

Freetown Zoning Board of Appeals
Minutes of the Wednesday, October 21, 2015 Meeting
Town Hall – Assonet Mass.



Present: James Frates, Robert Jose, Walter Sawicki, and Nicolas Velozo (associate).

Call to order: James Frates called the meeting to order at 6:30 p.m.

Minutes of Previous Meeting

Minutes of September 23, 2015, were received.

Case #552 – Tyler Tremblay – 88 Richmond Road, Assonet

A motion was made by Mr. Sawicki, seconded by Mr. Jose, to reopen the continued public hearing at 6:30 p.m. The motion carried unanimously.

The clerk stated Mr. Tremblay had called earlier in the day and requested a continuance because of a change in work schedule.

A motion was made by Mr. Jose, seconded by Mr. Sawicki, to continue the hearing to Wednesday, December 9th at 6:30 p.m. The motion carried unanimously.

Case #554 – Susan Fernandes – 35 County Road, East Freetown

A motion was made by Mr. Jose, seconded by Mr. Sawicki, to open the public hearing at 6:40 p.m. The motion carried unanimously. At this time, Mr. Sawicki stated he would be recusing himself from this hearing.

Debbie Pettey approached the board representing Mrs. Fernandes. The lot is approximately four acres, with 150 feet of frontage and a depth of around 1200 feet. The petitioner seeks to create, through the Planning Board, a subdivision that would retain the existing house, add a small cul-de-sac, and create a second lot to the rear of the existing house. As a result, the existing house would need to achieve its frontage on the new roadway, from which it would be only twenty-five feet, whereas the requirement for front setback is thirty feet. Therefore, they are requesting a variance for a front setback of twenty-five feet.

Mr. Velozo asked about the frontage for the two lots, and Atty. Pettey responded that both resulting lots would have adequate frontage of at least 175 feet. Mr. Frates expressed uncertainty as to whether the board could grant a variance for a lot that doesn't actually exist. Mr. Jose asked if consideration was given to going to the Planning Board first to request a waiver on the width of the new roadway from forty feet to thirty-five feet. Atty. Pettey said the process for going to the Planning Board was more expensive than for going before the Zoning Board of Appeals; if the project failed at the ZBA, they would likely not go to the Planning Board. Mr. Jose stated that if the waiver was granted by the Planning Board, they would not need a variance, whereas now even if they received the variance, they would still need to go to the Planning Board.

Mr. Velozo questioned where the driveway/access would be, whether from County Road or the new road. The property owner, Mrs. Fernandes, replied that they share a driveway on the north side of the property with the folks at 37 County Road. The house at 35 County Road would likely continue using that driveway. Discussion followed about whether a house with frontage on the new road could have its driveway from County Road, and it was thought that this was not strictly prohibited.

Mr. Jose expressed his concern about granting a variance for a lot that does not yet exist. He indicated he was leaning heavily toward continuing the hearing and asking the applicant to go to the Planning Board before coming back to the ZBA. Mr. Frates expressed the same concerns. The idea of moving the new road to the north side of the property, where the existing shared driveway and right-of-way are, was raised. It was determined that in that location, the setback would only be twelve feet, and this idea found no support with

the members of the ZBA. Dan Aguiar, an engineer with SITEC Engineering who was in the audience, offered an additional suggestion about placement.

Lyn Levy, an abutter at 37 County Road, stated that the neighbors are all in favor of this project and want it to move forward. Mr. Jose responded that he did not think the board was against the idea, but that they are not comfortable issuing a variance for a property that doesn't exist as of yet. Ms. Levy asked why the variance couldn't be granted with conditions. Mr. Frates stated that if the Planning Board requested alterations to the plan, they would have to re-file with the ZBA as the terms of the variance might no longer be met.

A motion was made by Mr. Jose, seconded by Mr. Velozo, to continue the hearing to Wednesday, December 9th at 6:40 at the Town Hall. The motion carried unanimously.

Case #555 – Kyle Costa – 79 Cliff Drive, Assonet

A motion was made by Mr. Jose, seconded by Mr. Sawicki, to open the public hearing at 7:02 p.m. The motion carried unanimously.

Mr. Aguiar and Mr. Costa came forward to discuss the project. Mr. Costa is requesting to build a 26 x 25½ garage at ground level (basement level of the existing home) with living space on the second floor (first floor of the existing home). The dwelling, as it exists, already encroaches into the front setback. The lot was created in about 1965 with leftover land from the Assonet Bay Shores subdivision. There is no abutter to the side where the addition is proposed, as the "abutter" is the causeway to Pine Island. The soil conditions at the rear of the property, along the bay, will not support a structure. The septic system is tucked into the northeast corner of the property, eliminating that area for the garage.

Mr. Velozo asked about the proposed deck. Mr. Aguiar stated the deck would be cantilevered as the soils on that side of the lot will not support the structure. Mr. Jose asked why the addition bumps out from the main house, and Mr. Aguiar responded that the garage needed to be a particular size to fit the cars and the stairs leading into the house. The proposed addition started much larger and was pared down. The soils will not support moving it back the extra three feet to be flush with the existing dwelling.

Discussion was then held on the living space being added. An existing galley kitchen will be replaced with a full kitchen and dining area, and additional living space will be created. There is one small bedroom in the house, but the septic system in place would support a three-bedroom house.

A motion was made by Mr. Jose, seconded by Mr. Sawicki, to close the hearing.

DISPOSITION: A motion was made by Mr. Sawicki, seconded by Mr. Jose, to approve the variance, stipulating that the garage/addition could be no closer to the road layout than the twenty-two feet shown on the plan. The motion carried unanimously.

Case #556 – Dale Desmarais – 3 Buena Vista Avenue, Assonet

A motion was made by Mr. Jose, seconded by Mr. Sawicki, to open the public hearing at 7:16 p.m. The motion carried unanimously.

Mr. Desmarais approached the board to discuss his proposal. He has an above-ground swimming pool already in place. When he applied for an electrical permit for service to the pool, it was discovered that the pool was well within the setback (fifteen feet, opposed to the thirty feet required). Mr. Desmarais explained there were mix-ups with the pool installer not pulling proper permits, incomplete paperwork, and a belief that things were squared away when they really weren't. He also explained the expenses associated with moving the pool and the limitations in his yard due to the septic system, shed, and landscaping. He indicated the overall cost would be close to that of installing the pool from scratch, and that he really could not afford to do that at this

point. Board members expressed understanding that he believed the pool had been installed properly and did not receive the best service or information from the installer.

A motion was made by Mr. Jose, seconded by Mr. Sawicki, to close the hearing.

DISPOSITION: A motion was made by Mr. Jose, seconded by Mr. Sawicki, to grant the variance, stipulating that it is for the existing pool in its existing location as shown on the plan presented, and that should the pool become damaged or need to be replaced, the variance would no longer be applicable. The motion carried unanimously.

Case #557 – George Carreau – 15 Ashley Avenue, East Freetown

A motion was made by Mr. Jose, seconded by Mr. Sawicki, to open the public hearing at 7:25 p.m. The motion carried unanimously.

Mr. Carreau and a friend came forward to discuss the project. Mr. Carreau's friend explained how measurements for the placement of a detached garage were taken off of an older plan provided by the town, and a misunderstanding about the difference between the edge of the pavement and the edge of the road layout. They believed they were thirty-three feet from the road layout when they poured the foundation. An as-built plan showed that they were actually 26.40 feet from the road layout. Mr. Sawicki noted that the homes on the street were built all around the same time, and are typically closer to the road with larger back yards than would be today.

A motion was made by Mr. Jose, seconded by Mr. Sawicki, to close the hearing.

DISPOSITION: A motion was made by Mr. Sawicki, seconded by Mr. Jose, to grant the variance for the setback to be 26.40 feet rather than 30.00 feet as shown on the as-built plan dated August 2015. The motion carried unanimously.

Case #558 – Aaron Sestin – 1 Buddy's Crossing East Freetown

A motion was made by Mr. Jose, seconded by Mr. Sawicki, to open the public hearing at 7:35 p.m. The motion carried unanimously.

Mr. Sestin came forward to discuss the proposal. He would like to add ten feet to an existing attached garage and convert the garage into an apartment for his wife's mother. The apartment will be approximately 800 square feet, and the main dwelling is approximately 2100 square feet. Mr. Jose explained the results if Mr. Sestin's mother-in-law should move out for any reason. Mr. Sestin stated that the kitchenette of the apartment would have refrigerator, but no stove.

A motion was made by Mr. Sawicki, seconded by Mr. Jose, to close the hearing.

DISPOSITION: A motion was made by Mr. Jose, seconded by Mr. Sawicki, to grant the special permit for the accessory apartment as shown on the plans provided. The motion carried unanimously.

Meeting Adjourned

A motion was made by Mr. Jose, seconded by Mr. Sawicki, to adjourn at 7:42 p.m. The motion carried unanimously.

This is a True Record by me.

Attest: Michael T. McCreary, Senior Clerk