



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, August 20, 2008** at 7:00 P.M. in the Board of Selectmen's Meeting Room, Lower Town Hall, Uxbridge Town Hall, 21 So. Main St., Uxbridge, MA:

Zoning Board of Appeals Members Present: Mark Wickstrom and Charles Lutton. Stephen O'Connell arrived at 8:35pm. Associate Member Joseph Frisk was also present.

Zoning Board of Appeals Members Absent: none

Others Present: Megan T. DiPrete, Director of Planning and Economic Development and Tracey Ante, Administrative Assistant

The meeting being duly called, properly posted and a quorum being present, Chairman Mark Wickstrom convened the meeting at 7:00 PM and led the gathering in the Pledge of Allegiance.

Mr. Wickstrom welcomed Mr. Joseph Frisk as Associate Member to the Board.

FY 09-05 Variance: The applicants/owners of record (Stephen Whitmore, Donna Blanchflower-Fisher, Hurley Silbor, Jr and Jean Silbor) are seeking a Variance from the frontage and right side setback requirements of the Zoning By-laws on property located at 139 Hazel Street, shown on Assessor's Map 18C, Parcel 3471. The property is located in the Residence B Zoning District and lacks the required frontage of 185 feet and the required right side setback of 25 feet. The plot plan shows 100' frontage and 13.8' right side setback. This is a pre-existing non-conforming lot. The existing right side property line currently passes through the dwelling unit.

The Chairman opened the public hearing and designated Mr. Frisk as a fully participating member for the purposes of this application. Mr. O'Connell was not present. Mr. Rick Hathaway with Andrews Survey and Engineering was present and spoke on behalf of the applicant. He informed the Board the existing right side property line currently passes through the dwelling unit and the abutter has agreed to exchange a parcel of land with the applicant to move the lot line to a place that does not meet the current setback and frontage requirements. Following public input and discussion, **MOTION** by Mr. Lutton to close the public hearing. Seconded by Mr. Frisk, the motion carried unanimously.

MOTION by Mr. Lutton to approve the application for Variance, finding that the applicant demonstrated a substantial hardship because compliance would require having to relocate the house on the pre-existing non conforming lot. Seconded by Mr. Frisk, the motion carried unanimously.

Taft Hill Manor – Special Permit issued January 1999 – Review project update. Ms. DiPrete reminded the Board there is no new application or public hearing pending. The Developers and Town Officials continue working through the permitting and development process. Attorney Gerry Lemire

and Developers Mr. Larry Rosenberg and Mr. Steven Blum with Integrated Green Building Solutions were present and provided an update regarding the project development. Mr. Rosenberg distributed material and described the LEED-based approach they are using for Green Building and energy efficiency. In 2005, the Zoning Board rendered a determination that the project was substantially commenced by virtue of the site and infrastructure work that had been performed at that time. Mr. Lemire distinguished between an Assisted Living “Facility” and “Residence,” the latter being regulated by state law after the original special permit was granted (1999). The proposed building is substantially the same as what was shown in the 1999 proposal. The environmental conservation construction techniques will reduce overall energy costs including heating and cooling. There is a valid Order of Conditions from DEP for this project, and building permit materials are now being prepared. No action or votes were taken.

FY 09-03 Variance: The applicant/owner of record Ms. Debra Dionne is seeking a Variance from the frontage, square footage and left side setback requirements of the Zoning By-laws on property located at 46 Hartford Avenue East, shown on Assessor’s Map 12D, Parcel 2050. The property is located in the Residence A Zoning District and lacks the required frontage of 125 feet, the required one acre of land area and the required 25’ left side setback. The plot plan shows 59.58’ frontage, 6,970 square feet area and 15’ for the left side setback. The applicant proposes to expand the existing structure by constructing a 14’ x 40’ addition to a single family dwelling on the non-conforming lot.

The Chairman opened the public hearing and designated Mr. Frisk as a fully participating member for the purposes of this application. Mr. O’Connell was not present. Ms. Dionne was present and discussed the proposed construction of the addition. Following public input and discussion, **MOTION** by Mr. Lutton to close the Public Hearing. Seconded by Mr. Frisk, the motion carried unanimously.

MOTION by Mr. Lutton to convert the application and approve it as a Special Permit under S. 400-12 C of the Zoning Bylaws, finding that the proposal to expand the existing single family dwelling structure as proposed on the non-conforming lot is no more detrimental to the neighborhood. The addition will be consistent with the sketch submitted and the existing structure. Seconded by Mr. Frisk, the motion carried unanimously.

FY 09-04 Variance: The applicant/owner of record Mr. David W. Riley, Trustee of the Riley Realty Trust is seeking a Determination from the Zoning Board of Appeals on property located at 451 Hazel Street, shown on Assessor’s Map 23, Parcel 184 and located in the Agricultural Zoning District. According to the Zoning Bylaws, the Agricultural Zoning District requires 300’ frontage; the Assessor’s map shows 90 feet, leaving a shortage of 210 feet. A Zoning decision dated August 2003 allowed a Variance to create one conforming lot and one nonconforming lot. The 2 lots were created October 2003 when the Planning Board endorsed a plan of land. The Building Inspector recently determined that the Variance was not exercised within the one year time period and therefore it is being re-applied for.

The Chairman opened the public hearing. Mr. O’Connell was not present. Mr. Frisk participated in this application. Atty. Andrea Hogarth and Mr. David Riley were present. Ms. Hogarth discussed the application and advised the Board the question that exists relates to the validity of the Variance granted in August 2003. The Variance was recorded within the required one year time period. The Approval Not Required Plan was recorded and reflects the Variance granted. The nonconforming lot 2 is presently for sale. Therefore, the applicant is reapplying for a frontage variance for lot 2.

Following input and discussion, **MOTION** by Mr. Lutton to close the public hearing. Seconded by Mr. Frisk, the motion carried unanimously.

MOTION by Mr. Wickstrom to approve the application for Variance with the following Findings;

1. Owing to circumstances relating to the shape of Lot 2 shown on Assessor's Map 23, Parcel 184 that affects Lot 2 but does not affect generally the zoning district, a literal enforcement of the frontage requirement of the Agricultural Zoning District would involve substantial hardship to Mr. Riley;
2. The frontage variance will not be substantial detriment to the public good or the neighborhood;
3. The frontage variance will not nullify or substantially derogate the intent or purpose of the Agricultural Zoning District bylaw.

Therefore, the Petition for the 210 foot dimensional frontage variance is granted. The variance will be in accordance with the dimensions shown on the plan of land recorded at the Worcester District Registry of Deeds in Plan Book 813 Plan 80 and Assessor's Map 23 Parcel 184. In accordance with the M.G.L. ch. 40A sec. 10, the rights authorized by this variance is the creation of one nonconforming lot shown as Lot 2 on the plan recorded in Plan 813, Plan 80. Said rights authorized by this variance have been exercised. The rights were exercised in October 2003 when the Uxbridge Planning Board endorsed the Approval Not Required plan as recorded above and when Lot 2 was conveyed to the Riley Realty Trust by deed recorded in Book 34467, Page 209.

Seconded by Mr. Lutton, the motion carried unanimously.

REORGANIZATION. MOTION by Mr. Lutton to nominate Mr. Wickstrom as Chair. Seconded by Mr. Frisk, the motion carried 3-0. (Mr. O'Connell was not present.)

MOTION by Mr. Wickstrom to nominate Mr. Lutton as Vice Chair. Seconded by Mr. Frisk, the motion carried 3-0. (Mr. O'Connell was not present).

MOTION by Mr. Lutton to nominate Mr. O'Connell as Zoning Board Clerk. Seconded by Mr. Wickstrom, the motion carried 3-0. (Mr. O'Connell was not present).

Mr. O'Connell arrived at this time.

Meeting with Board of Selectmen – update. Ms. DiPrete advised the Board that the Selectmen had no further questions regarding the process of the Town Meeting adoption of the revised zoning bylaws last May.

Zoning Bylaws – The Board discussed potential bylaw changes that may be put forth for the Fall Annual Town Meeting.

MINUTES. MOTION by Mr. O'Connell to approve the July 2, 2008 Meeting Minutes. Seconded by Mr. Wickstrom, the motion carried unanimously.

EXECUTIVE SESSION. MOTION by Mr. Lutton to enter into Executive Session pursuant to MGL C.39, Subsection 23B #3 – To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body. Seconded by Mr. O'Connell, the motion carried unanimously on a roll call vote.

Following executive session, Mr. O'Connell was not in the meeting, **MOTION** by Mr. Lutton to adjourn the meeting. Seconded by Mr. Frisk, the motion carried unanimously.

Mark Wickstrom, Chairman

Charles Lutton, Vice Chairman

Stephen O'Connell, Clerk

Joseph Frisk, Associate

Date _____