



ZONING BOARD OF ADJUSTMENT
MINUTES MEETING OF APRIL 15, 2013
APPROVED MEETING OF 5.20.13

Present: S. Bogert, **Chair**; S. Perley, **Vice Chair/Secretary**; M. Foote; O. Gibbs; D. Greski; **Alternate**; D. Robitaille, **Alternate**; K. Geraci, **Alternate**

Absent: R. Smith, **Alternate**; K. Snow, **Zoning Technician**

Staff: S. Saunders, **Planning Director**

S. Bogert called the meeting to order at 7:00 pm and welcomed everyone to the ZBA meeting for April 15, 2013.

The first thing on the agenda is the approval of the minutes from the February 19, 2013 meeting of the ZBA.

Minutes: The motion to approve the minutes as written was made by O. Gibbs with the second by D. Greski; all voted in favor of approval, 5-0.

O. Gibbs recused herself from the first hearing, Application # 2012-0025. D. Greski stated that he had not participated in the vote so would not be seated for this hearing.

S. Bogert let the public know that there is no public input on the request.

The board members who are participating in the discussion are: S. Bogert, S. Perley, D. Robitaille, K. Geraci, and M. Foote.

REQUEST FOR RE-HEARING:

Application # 2012-0025
Gables/Paugus Bay Condo Assoc

MSL # 244-430-32
388 Davidson Drive

RS ZONE
Appeal

A request for a re-hearing regarding the decision made by the board at their meeting of March 18 has been received. The board granted the variance from the 1988 Zoning Ordinance, Section 14.45 (b) (3), Lot Coverage, in order to allow the coverage to increase from a minimum of 20% to a minimum of 30%.

S. Bogert asked the board members if they had received the letter from a South Down resident and gave them a few minutes to read over it.

After reviewing the document and the information from the meeting of February 19, S. Bogert asked the board members if they felt they had missed any pertinent information or were mis-directed in any way in their decision.

Board Discussion: K. Geraci said she had a question regarding # 10 in the motion prepared by Attorney Dyer, regarding the request for Findings of Fact. It was stated in the request for re-hearing that this was not done.

S. Saunders responded stating this was a letter regarding concerns that was submitted by Mr. Dyer to the ZBA. She said that we did not respond back, in writing, to that request. K. Geraci asked if that was based on legal counsel's input and S. Saunders said that typically we would not respond. Typically when the board receives input from abutters or concerned citizens, we would respond to that verbally at a meeting and not in letter response.



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S. Saunders said she is sure those requests went to legal counsel as well and that she was advised and then further advised the board members. K. Geraci said she was fairly new to the board and wanted clarification.

S. Bogert asked if anyone felt the board had erred in the motion and do they grant the request for the re-hearing or deny the request.

D. Robitaille asked if S. Bogert could go over the conditions of approval regarding the change in the open space and how that will affect the Gables. He understood that the change would be in the decks. S. Bogert said they stated that the decks could be expanded, not would be expanded. D. Robitaille confirmed that there would be no more development.

S. Bogert said there will be no structural changes to the houses or their parking spaces. That any change in the patios would still have to go before their architectural review board for the master development for approvals. The board's approval provided the pathway for them to ask permission to make a modification to their decks/patios. He reiterated that all the approval did was allow them to ask for permission to make changes.

M. Foote stated that seems reasonable to him. S. Bogert again asked if the board feels that they erred in their judgment to grant the variance and either deny this request for re-hearing or accept it.

D. Robitaille said he doesn't feel any errors were made. This was discussed in more than one meeting. They weighed input from residents.

Motion: M. Foote made the motion to deny the request for the re-hearing as the board feels this was approached with due diligence and that they feel comfortable with the decision that they made.

D. Robitaille seconded the motion and the vote to deny the request for re-hearing was 4-1.

REQUEST FOR BUILDING CODE OF APPEALS RE-HEARING:

Application # 2012-0039

MSL # 151-269-40-1

SFR Zone

J. Remington

183 Wentworth Cove Road

Appeal

The applicant is requesting a re-hearing from the determination made by the board at their meeting of March 18 regarding the sprinkler system which was required by the City of Laconia at the above property.

Board: S. Bogert let the board members know that we received a request from the applicant's attorney to continue this request until the next meeting.

Motion: The motion was made by M. Foote to continue Application # 2012-0039 to the meeting of May 20, 2013.. The second was made by D. Greski and all voted in favor of continuance, 5-0.

NEW HEARINGS:

Application # 2013-0005

MSL 146-200-23

CR Zone

Scott Berry

24 Simpson Avenue

Variance



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The applicant is requesting a Variance from 235-35 A (front setbacks) and 235-35 B (side/rear setbacks) in order to add 3 dormers onto the existing structure. Two of the dormers will protrude into the setbacks, front and side, but will not protrude any further than the existing structure.

Applicant: Scott Berry appeared and stated he is the builder. Brian Rillihan, the property owner, is also in attendance tonight.

S. Saunders asked the owner and agent if they would sign the ZBA member's copies of the applications. (The original signed application was in the packet submitted to the Zoning Department.)

S. Berry said that the owner wants to install 2 dormers on the front of the house which would be on the third floor of the house, the attic. There are currently 2 rooms there now. He wants to add the windows there. There is a dormer in the back of the house, which is in the bathroom, which currently has no function other than being a large skylight. They need to add 4 feet into the bathroom in order to get a full bath.

The house was formerly a cottage with a claw foot tub. If you sat on the toilet your feet dangled in the tub. They want to install a tub, shower, toilet and sink. By adding a dormer they will get 4 additional feet in the bathroom. S. Berry changed that statement to enlarging the dormer, not adding a dormer.

D. Greski stated that by enlarging the dormer they are impacting the side and rear and was told front and back. The footprint remains the same.

D. Greski said the maximum allowable height for the zone is 35 feet. He asked if this will be less and was told yes. S. Berry said the existing dormer, which will be enlarged, is actually going to be lower than what it currently is. He said that right now this is more like a skylight and you have to climb on a ladder to open the window which isn't safe.

D. Greski said there is almost no separation here between buildings. B. Rillihan said the properties are close together here. They own 2 properties on the street. This was his mother's dream house.

S. Berry said he had actual photos of the house and passed them out for the board to see. S. Bogert said they would be submitted into the record and become property of the ZBA.

S. Berry showed where the dormers would be located.

D. Greski asked if they had DES approvals for this as it is within 300 feet of the lake and was told yes, they have a permit.

B. Rillihan said they are taking a structure built in 1875 and, instead of tearing it down, rebuilding it. They are trying to keep the integrity of the house intact while adding modern conveniences.

Public: No one from the public spoke for or against the application.

O. Gibbs mentioned the letter from an abutter who had been missed when the notices went out. S. Bogert said she had been provided with the information and submitted a letter stating they had no issues with the proposal.



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S. Bogert closed the hearing to the public. There were no further board questions.

Motion: The motion to approve application # 2013-0005 was made by D. Greski.

The proposal won't be contrary to the public interest as it won't alter the essential character of the locality and won't threaten the public health, safety or welfare.

The spirit of the ordinance is observed. This is an established neighborhood and this won't negatively impact it.

Substantial justice is done in granting the variance as there is no impact to the surrounding houses although they are extremely close. This won't impact the footprint as the construction is for the 3 dormers. This will be below the maximum height for the zone.

The values of the surrounding properties will not be diminished. This should improve the neighborhood as they are restoring the property, thereby increasing the property values.

Literal enforcement of the ordinance would cause the property owners a hardship by not allowing the dormers which will allow a standard sized bath. Not allowing this variance would result in safety issues. This also allows the owners to have the proper heat on the third floor since having no basement doesn't allow for the heating system to be installed. The heating system will be installed on the third floor.

The proposed use is a reasonable one.

S. Perley seconded the motion and all voted in favor of approval, 5-0.

Application # 2013-0006
Blaine Drew

MSL 450-245-23
60 Bay St, Unit # 10

DRD Zone
Variance

The applicant is requesting a Variance from 235-35 B, side/rear setbacks, in order to enclose the existing steel walls. The structure is currently not in compliance and the proposed work would not protrude any further into the setbacks.

S. Bogert let the applicant, Blaine Drew, know that we received a letter from the DOT stating that a portion of this building is on their property and that the ZBA cannot grant a variance unless the deed to the property states that they have the right to build there. The letter states that the property owner doesn't have those rights. He said that the ZBA can offer two choices; the first is to meet with the DOT and continue this to a future date based on that outcome.

S. Saunders said that the DOT has offered to meet with the applicant and the city.

S. Bogert said the second choice is to withdraw the application without prejudice which means it could be re-submitted in the future. He let the applicant know that at this point the board cannot proceed.



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B. Drew asked if it is the corner that protrudes onto their property that is the issue. He said he could deal with that corner being taken away. He showed the board the corner of the building where the state has the right-of-way. He said they planned to move the common area and remove that portion of the building.

S. Saunders asked if they would then amend their application to show that portion of the building which is in the state's right of way to be removed. B. Drew said they would probably have to.

S. Perley said the hearing should be continued until we get a clear picture of what is being proposed. The application will need to be revised and we will need paperwork from the DOT indicating they are ok with the new proposal.

B. Drew asked if it would be another month and was told yes. S. Bogert said he would be added to the agenda for the May 20 ZBA meeting.

Motion: The motion to continue the hearing for application # 2013-0006, until the May 20 ZBA meeting in order to obtain more information from the applicant, was made by S. Perley and seconded by O. Gibbs. All voted in favor of the continuance, 5-0.

OTHER BUSINESS: a) Zoning Task Force; S. Perley let the board members know that she and S. Saunders met a week ago and went through a lot of drafts but still have a lot of things to still work on. S. Bogert asked if they need assistance and S. Perley said their next step would be to put together a committee and begin getting input.

S. Saunders said they have gone through the ordinance and that there are at least 100 different changes that need to be made. A lot are typos and inconsistencies. There are 5 or 6 substantial changes. They need to get together a draft and get that to the sub-committee.

S. Bogert asked how they are doing this and S. Perley said that every change is indicated in red and there is a guide to every change. When the changes are approved by the City Council, the document then goes to be formatted as part of the official city code.

S. Saunders said that the City Council also has a method of doing this, which is antiquated, so she hopes this translates from the changes we make, to the City Council motion, to the company which types this. In the past they have made typos, missed pages, left out charts, etc. We will be watching this every step of the way.

S. Saunders let S. Perley know they found another inconsistency today that needs to be addressed with respect to storm management. S. Perley told the board that one of their big problems has been how to define a tree. S. Saunders said the word tree is used in so many different places that it becomes hard to make the definition clear in each spot. S. Bogert asked if the size cannot be indicated and S. Saunders said we do for street trees but not for wetland buffer planting, as an example. S. Bogert asked if the state has definitions we can use and S. Saunders said the problem with the state is they are tied to the shoreland which changes every 2-3 years.

S. Bogert asked what about the Forest Service and S. Perley said that isn't the issue. The problem is that when we look at a tree in a wetland area it is different than a street tree and a steep slope tree. It has to be looked at in each of the contexts and defined.



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b) Other business: There was no other business before the board.

ADJOURNMENT: S. Perley moved to adjourn the meeting of April 15. O. Gibbs seconded and all voted in favor, with the meeting adjourning at 7: 45 pm.