



Town of Uxbridge
Zoning Board of Appeals
21 So. Main St.
Uxbridge, MA 01569
(508) 278.6487

Minutes of the Uxbridge Zoning Board of Appeals held on **Wednesday, May 7, 2008** at 7:00 P.M. in the Lower Town Hall, Uxbridge Town Hall, 21 So. Main St., Uxbridge, MA:

Zoning Board of Appeals Members Present: **Chairman Mark Wickstrom, Thomas Bentley, Bruce Desilets and Associate Member Charles Lutton**

Zoning Board of Appeals Members Absent: **none**

Others Present: **Tracey Ante, Administrative Assistant**

The meeting being duly called, properly posted and a quorum being present, Chairman Mark Wickstrom convened the meeting at 7:01 PM and led the gathering in the Pledge of Allegiance.

Taft Hill Manor – Review of Special Permit (issued January 1999) – MOTION by Mr. Bentley to accept applicant's written request to defer this discussion to the next meeting. Seconded by Mr. Desilets, the motion carried unanimously.

FY 08-30: (continued) – MOTION by Mr. Bentley to accept applicant's written request to continue the public hearing to their next scheduled meeting. Seconded by Mr. Desilets, the motion carried unanimously.

FY 08-31: The applicant/owner of record Mr. Ken Barry Ms. Verna Dallaire/Ms. Juanita Maynard seek a Variance from the Zoning By-laws on property located at 49 Henry Street, Assessor's Map 19 Lot 3285, property located in the Residence "A" Zoning District, to construct a 3-car detached garage. The proposed lot lacks the required area of 20,000 square feet and the required corner lot frontage of 140 feet as well as the required side and rear setbacks of 25 feet and 30 feet. The plot plan shows an area of 9,981 feet (a shortage of 10,019 square feet). The plot plan shows corner lot frontage of 100 feet (a shortage of 40 feet). The plot plan shows 10.7 feet for the side setback and 14.2 feet for the rear setback (a shortage of 14.3 feet and 15.8 feet).

The Chairman opened the public hearing. Mr. Barry was present and discussed the proposed 3-car detached garage (34' x 24'). Areas of concern included close proximity to the neighbor, the location/size of the structure, and drainage. It was noted that there were several updated letters from the Building Inspector describing the Area Regulations, most recently dated 5/7/08.

Following public input, **MOTION** by Mr. Desilets to close the public hearing. Seconded by Mr. Bentley, the motion carried unanimously.

MOTION was made by Mr. Bentley to approve the application for Variance, finding that the shape of the lot and the topography of the land are such that there would be a hardship if the applicant was forced to comply with the Zoning Bylaws, due to the small size of the lot, drainage concerns, and rear setbacks. In addition, the board finds that this does not affect any other lots in the neighborhood and is not detrimental to the public. The board approves the proposed construction of the 3-car garage (34' x 24') in the manner set forth on the ZBA Plan submitted dated March 10, 2008 drawn by Andrews Survey & Engineering with the following conditions:

1. The drainage shall be tilted or directed to Henry Street to avoid impacting the direct abutter.
2. The garage shall not be used for dwelling purposes.
3. There shall be no plumbing service in the loft area.

Seconded by Mr. Desilets, the motion carried unanimously.

FY 08-32: The applicant/owner of record Luis and Gaby Rodas are seeking a Determination from the Zoning Board of Appeals on property located at 30 Church Street, Assessor's Map 6 Lot 4455, property located in the Residence "A" Zoning District. According to the Zoning Bylaws, the Residence "A" Zoning District requires 125' frontage, Assessor's map shows 65 feet, leaving a shortage of 60 feet and 20,000 square feet area required, Assessor's map shows 14,375; a shortage of 5,625 square feet. A Zoning decision of October 2006 allowed construction of a 12' x 20' 2nd floor addition on a 12' x 20' structure on the dimensionally non-conforming lot. The size of the structure that was built is 13.6' x 31.7' which is substantially larger than what was authorized by Special Permit (#07-02) dated October 4, 2006.

It was noted that the project enhances the property and the neighborhood by expanding a pre-existing structure on a non-conforming lot in an appropriate fashion, and in a manner that does not make the structure any more non-conforming to the zoning bylaws.

Following the public hearing, a **MOTION** was made by Mr. Desilets to make a finding that the addition is not detrimental to the neighborhood, and to amend the ZBA Decision (file # FY07-02) dated October 4, 2006 as filed with the Town Clerk on October 5, 2006 and recorded at the Worcester County Registry of Deeds Book 39989, Page 275, to reflect the new dimensions of the addition 13.6' x 31.7'. Seconded by Mr. Bentley, the motion carried unanimously.

FY 08-33: The applicant/owner of record John and Mary Demers are seeking a frontage Variance from the Zoning By-laws on property located at 104 Mill Street, located on Assessor's Map 34 Lot 4027 in the Residence "C" Zoning District, to construct a two-story 16' x 24' addition with a 6' x 24' Farmers porch. The proposed lot lacks the required frontage of 200 feet. The plot plan shows 159.77 feet; a shortage of 40.23 feet.

Mr. Wickstrom disclosed a conflict of interest and recused himself from the board. Associate Member Chuck Lutton participated.

Mr. Bentley, Vice Chairman opened the public hearing. Mr. Demers was present and discussed the proposed addition. He indicated that the existing farm house was built in 1860's; and that the proposed change is similar to the existing structure (replacing the old "ell" with new "ell").

The board noted that the road layout was changed in 1950 due to Route 146 highway layout and also noted its uncertainty as to whether or not it was a lawfully non-conforming lot.

Following the public hearing, a **MOTION** was made by Mr. Lutton to grant the Variance due to a hardship, based on the unique characteristics of the lot, in order to authorize the applicant to remodel/rebuild the pre-existing house utilizing the same footprint and extending footprint as shown on the plan.

Seconded by Mr. Desilets, the motion carried unanimously.

Mr. Wickstrom returned to the board.

FY 08-34: The applicant/owner of record Thomas and Linda Christian are seeking a Variance from the frontage and lot area requirements of the Zoning By-laws for property located at 5 Highview Drive, shown on the Town of Uxbridge Assessor's Map 18D, Parcel 1792 and located in the "Residence B" Zoning District to construct a 14' x 16' deck onto an existing deck. The proposed lot lacks the required frontage of 200 feet and the required area of one acre. The plot plan shows 188.56' frontage on both streets (a shortage of 11.44' on both streets) and the area shows 38,953 square feet (a shortage of 4,607 square feet).

The Chairman opened the public hearing. Mrs. Christian was present and discussed the proposed construction of the deck.

Following public input, **MOTION** by Mr. Desilets to close the public hearing. Seconded by Mr. Bentley, the motion carried unanimously.

MOTION by Mr. Bentley to convert the application to a Finding pursuant to MGL Chapter 40A Section 6. Seconded by Mr. Desilets, the motion carried unanimously.

At the time the lot was created, the zoning bylaw required 20,000 square feet of area, and 165 feet of frontage on a corner lot. Therefore, the Zoning Board finds that this lot and the structure thereon are lawfully pre-existing and lawfully non-conforming.

The Board made findings that the proposed addition (deck) is an expansion that is not detrimental to the neighborhood and is no more nonconforming to the zoning bylaws than the existing non-conformity. Therefore the building permit should issue.

MOTION by Mr. Bentley approving the proposed construction of a 14 x 16 deck onto an existing deck based on its Finding and Determination, pursuant to MGL Chapter 40A Section 6 that it is not injurious or offensive to the neighborhood. Seconded by Mr. Desilets, the motion carried unanimously.

FY 09- Meeting Schedule – MOTION by Mr. Bentley to set the FY 09 Zoning Board of Appeals Meeting Schedule. Seconded by Mr. Desilets, the motion carried unanimously.

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MOTION by Mr. Bentley to approve the April 2, 2008 Meeting Minutes. Seconded by Mr. Desilets, the motion carried unanimously.

MOTION by Mr. Desilets to approve the April 9, 2008 Meeting Minutes. Seconded by Mr. Lutton, the motion carried unanimously.

MOTION by Mr. Bentley to adjourn the meeting at 8:20 P.M. Seconded by Mr. Desilets, the motion carried unanimously.

Mark Wickstrom, Chairman

Thomas Bentley

Bruce Desilets

Charles Lutton, Associate Member

Date _____