservoir.
- This is a pre-existing non-conforming lot.
- Most of the lots in this area are pre-existing non-conforming. (Built prior to 1969)

- The shape of the lot is pie shape, flaring outward and slopes to the rear down to Ft. Meadow Reservoir. Similar lots located on this side of Cullinane Dr. slopes down to Ft. Meadow Reservoir.
- The front lot line is joined to create a 90° angle.
- The existing house is 18.8 ft. to the front lot line.
- The other side of the house has a considerable slope with less area to construct

The stated **hardship** by the applicant are as follows:

- The topography of the lot – having a steep drop at the rear of the lot, leaves less level land to construct any structure.
- The 90° angle as the front lot line, adds to the difficulty of positioning an attached two car garage.
- The location of the existing side egress and the bulk head further adds to their limited options for this garage.
- To locate this proposed 2 car garage in another location on the lot would impede his and his neighbors' view of the lake.
- Environmentally, he felt it would be better to located his proposed two car garage further away from Ft. Meadow Reservoir, thus creating less of an impact to the lake.
- He could remove the existing shed at the back, and move the proposed garage toward that location, but the back wall of the garage may have to be 10 ft. tall due to the slope of the lot.
- Cannot remove the bulk head because of the cellar configuration. The cellar is only under the middle third of the house
- To move the proposed garage closer to the side of the house, would result in having to relocate their side egress and bulk head. They would have to reconfigure the kitchen (which will be costly).

Appearing in **favor** of the petition:

- Virginia Daluise – 181 Cullinane Dr. She was in favor of the proposed petition. She commended the applicant for locating the proposed 2 car garage in an area of the lot which will not block the neighbors' view of the lake.

No one appeared in opposition.

The Board determined the following:

- The proposed attached two car garage could be a one car garage, thus not needing a variance for side yard setback.
- It could be a detached garage.
- Eliminate the proposed breezeway and move the side egress and bulkhead, so a variance for side setback is not needed.
- Some Board members felt that the front yard setback was legitimate criteria for a variance.
- Lacking insufficient lot area, being an inconvenience, or being financially feasible to the applicant, does not constitute a hardship.

- The applicant's testimony did not meet the criteria for a variance as quoted in Mass. General Law Chapter 40A §10.

The Board gave the applicant the option to Withdraw Without Prejudice, so he can go back to drawing board to see if he can come up with a better plan. The Board explained to the applicant that there are 4 members present, and in order to receive a variance he must get 4 affirmative votes. If he received a denial, he can't come back to the Board with the same plan for 2 years.

After much discussion and hoping the Board would recognize his good intentions to improve his lot and not to impede his neighbors' view of the lake, the applicant requested to "Withdrawn Without Prejudice".

On a motion by Theodore Scott and seconded by Paul Giunta, and with a vote of 4-0, granted the applicant to Withdraw Without Prejudice.

With no other testimony taken or given, the public hearing was closed.

Respectfully submitted,

  
Susan Brown  
Secretary