

Zoning Board of Appeals
Meeting minutes – 03.07.2024

Attendees: Lisa Rood, Beth Pryor, Dave May, Robert Ballard, Tony Rosati, Attorney Laurie Baker,
Code Enforcement Officer/Tom Murphy
Absent: Kelly Martin/Town Liaison, Mike Flattery

1. Work Session – Planning Board – 7pm

2. Call Meeting to Order

Meeting called to order by Ms. Rood at 736pm

ROLL CALL

Ms. Pryor

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

ALL PRESENT

3. Pledge of Allegiance – Lead by Mr. Ballard

4. ZBA Responsibility Reading – Read by Ms. Pryor

5. Minutes

Motion to accept February 2024 minutes made by Ms. Pryor

2nd by Mr. Ballard

ROLL CALL

Ms. Pryor

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

APPROVED

6. Public hearings

Ms. Rood read the public hearing notice:

The ZBA will meet at the Town of Boston Town Hall on **Thursday, March 7, 2024 at 7:00 PM** for the Work Session in the Planning Board Room followed by the Public Hearing in the Court Room to hear the following petitions:

Petition #619 – Gary Stisser, North End of Smolinski Dr, seeking an **AREA** variance of **15ft** to comply with code of the required 75ft frontage to create a buildable lot, as per Town Code 123-49C, 123-49B.(1).

Petition #620 – Nick P Nicholas, 8021 Zimmerman Rd, seeking an **AREA** variance of **472sqft** to erect a 1200sqft detached private garage, as per Town Code 123-136B.(4).

Ms. Rood read the letter from the applicant, Mr. Stisser, read into the minutes. (copy in packet)

Ms. Rood read the letter from the Code Enforcement Officer into the minutes. (copy in packet)

Ms. Rood read the SEQR letter:

TO: ZBA Chairman and Board members
FROM: Sarah desJardins, Planning Consultant
RE: March 2024 ZBA petition

Chairman and Board members:

Regarding Petition #619, Gary Stisser is requesting an area variance of 15 feet in order to create a new building lot (75 feet of frontage along a public street is required; 60 feet is proposed). The proposed Action is classified as a Type II Action and therefore is not subject to review under SEQR.

Regarding Petition #620, Nick P Nicholas is requesting an area variance of 472 sq.ft. in order to construct a detached garage. The proposed Action is classified as a Type II Action

and therefore is not subject to review under SEQR.

Respectfully submitted,

Sarah desJardins, Planning Consultant

Motion made to Open public hearing by Ms. Rood

Ms. Pryor

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

APPROVED

Petition #619

Ms. Rood read two emails received from neighbors into the minutes. (copy in packet)

Gary and Linda Stisser spoke to the board. Attempting to build future family home. Owned the property since 2018. Now paid off. Took longer than expected to build due to Covid and other reasons. Looking forward to getting started.

Ms. Rood spoke with Mr. Teelak/Highway Supervisor and he is on the same page with no problem paving and that it will work out fine. Wanted to make there were no concerns with this dead-end street.

Mr. Ballard: Building this home as your home? RESPONSE: YES. Currently live on Boston State Rd for 24 years and can walk up to the land.

Mr. Rosati: This is a very big property. Planning on putting up accessory building or something like that?

RESPONSE: Not sure. Depends on financing. Would like too, of some sort but cash is main concern.

Mr. Rosati: Not looking to split the property? REPOSE: No, would like to buy the rest except the funeral home. It's non-commercial. Can get in touch with Beth(Elizabeth) to put in a word.

Richard Hawkins, 6892 Pin Oak Dr. Live behind this applicant since they purchased the property. They have maintained the property. Talked on several occasions regarding the house and 2 car garage. Good addition to the neighborhood.

Charles and Pam Orlando, 9354 Smolinski Dr, and have met Gary and Linda. Very nice people. No issues and would not object.

Ms. Rood: Several seals of approval.

Motion made to close public hearing by Ms. Rood.

ROLL CALL

Ms. Pryor

Mr. May

Mr. Ballard
Mr. Rosati
Ms. Rood
APPROVED

Motion made by Ms. Pryor to approve this petition#619 as follows:

Approve x **Deny** **Reserve Decision**
Table **Time Frame**

Conditions to approval:

- (1) Does it create an **undesirable change to the character of the neighborhood**?
Yes [] No [X]
- (2) **Can the benefit** sought by the applicant **be achieved if the variance is not granted**?
Yes [] No [X]
- (3) Is the requested variance **substantial**? Yes [] No [X]
- (4) Will the variance have an **adverse effect on the physical impact or environmental conditions of the neighborhood**? Yes [] No [X]
- (5) Is the alleged difficulty **self-created**? Yes [] No [X]

2nd by Mr. Ballard
ROLL CALL
Ms. Pryor
Mr. May
Mr. Ballard
Mr. Rosati
Ms. Rood
APPROVED

Ms. Rood advised the applicant to see Code Enforcement Officer/Tom Murphy regarding six month requirement.

Petition #620

Nick P Nicholas, 8021 Zimmerman Rd, seeking an **AREA** variance of **472sqft** to erect a 1200sqft detached private garage, as per Town Code 123-136B.(4).

Ms. Rood read Code Enforcement Officer letter into the minutes. (copy in packet)
Ms. Rood read SEQR letter (listed above)
Ms. Rood read applicant letter into the minutes (copy in packet)

Motion made to open the public hearing by Mr. Rosati Rosati

2nd by Pryor
ROLL CALL
Ms. Pryor
Mr. May
Mr. Ballard
Mr. Rosati
Ms. Rood

Ms. Rood read email from neighbor, Rose and John Schmitt, into the minutes (copy in packet)

Ms. Rood commented that the Board members received an updated drawing of the building. The Code Enforcement Officer met with Mrs. Schmitt. COE has not seen the updated version.

Mr. Pryor gave copy to Ms. Schmitt.

Applicant, Nick Nicolas, spoke to the board.

Ms. Rood: stopped by the property and talked about drainage. Walked the property to see where the water could go from the roof. Mentioned the formula regarding the rainwater and if there was an inch of rain, the runoff would be 747.6 gallons of water, dumped on the ground from the roof. Talked about drainage tile around the building; bringing in more fill, raising the building. Just bringing everyone up to speed.

Mr. Nicholas: That was the biggest concern and want to be a responsible neighbor and make sure not flooding anyone by the extra water.

Ms. Rood: Looks like there used to be a drainage ditch at some time, but it is all filled in now. That happens over time. Must be continuously maintained.

Mr. Nicholas: Going to open that up (drainage ditch) to make sure the water can flow, if the project moves forward.

Ms. Rood: That brings up – where is the water flowing to? That was the reason for taking a walk to the back of the property. Looks like, when you get to the open field where there is a little shed against the tree line on the other side of the clearing, the drainage ditch used to run along the hedge row. That would need to be cleaned out to maintain clear drainage.

Mr. Ballard: Looking at 14ft side walls? RESPONSE: Yes. Was told that is standard.

Mr. Ballard: By the time you get the fill, its going to be a 'monster' up there.

Ms. Pryor: Would you go smaller? RESPONSE: No, not in the cards right now. If that is the only option, could take a look but probably not because of the needs. Would look at a different parcel that has a building that's similar to that and had his eyes on. Probably do that instead because it wouldn't be big enough.

Ms. Pryor: On .9 of an acre. It is a very large building to put into a neighborhood. As colleague pointed out, it is going to be very tall once you get the fill in there. How much of the eave is going to be sticking out, at the edge of the building? RESPONSE: Talked about that and not sure. Would be open to extending it a little bit because of some ice shedding. Would be open to changing the drawing.

Ms. Pryor: The only issue with extending the eave is, and feel you would want to given the amount of snow that can come off the building, your three feet from the property line, on the one side. Anything closer would-be dumping snow very close to the line or over the line. RESPONSE: Thinking snow breaks, maybe.

Mr. Rosati: The metal roof with blockage pieces would help. Or at least slow down the snow coming off; wouldn't get a full sheet all at once.

Ms. Pryor: This is something to think about. RESPONSE: Appreciate it. First time building anything like this. That's why calls were made to professionals for ideas and planning.

Ms. Rood: When up looking at the property and talking about the extended eaves and stuff like that, didn't realize that the building is three feet from the property line because the stakes were not accurate.

RESPONSE: If you (board) recommend a different layout, knowing there is not a lot of wiggle room, would be open to turning the building, moving it slightly on the property.

Mr. Rosati: You understand about not being close to the road rather than in front of the house because the stakes were much closer. RESPONSE: Yes, it was a misunderstanding and discussed it with Code Enforcement Officer/Tom Murphy. Apologize for not laying it out properly. Was shooting for a larger dimension than what was on the drawing. Started moving it around to save a large pine tree. Thought it was right but was getting dark. Took the other guys word for it. Apologize for the confusion. Could

re-stake it with whatever recommendations. I like how the drawing came out. Seems really nice and symmetrical.

Mr. May: Is this going to have a concrete floor? RESPONSE: Yes.

Mr. May: Where is the drainage going to go? RESPONSE: Just raised drainage going into a tile on the outside of the building. Don't plan on putting in a floor drain. With speaking to the contractor and the way he is going to build it up, it should not need one.

Mr. May: Will there be gutters for drainage? REPSONSE: Originally said I was willing to put them on but he (contractor) said it was probably not the best way to handle it. Talking about some type of stone around the outside and then the drain tile that would route it to a responsible location. Gutters almost always end up falling down so thinking of leaning away from doing gutters. Originally, wanted to run the water to the front ditch because that would be a clean way to deal with it. But the pitch is not contusive and would require a lot more fill to do it that way.

Mr. May: Right, then it would be sticking up real high.

Mr. Rosati: One of the things we (board) get as part of the charter and coming from the State, is a request to grant the minimum, feasible variance. You're asking for an actual variance in the current condition of 472ft, so it is about a third-actually it is about 50% more than what's allowed. Have you thought about trying to, maybe, make it 30 by 30 or something along that line, an alternate configuration where we (board) could meet halfway on the amount of square footage for the variance being asked for? RESPONSE: Have not considered that yet. Was really hoping with T's crossed and I's dotted that it would be feasible. Have not considered it yet. Spoke with a few other people, not naming names, who said they were able to get variances for something similar. Not saying that means I deserve to get one. I did not think it was that huge of an ask comparing compared to other stories heard.

Mr. Rosati: Each property is unique. This one is very different due to the triangle shape and the fact that the property is very close to the other houses.

Mr. Ballard: Three feet off the line and putting a lot on the back neighbors no matter how it is done.

Mr. Nicholas: There is about 10-15 feet of woods between the lines and sometimes forget the neighborhood is even there when all the canopies are filled in on the trees. Didn't realize the line was that close and don't believe the building can be brought any closer to the street. Snow breaks and whatever can be done to mitigate any problems that would be caused for the neighbors. The Board are the professionals.

Mr. Rosati: with looking at the drawing, could go 55ft off the house, get a little more space on the rear set back. RESPONSE: I like that idea. Sinking it deeper in the 'pizza slice', triangle. Would be wide open to that.

Mr. Ballard: Actually, talking about bringing it closer to the house to get it away from the property line.

RESPONSE: oh – the opposite direction. It is a unique shape. Mr. Ballard: So big right up against the house and the side walls being so tall on that lot.

Mr. Nicholas: So the dimensions being proposed is a 30x30, maybe making it more feasible?

RESPONSE from Mr. Rosati: It would help mitigate the percentage increase that is being requested.

Ms. Rood: And closer to the house.

Mr. Rosati: Yes, and closer to the house would help make. Again, you increase the amount of clearance on the rear lot line, assuming it is still 42 feet off the roadway.

Mr. Nicholas: These are all things to be considered but I don't make snap decisions and want to say I don't want to right now.

Mr. Rosati: We can hold the hearing open so that a different drawing can be provided and consider that for the next meeting. Would that help? RESPONSE: It wouldn't hurt being so early in the construction season. Don't think the builders want to get in too soon anyway with the wet ground. I want to do it right. Not a pushy, argumentative guy especially when the Board is considering the variance.

Understand this is not a standard size.

Ms. Rood open to the public.

Ms. Rose Schmitt spoke to the board – 5541 Maple Grove Drive. If you are wondering where the water goes, it goes into my backyard. Purchased our house in 2016 and the ditch has never been maintained. Tried to put up a berm to channel the water. The water flows through our property and into our neighbors, who ends up having a lake. He is not here tonight. If you do grant any type of variance for the structure, want to be sure it is built exactly as the plans say it is and to the specifications the Board permit. And that it is going to be used for the sole purpose as outlined by Mr. Nicholas's request, that it is for storage. That it is never going to be housed for any type of animals or poultry. That's all.

Ms. Rood: The drainage is the main concern and the size of the building. Walked the yard to see where the water would go. Went to garage in the back. Could see a very shallow swale left that wouldn't really do anything. The garage on the property also has a drain tile shooting water into the same direction. Walking further, there was standing water, which is a concern for mosquito's breeding, etc. Steopped out into the field and you can see there used to be drainage. All of that would have to be discussed with who owns that property and putting in a drainage ditch to divert the water. Cant dump water on the neighbors property. What is going to happen to all that water coming off the roof.

Mr. Ballard: If we go forward, should asked for a proposal about a drainage plan to show that the water is not going anywhere else. If this could be written out by a site manager with a proposal showing where the water is going to go. Get it to the ditch, great.

Ms. Rood: There are other options like a bubbler pit and if a drain ditch was put in, it would benefit all the neighbors along the property. Wouldn't have to build own berms. Could be a good thing to have this drainage addressed.

Mr. Nicholas: I want to be a responsible neighbor and do whatever I can to take care of the drainage of water the right way.

Ms. Pryor: One thing that could help with the Board's consideration is to think about going smaller, like 30x30, whatever, really thinking about what is absolutely needed to live with. Also, potentially moving the building closer to the structure/home that is already on the property. That could help with drainage issue as well as how close it is to the property line.

Ms. Rood: This could also help preserve the tree. Have to think about the root system.

RESPONSE: as close as it is to the building, pretty much thinking about removing the pine tree. Thank you for the ideas for the drainage. Will do some research online and talk to some contractors. Talk to the owner of the other property. *further discussion of the neighbors listed.

Ms. Rood: Could be a huge improvement to the neighborhood with having new drainage.

Motion to keep the public hearing open made by Ms. Rood

2nd by Ms. Pryor

ROLL CALL

Ms. Pryor

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

To be placed on April's agenda.

Mr. Rosati filled in for Mr. Flattery

Mr. Nicholas: Will keep in touch with new ideas.

7. New business

none

8. Old business
none

9. Motion to Adjourn
Motion to adjourn at made by Mr. Ballard
2nd by Mr. Rosati

ROLL CALL

Ms. Pryor
Mr. May
Mr. Ballard
Mr. Rosati
Ms. Rood

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