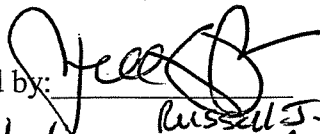




TOWN OF SUTTON ZONING BOARD OF APPEALS
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ZONING BOARD OF APPEALS
MEETING MINUTES

July 9, 2008

Approved by: 
Date: 9/4/08 *Russell J. Sylvia*
ACTING CHAIRMAN

Board Members Present: Arthur Keown, Chairman; Richard Deschenes, Clerk; Jeffrey Fenuccio;

Gerald Page

Staff: Lynn Dahlin

Others in attendance: Mark Allen (Allen Engineering); William Fox, Marsha (White) Fox, Atty. Todd Brodeur (Fletcher, Tilton & Whipple), Terry Brennan, Charles Lidz, Lynn Lidz

7:30pm

Public hearing to consider the petition of Lynn and Charles Lidz, 97 Singletary Ave. for rear setback relief to permit the construction of a greenhouse on property located at 97 Singletary Ave.

A. Keown read the hearing notice as it appeared in the Millbury-Sutton Chronicle. Applicant was not present.

All present in favor or opposed: None.

A phone call was made to the applicant to verify knowledge of date and time.

R. Deschenes made a motion to continue the hearing. J. Fenuccio seconded and the vote was unanimous.

7:45pm

Public hearing continuance in order to consider the petition of Michael and Judith Dunne, for a Section Six finding in order to construct a SFH on an existing nonconforming lot. The property is located at 66 Wilderness Drive: Continuation

R. Deschenes made a motion to reconvene the hearing, J. Fenuccio seconded and the vote was unanimous.

Mark Allen noted that the hearing had been continued in order to do a site walk and asked the board if they had any questions regarding the project details.

R. Deschenes questions the arrangements regarding the driveway and who had rights and Mark Allen stated that it was a shared driveway and 4-5 parcels had access to it. It was stated that the log cabin to the right of the parcel had a separate easement to cross the property.

R. Deschenes made a motion to close the hearing, J. Fenuccio seconded and the vote was unanimous.

7:50pm

Public hearing to consider the petition of Freedom Fire Protection, Inc. , for lot frontage and width variances. The property is located at 53 Gilmore Drive: Continuation

J. Fenuccio motioned to reconvene the hearing, R. Deschenes seconded and the vote was unanimous.

A.Keown read into the record a letter dated July 9, 2008 from William Blais of Andrews Engineering on behalf the applicant. The letter requested that the petition in front of the board be withdrawn without prejudice.

J. Fenuccio made a motion to accept the request for the withdrawal without prejudice, R. Deschenes seconded and the vote was unanimous.

8:00pm

Public hearing to consider the petition of William W. Fox Jr. for front and side setback relief and a variance from the maximum lot coverage requirement .The property is located at 48 Griggs Road: Continuation

R. Deschenes made a motion to reconvene the hearing, J. Fenuccio seconded and the vote was unanimous. Atty. Todd Brodeur of Fletcher Tilton and Whipple noted that the site visit had taken place and the only new update from the last meeting was a new set of plans that the board had requested for review which were slightly different than the last. The new plan showed the construction being pulled slightly away from the wetland area and in doing so creating a little less usable living area within the building.

J. Fenuccio asked if there was an approval on the septic system and it was replied that they were on the agenda of the Board of Health for the following week. J. Fenuccio asked if the Board of Health had any concerns regarding the system and Todd Brodeur stated that they had no concerns at all regarding the system itself but more so that the "house looked to big". It was stated that they had removed the living area above the garage and made half the basement into a crawlspace instead of a potentially finished area. It was felt that the changes would go a long way in satisfying the Board of Health's concerns that there was too much living area.

J. Fenuccio asked if the foot print had changed and it was answered that it had "slightly changed as far as the angles on it by taking the garage away from the wetland area.

R. Deschenes stated that it appeared that a "bump out had been added to the drawing. Mr. Fox stated that the original plan submitted just showed a footprint whereas this plan was the architectural plan though the original footprint was consistant.

J. Fenuccio stated that he wanted to know how it was felt that the board could justify the request in terms of a hardship with such a massive house on the lot. J. Fenuccio stated that he could understand if there was a request for relief on one side or the other due to possibly a topographical issue but they needed relief for practically the whole lot due to the oversized house. It was understood that they were internally giving up some doorways and closets, but what

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the board looked at were hardships to allow for smaller setbacks. It was said that the applicant needed to prove a substantial hardship that allowed for this oversized 2 bedroom structure.

Todd Brodeur stated that the board could use shape of lot as a hardship.

R. Deschenes noted that they were also requesting a variance from lot coverage which is ten percent and the applicant is requesting 40%. Todd Brodeur noted that compliance with the lot coverage requirement for this size lot would only allow for a 1,100 to 1,200 sqft. home which was a size that nobody built anymore.

R. Deschenes noted that they were currently at 3436 sq. feet for the footprint of the 2 story house with another 880 for the driveway for total lot coverage of 4306 sq ft. feet on a 10,440+/- sq. ft. lot. Todd Brodeur stated that the existing structures and driveway, though not close to that number, still exceeded the lot coverage requirement.

Todd Brodeur also stated that what was unique about this lot was the wetland that ran along the property line.

R. Deschenes questioned where the applicant was as far as filing with Conservation and was told that the filing was in and revisions being made to the plan.

J. Fenuccio stated that his concern was the size of construction on this lot for a two bedroom home. He stated that the board didn't have the right to grant the request based on the fact that the applicant wanted "too big" of a house there.

Todd Brodeur reminded the board that the existing home was a 2 level house that had a whole in-law suite in the basement and all of the space was being used. There was a proposed three car garage which added to the mass of the project but the area above was not considered living space as it had been removed from the plan.

J. Fenuccio noted that there was no living space above the garage on the plan today, but 6 months after the occupancy permit is received the wall could be punched through and then you'd have living space again.

Todd Brodeur discussed potential BOH mandated deed restrictions for future owners.

J. Fenuccio noted that there were 2 family rooms, a great room and an office. It was stated that the setback requests and area variance request that the board was looking at was overwhelming. The board could not justify it by saying that there was no other way of building the house. "This is a lot of house for this small lot. It is not a hardship to say that there is a need for a three car garage with empty space above and I feel this project is substantially more non-conforming".

Todd Brodeur stated that for any reconstruction the lot would need relief of some fashion.

J. Fenuccio stated that he understood that but found that the amount of relief requested was excessive.

J. Fenuccio asked if the surrounding lots were cut the same or was this one different and was answered that they were all a little unique. J. Fenuccio stated that if they were all cut the same then this lot was not unique, but if they were not the same, then the board had something to base a decision on.

Todd Brodeur stated that one thing unique regarding the lot was the wetland against the property line which does impact the placement of the house.

Todd Brodeur also stated that that the dimensional requirements made sense for an 80,000 sq. ft. lot, but the lot in question was an undersized lot which he found hard to impose those same dimensional regulations on..

Bill Fox stated that they would not have needed to be in front of the board right now if the family had not given or sold to the neighbors 10-ft of land years ago.

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J. Fenuccio requested that he repeat that so that the board understood. Bill Fox stated that approximately 15 to 18 years ago the neighbor to the left wanted to place an addition on their home and the "grandparents" gave or sold them the land which allowed them to place the addition 2 feet +/- from the side boundary.

Todd Brodeur asked the board if they were inclined to see something a little different in order for the application to be approved. It was also noted that it was his experience that with other towns as well, that the boards tend to give weight to an approval if there are no objections from abutters and if the plans are well thought out.

A. Keown felt that the hearing should close. Todd Brodeur noted that if denied they could come back with a different plan. A. Keown agreed and noted that it was not the board's job to tell the Fox's how to build their home.

J. Fenuccio stated that his issue was not in granting the variance, but in how the board can stand behind the decision based on the facts. "If you had not sold off a part of the property you would have complied. It was stated that the board needed to have something to "hang it's hat on besides the fact that there was no one present to oppose it.

Bill Fox informed the board that his intent was to build a retirement home that could be passed down to family and which had been owned by family for the last 60 years.

Atty. Brodeur requested a few minutes to discuss options with Mr. Fox outside of the hearing room and the request was granted.

Upon the return of the applicant it was stated by Atty. Brodeur that the Fox's had decided that they wanted to close the hearing and "take the roll of the dice".

R. Deschenes made a motion to close the hearing, J. Fenuccio seconded and the vote was unanimous.

8:30pm

To hear the petition for Water View Commons, Boston Road, Sutton, MA for a Comprehensive Permit Application. The property is identified as Assessor's Map #11, Parcel #'s 9, 36, and 37:Continuation

J. Fenuccio made a motion to reconvene the hearing, D. Deschenes seconded and the vote was unanimous.

A. Keown read correspondence dated August 6, 2008 submitted by Kevin Rabbitt requesting a continuance until October 2008.

R. Deschenes made a motion to grant the request for a continuance to October 2, 2008, time to be determined. J. Fenuccio seconded and the vote was unanimous.

8:35pm

Public hearing to consider the petition of Lynn and Charles Lidz, 97 Singletary Ave. for rear setback relief to permit the construction of a greenhouse on property located at 97 Singletary Ave.

J. Fenuccio made a motion to reconvene the hearing, D. Deschenes seconded and the vote was unanimous.

Mr. & Mrs Lidz are requesting to place a 16'x 6' lean-to style greenhouse on the rear side of their home. The area in question was the only flat area available that had reasonable sun. The applicants had been in front of the board in 2005 and received variances for the remodel and

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placement of an addition on their home. The greenhouse would be less non-conforming than the bump out which was approved in 2005.

Site inspection to be done individually.

R. Deschenes made a motion to continue the hearing to August 7, 2008, J. Fenuccio seconded and the vote was unanimous.

Decisions:

66 Wilderness Drive – J. Fenuccio made a motion to open the work session, R. Deschenes seconded and the vote was unanimous.

J. Fenuccio made a motion to grant a finding that the construction would not be substantially more detrimental than the existing. G. Page seconded the motion and the vote was unanimous.

Findings:

The proposed construction meets the front, side and rear setback requirements of the R-1 zoning district.

After the purchase of additional lot area, the lot size totals 4.65+/- acres which exceeds the requirement of 80,000 sq.ft. for the R-1 District.

48 Griggs Road - J. Fenuccio made a motion to open the work session, R. Deschenes seconded and the vote was unanimous.

R. Deschenes made a motion to grant the variances as requested, J. Fenuccio seconded and the vote was (0) in favor, and (4) opposed.

The motion failed

Findings:

The board finds that the applicant failed to provide sufficient evidence of a substantial hardship to support the granting of the variances as requested for the construction of a 5,000+ sq.ft. (2) bedroom home with total lot coverage of 4,316 sq.ft. on the 10,440 sq.ft. lot.

The board finds that desirable relief can not be granted without causing substantial detriment to the public good nor without nullifying or substantially derogating from the intent or purpose of the zoning bylaws.

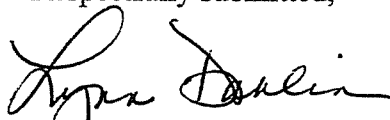
Business:

Board Re-organization

G. Page made a motion to re-seat Arthur Keown as Chairman of the Board and Richard Deschenes as Clerk.. J. Fenuccio seconded and the vote was unanimous.

9:15pm – Meeting Adjourned

Respectfully submitted,



Lynn Dahlin
BOA Secretary