

BOARD OF ZONING APPEALS
TUESDAY, November 24, 2009
These minutes are not verbatim

MEMBERS PRESENT: Rich Bayer (Chair), Dennis Keeler, Jonathan Berry (Associate), Fred Jay Meyer, Willie Audet, Stan Given

Members absent: Jim Thibodeau is absent.

July and August minutes approved as amended.

Mr. Bayer notes the additional plans distributed to the board members tonight for Galli and Safe house applications.

Administrative agenda:

Karin & Jorma Kurry- Are requesting Conditional Use approval under Section 6.2a to add a dormer at 8 Merrill Rd. Parcel U29-023, zoned "RB".

Mr. Audet recuses himself from this item because it is ¼ mile from his property.

Ms. Karin Kurry presents the plans for a full dormer.

Mr. Bayer opens comment to the public. Public comment closed.

Mr. Meyer asked about the location on the lot where the dormer is on the south side and what is the distance from the dormer to the property line?

Ms. Kurry answered the full dormer will end where the deck starts, there will be the garage and deck between the dormer and the lot line.

Mr. Meyer asked that no part of the dormer will be within 10 ft. of the property line?

Ms. Kurry answered correct.

Mr. Keeler asked where the expansion is; on the back side of the house?

Ms. Kurry answered correct.

Mr. Keeler asked that all the expansion will happen in the back of the house on the right hand side?

Ms. Kurry answered correct.

Mr. Given asked if the roof pitch would be the same?

Ms. Kurry answered yes.

Mr. Bayer asked about the distance for the edge of the deck that is closest to the center of the lot to the property line is approximately how far?

Ms. Kurry answered the deck is 10 ft.

Mr. Meyer motions to approve the application.

Mr. Given seconds the motion.

All in favor. Vote is unanimous.

Jonathan Berry is a voting member for this application.

1) Kathleen and Zbigniew Kurlanski - Are requesting a hearing to appeal a decision of the Code Enforcement Officer regarding parking in an unpaved area outside of the parking area at Portland Yacht Club, 40 Old Power House Rd, Parcel U16-083, zoned "RA".

The Kurlanski appeal has been postponed.

2) Odette Galli- Is requesting Conditional Use approval under Section 6.2b to add an extension at 16 Ayers Court. Parcel U16-046, zoned "RA".

Ms. Odette Galli presents plan for the balcony on the second floor 20' x 2" by 5' deep.

Mr. Bayer states the application says 5' x 24'.

Ms. Galli states that was a mistake.

Mr. Bayer reviews the dimensions 20' 2" x 5'.

Ms. Galli confirms this is correct.

Mr. Bayer opens comment to the public. Public comment closed.

Mr. Bayer asked what was the reason the extra material was submitted?

Ms. Galli's designer Mark answered the first drawing didn't have the setbacks.

Mr. Keeler asked is the balcony on the water side?

Ms. Galli answered correct.

Mr. Keeler asked about the line through the shaded area where does the existing deck end?

Ms. Galli said see the line that's 7' 4" that is where the deck ends it is 7' 4" from the property line.

Mr. Keeler asked that the proposed balcony is actually further back from the property line than the deck?

Ms. Galli answered correct.

Mr. Meyer asked that the proposed balcony is 10' 7" from the line? It looks like the home is at an angle to the property line. Is it closer to the house at the corner of the balcony that is near Mason? How far to the property line is it?

Ms. Galli's designer answered approximately 9'.

Mr. Meyer said this is a concern. On the Mason side he doesn't see a distance from the balcony to this property line.

Ms. Galli said it looks like 6' from the side entry. They will scale the drawing.

Ms. Galli's designer states there is no distance to the property line on the Mason St. side.

Mr. Audet measures and sees that it is 9'6" from the edge of the shaded proposed balcony to the left side line to Mason St. to the dashed line.

Mr. Bayer asked if the land abuts the water?

Ms. Galli answers no.

Mr. Meyer motions to approve the application subject to the condition that the balcony is depicted on the plot plan and is reduced in size so it is no closer than 10' to the Mason St. line or the side property line.

Mr. Given seconds the motion.

Mr. Bayer would feel more comfortable if the CEO went out to measure.

Mr. Audet suggested a surveyor.

Mr. Meyer withdraws the motion and restates it as he has stated it before and adds the lines in question be verified by the CEO.

Mr. Given seconds the motion.

Mr. Keeler is troubled and disappointed this has come out this way. If not for the questioning by Mr. Meyer it would not have come to our attention. A professional gave us a line that was 10' 7" then it was 9'. Mr. Keeler would like this application to come back with a plan to show where it is. He can not approve the motion on this.

Mr. Bayer states he is hesitant to approve this application. He states where we don't know where the final dimensions are.

Mr. Berry states we have an application that's been walked back from 24' to 20' 2". Then walking it back further will be to make the 10' setback. This may be the most appropriate action.

Mr. Bayer states until we have drawings that reflect what would be there for us to approve and if it is squeezed further back on the 9' side it may not be doable or feasible.

Mr. Keeler and Mr. Berry points are well taken.

Ms. Galli said she assumed it was in the 10' setback and understands the Boards concerns. She would like to redo the drawings.

Mr. Meyer withdraws the motion and motions to table the application pending the revised drawings for the new dimensions.

Mr. Given seconds the motion.

All in favor, vote is unanimous.

Mr. Berry is not a voting member on this application.

Mr. Keeler recuses himself for the next application and leaves the meeting. He is also not feeling well.

Mr. Bayer assigned Mr. Berry as a voting member.

3) Christina D. Morrill-is requesting Conditional Use approval under Section 5.22.1 for an Accessory Dwelling at 237 Middle Rd, Parcel U23-026, zoned "RB"

Ms. Christina Morrill presents plans for the accessory cottage. She says it was a rental cottage in 2001 and was changed to a piano studio. Now she would like to have it back as a rental cottage.

Ms. Morrill states she reviewed all materials with the CEO.

Mr. Bayer opens comment to the public, public comment closed.

Mr. Audet comments on the right hand property line shown on a sketched plan and asked how far is the side line?

Ms. Morrill answered she did not have the distance to the line to the barn; she reviewed all this material with the CEO. She said she would be happy to provide what other materials that would be needed. She doesn't have a measurement between the property line and the barn; it is the nearest building to the cottage.

Mr. Meyer asked how old the cottage is and Ms. Morrill was not sure.

Mr. Meyer said it seems to be right on the setback of the 20' and the size is the maximum.

Mr. Bayer questioned the property line measurement.

Mr. Audet scaled the drawings and said it is really close to the side line and asked if Ms. Morrill would have a mortgage survey?

Ms. Morrill would have been happy to provide it if she needed to.

Mr. Audet motions to approve the application subject to verification of the right side property line being at least 20' from the edge of the building.

Mr. Given seconds the motion.

Mr. Bayer added that it be demonstrated to the satisfaction of the CEO. If he feels a mortgage survey is adequate, he will not have to go out there.

Mr. Berry states he feels he is the middle of this and what is the burden we are placing on the property owner? On the other hand, he appreciates the applicant's frustration. He thinks it is a good motion.

Mr. Bayer states your question is a good one. If someone comes in and says the property line is 20' why are we second guessing it. The ordinance requires scaled lot boundaries.

Mr. Audet suggested a professional survey would be required.

Ms. Morrill asked how did it gain use in the first place or has it changed.

Mr. Berry states some provision may have been enforced more than others. Today they have much more accurate instruments.

All in favor. Vote is unanimous.

CEO Note: On December 24, 2009, I reviewed the prior approvals for the use of this structure and went to the site. I am satisfied that the structure meets the minimum setback of 20' for the right side property line.

4) **Aaron & Rose Splint** - Are requesting Conditional Use approval under Section 6.2b to add an addition at 6 Tidewater Cove. Parcel U1-188 zoned "RA".

Aaron & Rose Splint present the plans for their application. They are making an 8' x 20' addition to the rear of the house. We are taking 6' off of the garage on the right side of the property and adding 12' x 4' 4" porch to the front of the house. There is an existing front stoop there and when you open the door the person gets pushed off.

Mr. Bayer opens public comment. Public comment closed.

Mr. Meyer asked about the new porch, and where is the existing structure?

Ms. Splint answered bottom step of brick goes to where the roof line ends. So the only extension beyond the existing is the granite.

Mr. Meyer asked about the dimension 4' 4" Is it the current stoop?

Ms. Splint answered correct.

Mr. Given asked about the 9' 9" distance to the R.O.W. Is it the same?

Ms. Splint answered yes.

Mr. Given asked is the addition going to be wider than it is now?

Ms. Splint answered yes, it will be 12'.

Mr. Given asked about the plans "A1" is that the 8' dimension?

Ms. Splint answered yes.

Mr. Given asked is the deck in the back?

Ms. Splint answered yes.

Mr. Bayer asked if the granite steps will be extended?

Ms. Splint answered 12' beyond the porch.

Mr. Bayer asked what is the large rectangle representing?

Ms. Splint answered the setbacks, and she explains the dotted line is the R.O.W.

Mr. Bayer asked about the rear additions?

Ms. Splint reviews plans with Mr. Bayer.

Mr. Meyer asked about the porch and the dotted line is the roof line?

Ms. Splint answered yes, and the new porch extended roof is the solid line. The wall below is the dotted line.

Mr. Meyer asked if the dimension 9' 9" is to the roof line or the edge of the porch?

Ms. Splint answered to the roof line.

Mr. Given motions to approve the application.

Mr. Audet seconds the motion.

Mr. Meyer said the 9'9" is going to be a problem.

Ms. Splint explained she met with the CEO and he explained as long as we don't extend beyond the existing structure that it falls within the ordinance.

Mr. Meyer states we are under 6.2 b and no part of the extension maybe closer than 10' to all property lines. 9' 9" to the line. The enlargement is not allowed.

Mr. Bayer asked what is the R.O.W.?

Ms. Splint said it's the town property.

Mr. Audet said this is an architect rendering, not a surveyors.

Mr. Bayer said there may have to be a change to the plans by 3" to make it legal. We could break apart the application and ask that the front may be tabled.

The Splints agree.

Mr. Given motions to approve the rear addition portion, tear down the garage portion and tabling the porch additions with the reduction of the 3".

Mr. Audet seconds the motion.

All in favor. The vote is unanimous.

5) Safe Housing Associates – representing Bayshore Real Estate- Is requesting Conditional Use approval under Section 6.2b to add a dormer at 5 Reg Roc Rd, Parcel U01-151 zoned "RA".

Safe housing Rick Sanborn and Kathleen Sanborn are the construction company representing Bayshore Real Estate because we didn't own it, but as of Nov 13th, we do own it under Safe Housing LLC. They present the plans for a dormer and the addition. It is an open breezeway with a roof and we want to enclose it. We may need to raise the roof higher and add a deck on the back of the house by the doghouse bulkhead. No additions will be closer to the property lines.

Mr. Bayer reviews the CEO notes that the applicant hasn't provided calculations of the existing and proposed increased living space. Do you have this?

Mr. Sanborn didn't calculate the proposed calculation but has drawings.

Mr. Bayer identifies drawings 1 - 5 and the top is another plot plan.

Mr. Sanborn states the addition will be 13'5" x 8' 9" and the dormer on sketch will be a little smaller than the house.

Mr. Berry questions the plans and Mr. Sanborn reviews with him.

Mr. Bayer asked Mr. Sanborn to reference the drawings.

Mr. Sanborn said sketch 1 and 2 are 1 is the current layout of the 1st floor, 2 is current layout of the 2nd floor and sketch 3 is proposed layout of the 2nd floor. Sketch 4 is the proposed layout for the first floor.

The only other change to the footprint is adding a deck to the back of the house. Sketch 5 shows what the new roof line looks like.

Mr. Sanborn said he can total the calculations.

Mr. Bayer opens comment to the public, public comment closed.

Mr. Given said he sees discrepancies on sketch 2 outside dimensions say 26' 3" and on 3 the proposed is 26' 5". Sketch 1 the existing first floor we have 29' 7" then sketch 4 it is 29' 10" The one on the rear says it 25' 10" on sketch 1 and sketch 4 says it is 25' 10".

Where you are putting the carry beam, is that wall changing at all?

Mr. Sanborn reviews plans with Mr. Given.

Mr. Sanborn said it is only being opened up.

Mr. Given asked where the sketches were for the garage & breezeway?

Mr. Sanborn it is on the plot plan.

Mr. Bayer asked which is the front considered to be?

Mr. Sanborn answered it is aimed at Reg Roc and Just A Mere Rds.

Mr. Bayer asked that it is not the driveway?

Mr. Sanborn answered no, the front is all lawn.

Mr. Bayer asked if the driveway is on the side?

Mr. Sanborn answered yes.

Mr. Meyer said the plan we have today the distance of the abutting house is 18' 6".

Mr. Sanborn answered yes.

Mr. Meyer asked that the dormer referred to as full will no longer be the full width of the roof?

Mr. Sanborn said dormer will be set back, not to the end of the roof.

Mr. Meyer asked about the garage on the house side the distance to the property line is 6'. The width of the garage is 12' 6" the distance from the modified roof the line is 12'?

Mr. Sanborn answered 12' 3".

Mr. Meyer asked about the side setback is it 10'?

Mr. Sanborn said he measured it himself, it's 10'.

Mr. Meyer asked that the dormer won't be to the edge, it will be 11' from the line?

Mr. Sanborn answered correct.

Mr. Audet said he is comparing the figures and is coming up with a discrepancy.

Mr. Sanborn said he didn't have the legal description until he saw the mortgage survey. He could be off on the plot plan.

Mr. Audet said Mr. Sanborn has a measurement of 65' and according to the deed it is 62'.5". Another is 73.47 and the drawing has 67. Then it goes to 52.82. Then it says 52. Mr. Audet is comparing the figures and is coming up with discrepancies reviewing the measurements.

Mr. Sanborn said he took the measurement from the fence.

Mr. Audet said there is nothing here to say the fence is on the property line.

Mr. Sanborn said he can submit the mortgage survey and the fence is on the line.

Mr. Audet said he is looking at the deed and see different numbers that don't reflect the sketch we are basing our decision on.

Mr. Bayer said he feels it is very important that what is on the deed is 73.47 and here on the sketch it is 76'. The diagonal line is 76' on the map in our package on page 3. And then you said it appears on the deed description at 73'.

Mr. Sanborn explained he measured this from the road and needed to submit the application to make the deadline and wanted to put the addition on before the ground froze.

Mr. Bayer said we are only required to approve the conditional use. If you are no closer than 20' from your neighbors, here we have 18' 6" from the present structure. Mr. Bayer states it looked like you are adding on the dormer and you will extend into the 20' setback. The other is the differences Mr. Audet mentioned about what is on the deed and what is on the drawing.

Then Mr. Given noticed the diagrams showed a different footprint. There is a lot of different information. It is concerning all the work you want to do. We do not have lot coverage.

Mr. Sanborn asked if they table the deck as well as the dormer and ok the addition.

Mr. Meyer motions to approve a portion of the application. The proposed kitchen addition and the proposed raised roof. The deck, stairs and full dormer will be tabled.

Mr. Given seconds the motion.

Mr. Meyer said the area around the kitchen and garage are safe. The measurement for deck and dormer should be able to be resolved with a good plot plan and the distances to the property lines and adjacent buildings. He said he strongly recommends Mr. Sanborn does this with a survey and the location of the dormer.

Mr. Audet said he should get the mortgage survey.

Mr. Bayer said he is comfortable with the addition and raising the roof between the garage and the house. The diagram you have doesn't even show what the change is. Mr. Meyer brought the question up.

This is one of many problems in these diagrams, I think if the board is helping you with this part because you heard all the discrepancies on the plot plan and construction plan. This application has more discrepancies than any application I have seen in many years. Mr. Bayer refers to the sketches of the foundation and one states 29' the other one is 25'. You need to have a solid construction plan to have the board approve the balance of your application. We would like it to be correct.

Mr. Sanborn said he would have paid for a survey.

Mr. Meyer motions to table the portion of the application that addresses the full dormer, proposed deck and steps pending receipt of the plot plan.

Mr. Given seconds the motion.

All in favor, the vote is unanimous.

Mr. Bayer said the tabled applicants should go before the Kurlanski application for the next meeting.

Last item is to nominate a new chair and Mr. Bayer nominates Mr. Meyer.

Mr. Given seconds the motion.

All in favor, vote is unanimous.

Meeting adjourns 8:55 pm.