

**Millis Zoning Board of Appeals
October 20, 2015
Veterans Memorial Building
Room 130**

BOARD MEMBERS PRESENT:

Chairman Peter Koufopoulos, Member Jeff Butensky, Don Roman, and Joseph Coppola.

CONTINUATION PUBLIC HEARING:

5 - 7 Pleasant Street:

Chairman Koufopoulos called the continued hearing to order at 7:30 p.m.

The Board continued the public hearing for petition filed by Robert Santos, for property located at 5-7 Pleasant Street, Map #23, Parcel 155, C, C-V Zone. The applicant is seeking a finding and 10 ft. front yard variance to rebuild a small commercial building on existing foundation. The applicant presented documentation of the variance sought.

The Board members reviewed the plan and the variance numbers were clarified.

Mr. Roman moved to close the hearing, Mr. Coppolla seconded the motion. So voted the Board unanimously.

On a motion made by Mr. Roman, to grant a finding and variance to rebuild a small commercial building on existing foundation. The variance is for a 10 ft. front yard setback variance, this was seconded by Mr. Coppolla.

PUBLIC HEARING:

99 Farm Street:

Chairman Koufopoulos called the hearing to order at 7:45 p.m.

Member Roman read the petition and supporting information into the record.

The application was filed with the office of the Millis Town Clerk, by the petitioner, Elizabeth Tolley, for property located at 99 Farm Street Millis, Massachusetts, Map#31, Parcel#51, Zoning District R-S, Millis, Massachusetts.

The petitioner is seeking a variance from the requirements of Section VI F to allow for a lot width of 77% of the required lot frontage; (2) Section VI Table 2 – Frontage to allow for 75 feet of frontage; and (3) Section VI table 2 – width to allow for 96.8 feet of lot width to construct a single-family residential dwelling on locus not to exceed 2,000 square feet of net floor area.

Notice of the application was published in the Milford Daily News. A public hearing in accordance with said notice was held on October 20, 2015 at 7:45 p.m. in the Veterans Memorial Building, Room 130. Notice of the hearing was provided to the petitioners, abutters, and

appropriate town boards and officials. Notice of the hearing was posted in the Veterans Memorial Building.

The petitioner Elizabeth Tolley was present along with her Attorney along with abutters in support of the application. There were also abutters present in opposition of this petition along with their lawyer.

The Board members reviewed the plan, documentation presented by the public.

The following was entered into the record:

- Copy of the deed.
- July 6, 21944 original configuration of property in question.
- Copy of abatement for real estate tax.
- Board of Assessors Statement.
- Copy of application for abatement.
- January 1997 soil tests on property and results.
- Plan by Paul May 26, 1973 report.
- 1997 perc test on lot.
- Survey Paul May 26, 1973 configuration of lot today.
- Copy of request for abatement of property tax.
- Additional maps showing area in question and lot.
- Memorandum submitted by James Murphy representing abutters in opposition for variance request.

Attorney Edward Cannon, from Doherty, Ciechanowski, Dugan & Cannon submitted a document for the Board to review. Attorney Cannon is representing Ms. Tolley. Attorney Cannon believes the variance should be granted due to the owning circumstances relating to the topography of the lot. This is a unique lot with the shape being rectangular. The assessor's map of the area shows no other lot in the immediate neighborhood with a similar shape. There map of the area shows 21 single family homes of similar size. The special circumstances regarding the shape are such that no other lot along this area has the front corner carved off. This piece was provided to the Callahan's who reside at 97 Farm Street. The hardship for this petitioner is that if the variance is not granted, she will be left with a large vacant lot, where residential homes in the area have lots of similar size. The Attorney further explained that the proposed use of a single family home on this lot would not reduce any property within this area, but would increase the values. The granting will not harm the public. The Attorney did inform the Board of Appeals that the petitioner did try to acquire additional land from abutters.

Attorney James Murphy. From Law Offices of James W. Murphy provided testimony on behalf of abutter Daniel and Linda Callahan. It is their stance that this does not meet the Millis Zoning Board requirements for either frontage of lot width. Attorney Murphy referenced a case versus Warren and Board of Appeals of Amherst.

Abutters and Residents spoke both in support and opposition:

Resident/Abutter Testimony:

Resident at 20 Cedar St. indicated that his property fits the same criteria as the Callahan land. The town has identified it as a buildable property for decades and has taxed the land at that rate. The building inspector did his due diligence and granted a permit on parcel. He requests that the building permit be reissued so this small house can be built.

The Attorney Cannon indicated and showed Chelsey Way which has 77.5 feet of frontage, 13 Cedar Way has 75 ft.

Resident Wayne Carlson indicated he is in support of variance since that she did not create non-conformity.

Resident, Daniel Callahan read a letter which was signed by abutters in opposition.

Resident, 12 Cedar Street indicated that the land has been in family forever and supports variance since it would not be detrimental to area.

Resident Cortelli, read a letter written from her parents in opposition.

Mr. Johnson is in support of variance. The petitioner went to the Board of Selectmen who were in support of Ms.Tolley hooking into sewer.

Mr. Roman moved to close the hearing. Mr. Coppola seconded the motion. So voted the Board unanimously.

Mr. Roman moved to grant a variance for Elizabeth Tolley, for property located at 99 Farm Street Millis, Massachusetts, Map#31, Parcel#51, Zoning District R-S, Millis, Massachusetts; Mr. Butensky seconded the motion. So voted the Board unanimously.

The requirements for the granting of a Variance, as outlined in M.G.L. c. 40 A, Subsection 10, are:

(a)Owing to circumstances relating to the soil conditions, shape, or topography of such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of provisions of the By-Law would involve substantial hardship, financial or otherwise, to the petitioner, and

(b) Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantial derogating from the intent or purpose of such By-law.

The Millis Zoning Board of Appeals finds:

1. The shape of this land is unique since no other lot in the immediate neighborhood has a similar shape.
2. The petitioner has acquired additional land to lessen the lot non-conformity and meet the zoning lot area requirements
3. The surrounding area has occupied residential lots with similar lot non-conformities.

Therefore, the Millis Zoning Board of Appeal votes unanimously to grant a variance for a lot width of 77% of the required lot frontage; (2) Section VI Table 2 – Frontage to allow for 75 feet of frontage; and (3) Section VI table 2 – width to allow for 96.8 feet of lot width to construct a single-family residential dwelling on locus not to exceed 2,000 square feet of net floor area for property located at 99 Farm Street Millis, Massachusetts, Map#31, Parcel#51, Zoning District R-S, Millis, Massachusetts. The lot configuration and placement, size, and orientation of the dwelling to be substantially as shown in the drawing submitted to the board by the Carlson Survey Company, titled Request for Consideration as Single Family Home, dated August 30, 2015.

PUBLIC HEARING:

160 Village Street:

The Chairman opened the hearing for 160 Village Street at 8:00 pm.

By application filed with the office of the Millis Town Clerk for the petitioner, Michael J. Kelly, for property located at 160 Village Street Millis, Massachusetts, Map #36, Parcel#085, Zoning District R-S, Millis, Massachusetts.

The petitioner is seeking a finding under Section IX that the use of the operation of a landscaping company and the storage of landscaping vehicles on the property shall not be substantially more detrimental to the existing nonconforming use to the neighborhood.

Notice of the application was published in the Milford Daily News.

A public hearing in accordance with said notice was held on October 20, 2015 at 8:00 p.m. in the Veterans Memorial Building, Room 130. Notice of the hearing was provided to the petitioners, abutters, and appropriate town boards and officials. Notice of the hearing was posted in the Veterans Memorial Building.

Member Roman read the petition and supporting information into the record.

The petitioner was present along with Attorney Kenney. Attorney Kenney indicated that property has been used as for commercial trucking since 1939. A special permit was granted and this went to court and the judge ruled in favor of the board. This current business is not more detrimental to the area. The petitioner did talk with neighbors and did not have opposition. One of the abutters was present to show support.

The Board members reviewed the plan.

The Board also noted that no correspondence had been received regarding the application.

Mr. Roman moved to close the hearing. Mr. Coppola seconded the motion. So voted the Board unanimously.

Mr. Roman moved to grant a finding for Michael J. Kelly, for property located at 160 Village Street Millis, Massachusetts, Map#36, Parcel#085, Zoning District R-S, Millis, Massachusetts, Mr. Coppola seconded the motion. So voted the Board unanimously.

The requirements for the granting of a finding, as outlined in M.G.L. c. 40 A, Subsection 6 are (a) Pre-existing non-conforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority designated by ordinance or by-law, and (b) That such change or alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

The Millis Zoning Board of Appeals finds:

1. The current use is a truck garage and repair shop and is currently pre-existing and non-conforming. (Referenced decision from April 7, 1988)
2. The request is not unreasonable and would be of benefit to the general community.
3. The proposed change and alteration will not be substantially more detrimental to neighborhood.

The following conditions:

- No storage of hazardous materials.
- Landscaping supplies (mulch) will be stored behind the building.
- No retail sales from the location.
- Business conducted during normal hours Monday through Saturday 7:00 am – 4:00 pm.
- Equipment and trailers/trucks will be stored inside building.

Therefore, the Millis Zoning Board of Appeal votes unanimously finding under Section IX that the use of the operation of a landscaping company and the storage of landscaping vehicles on the property shall not be substantially more detrimental to the existing nonconforming use to the neighborhood for property located at 160 Village Street Millis, Massachusetts.

Reorganization:

Chairman:

On a motion made by Peter Koufopoulos, and seconded by Jeff Butensky, the Board voted unanimously to appoint Don Roman as Chairman of the Zoning Board of Appeals.

Vice Chairman:

On a motion made by Don Roman, and seconded by Jeff Butensky, the Board voted unanimously to appoint Peter Koufopoulos as the Vice Chairman of the Zoning Board of Appeals.

Clerk:

On a motion made by Peter Koufopoulos, and seconded by Don Roman, the Board voted unanimously to appoint Jeff Butensky as Clerk of the Zoning Board of Appeals.

Minutes:

On a motion made by Joe Coppolla and seconded by Don Roman, the Millis Zoning Board of Appeals voted unanimously for accept the minutes from September 22, 2015.

ADJOURN:

On a motion made by Don Roman and seconded by Jeff Butensky, the Millis Zoning Board of Appeals voted unanimously to adjourn their meeting.

The meeting adjourned at 8:30 pm.

Respectfully Submitted,

Amy Sutherland

Secretary

Approved November 17, 2015