

**Millis Zoning Board of Appeals
March 15, 2016
Veterans Memorial Building
Room 130**

BOARD MEMBERS PRESENT:

Chairman Don Roman, Peter Koufopoulos, and Jeff Butensky.

40 B Public Hearings:

Chairman Roman opened the hearing at 7:30 pm.

The Board is in receipt of a letter from the applicant dated March 10, 2016 regarding the request for a continuation.

Some question about adverse possession claim. This is in the courts hands.

Continuation:

On a motion made by Jeff Butensky and seconded by Peter Koufopoulos, the Board voted unanimously to continue the hearing for Kensington Place for May 17, 2016 at 7:30 pm.

63 Dover Rd.:

The resident was present information seeking. This property is zoned as RS for a two family. This is a family home and she wants it marketed for the highest and best use. It has been rented. It is a historic home.

The ZBA responded that it will be important to determine if they can calculate back that this was used as a multi-family. The ZBA came into effect in 1975. It was suggested that the resident speak with the building department. One of the family members still resides there a couple nights a week. It was also indicated that if the ZBA had documentation that it was used as a two family prior to 1975, then a finding can be made.

99 Farm Street REMAND:

The Chairman opened the meeting at 7:30 pm. for the remand for 99 Farm Street.

By application filed with the office of the Millis Town Clerk, 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 Section VI. F. to allow for a lot width of 77% of required lot frontage, and Section VI. Table 2 to allow for 75 feet of frontage, and Section VI. Table 2 to allow for 96.78 feet of lot width, to construct a single family dwelling not to exceed 2,000 sq. ft. of net floor area.

Plaintiffs Linda and Daniel Callahan, who reside at 97 Farm Street, appealed from the variance granted by the Zoning Board of Appeals for 99 Farm Street, and filed with the Town Clerk on

October 26, 2015, in litigation known as Linda Callahan, et al. v. Peter Koufopoulos, et al., Land Court Civil Action No. 15 MISC 000473-GHP.

The litigation was remanded to the Zoning Board of Appeals pursuant to a Remand Order dated February 9, 2016.

Notice of the remand hearing was published in the Milford Daily News. A remand public hearing in accordance with said notice was held on Tuesday, March 15, 2016, in the Veterans Memorial Building, 900 Main Street, Millis, Room 130, at which no substantive testimony was taken. 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 Butensky read the notice into the record.

Present were: Chairman, Donald Roman, Members, Peter Koufopoulos, and Jeff Butensky.

Audience Members Present were:

Daniel Callahan, 97 Farm Street

Linda Callahan, 97 Farm Street

Elena Costa, 12 Cedar Street

Elizabeth Tolley, 19 Cedar Street

Michele Tatabach, 98 Farm Street

Jim Tatabach, 98 Farm Street

Attorney James Murphy, PO 1327 Sherborn

Charles Costa, 12 Cedar Street

The Chairman announced that the plaintiffs were recording the audio portion of the proceedings.

The petition is granted for a variance, pursuant to G.L. c.40A, §10, and Section XII.R. of the Millis Zoning By-Law, from Section VI. F. to allow for a lot width of 77% of required lot frontage, and Section VI. Table 2 to allow for 75 feet of frontage, and Section VI. Table 2 to allow for 96.78 feet of lot width, to construct a single family dwelling not to exceed 2,000 sq. ft. 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.

The Zoning Board of Appeals specifically finds that:

1. The petitioner applied for a variance from Section VI. F. to allow for a lot width of 77% of required lot frontage, and Section VI. Table 2 to allow for 75 feet of frontage, and Section VI. Table 2 to allow for 96.78 feet of lot width, to construct a single family dwelling not to exceed 2,000 sq. ft. of net floor area.
2. The Property is located at 99 Farm Street, Millis, MA.
3. The Property is shown on assessor's Map #31, Parcel #51.

4. The petitioner will also acquire a small parcel from the owner of Map #31, Parcel #26, which will become part of the Property.
5. The Property is located in the R-S Zoning District.
6. Pursuant to Section VI.F., lot width shall measure a minimum of 80 percent of the required lot frontage line.
7. Pursuant to Section VI. Table 2, the following dimensional requirements apply to the R-S Zoning District: minimum area of 25,000 square feet; minimum lot frontage of 125 feet; minimum lot depth of 200 feet; front yard setback of 40 feet; side yard setback of 20 feet; and rear yard setback of 40 feet. A lot width of 100 feet is required because 80% of the required frontage of 125 feet, equals 100 feet.
8. Pursuant to Section VI. Table 3, the following dimensional requirements apply to the R-S Zoning District: maximum permitted height of 35 feet; maximum permitted height (stories) of 2 ½; and maximum building coverage of lot is 25%
9. The existing area of the Property is 22,324 feet, and the area of the small parcel that will be added to the Property is 2,800 feet.
10. The Property (consisting of the lot located at Map #31, Parcel #51 and the second small parcel that will be added to it) will have a total lot area of approximately 25,124 square feet.
11. The Property has 75 feet of frontage.
12. The Property has 96.8 feet of lot width.
13. The Property consists of vacant land.
14. The petitioner is proposing to construct a single family dwelling not to exceed 2,000 sq. ft. of net floor area.
15. The proposed project conforms with the Zoning By-Law with the exception of lot width and lot frontage.
16. 100 feet of lot width is required, and the Property has 96.8 feet of lot width.
17. 125 feet of frontage is required, and the Property has 75 feet of frontage.
18. The Property is irregularly shaped as it appears it is missing one front corner, and the width at the front of the Property is less than the required frontage and more narrow than the rear of the Property.
19. No other property in the vicinity has a front corner carved off.
20. The front corner was conveyed to the plaintiffs in the pending litigation by a prior owner in 1944 to be added to their property at 97 Farm Street.
21. The Property is smaller than other properties located in its vicinity on Farm Street, Cedar Street and Pearl Street, and even with the second small parcel that will be added to it, it will be smaller than other properties located in its vicinity.
22. The petitioner acquired the Property in 1973.
23. From 1973 to 1999 the Property was assessed as a buildable lot, and the petitioner was denied tax abatement applications on that basis.
24. In 1999 a soil test determined that a septic system could not be constructed on the Property, and the Board of Assessors granted a tax abatement on that basis.
25. A sewer line has now been installed on Farm Street.
26. The ZBA finds that there are conditions and circumstances relating to soil conditions, shape and topography of the Property especially affecting the Property, for which the variance is sought, but not affecting the neighboring lands in the R-S Zoning District, and not affecting generally the R-S Zoning District. Specifically,

the ZBA finds based on the evidence presented that the Property has the following distinguishing characteristics: an irregular shape without the front corner; a smaller size compared to other properties in the vicinity.

27. The ZBA finds that the unique conditions and circumstances are not the result of actions of the petitioner taken subsequent to the adoptions of the Zoning By-Law. The dimensions of the Property have not changed since the petitioner acquired the property in 1973, prior to the adoption of the Millis Zoning By-Law.
28. The ZBA finds that a literal enforcement of the provisions of the Zoning By-Law would involve substantial hardship, financial or otherwise, to the petitioners. Specifically the ZBA finds based on the evidence presented that in the absence of a variance, the Property cannot be used for the construction of a single family dwelling and the value of the property is greatly diminished.
29. The ZBA finds that the relief will be desirable and without substantial detriment to the public good. Specifically, the ZBA finds based on the evidence presented that the relief will not be detrimental to the public good since the construction of a single family dwelling will not exceed 2,000 square feet and will be consistent in character with other residences in the area.
30. The ZBA finds that the relief sought may be given without nullifying or substantially derogating from the intent or purposes of the Zoning By-Law. The ZBA finds based on the evidence presented that the proposed lot width variance and proposed frontage variance are relatively minor, and, in other respects, the proposed single family residence complies with the Zoning By-Law.

Acting upon a motion by Jeff Butensky and seconded by Peter Koufopoulos, the Board voted unanimously to approve the findings.

Acting upon a motion by Jeff Butensky and seconded by Peter Koufopoulos, the Board voted unanimously to close the public hearing.

On a motion made by Don Roman and seconded by Peter Koufopoulos, the Board voted to close the hearing.

54 PLAIN STREET:

The Chairman opened the hearing for 54 Plain Street.

By application filed with the office of the Millis Town Clerk, the petitioner, Katrina Ronan, for property located at 54 Plain Street, Map# 54, Parcel #47, C-V Zone.

The petitioner is seeking a finding under Section IX that the usage of a second floor medical office will not be more detrimental to the neighborhood.

A public hearing in accordance with said notice was held on March 15, 2016, Memorial Building, Room 130.

Notice of the application was published in the Milford Daily News on March 1st and 8th, 2016. 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. 2016.

Chairman Roman called the hearing to order at 8:00 pm.

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

The petitioner was present and explained the proposed use. The second floor of a separate building on the site has been previously used as a medical office but was discontinued. The petitioner has a new tenant who wishes to operate a chiropractic office in the same space. A professional office is permitted in the C-V zone. There will be no alterations or major changes to the existing office space. The availability of on-site parking was more than adequate for both the previous medical office and the ongoing flower/gift shop business.

Mr. Butensky moved to close the hearing. Mr. Koufopoulos seconded the motion. So voted the Board unanimously.

Mr. Butensky moved to grant a finding Section IX that the usage of a second floor medical office will not be more detrimental to the neighborhood, Mr. Koufopoulos seconded the motion. So voted the Board unanimously.

The requirements for the granting of a 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 request is not unreasonable and would be benefit to the general community.
2. This will not be substantially more detrimental to neighborhood.

Therefore, the Millis Zoning Board of Appeal votes unanimously finding under Section IX that the usage of a second floor medical office will not be more detrimental to the neighborhood.

Minutes:

January 27, 2016:

Mr. George Sgourakes wanted the Board to accept his revisions to the minutes. A copy of this was provided to the Board.

The Board reviewed the minutes.

Mr. Sgourakes wants the date of the plan to be changed to reference the date the building inspector added highlighted lines on the drawing plan referencing his interpretation of frontage.

Mr. Sgourakes wanted two corrections on page four of the minutes regarding the building inspector being able to make the interpretation of the bylaw. Mr. Sgourakes believes that the building inspector is not able to make this determination based on his certification.

The Board agreed that the minutes were an accurate representation of the meeting.

As the Board began to approve the minutes, Mr. Sgourakes objected.

The Chairman asked Mr. Sgourakes if he was going to keep interrupting the meeting, then he will need to leave.

Mr. Sgourakes was angry and left the meeting.

On a motion made by Mr. Butensky, and seconded by Mr. Koufopoulos, the Board voted to accept the minutes from January 27, 2016.

The meeting adjourned at 8:30 pm.

Respectfully Submitted,

Amy Sutherland
Secretary
Approved May 17, 2016