

Zoning Board of Appeals Meeting Minutes

Minutes of March 30, 2016

Hearing on the petition of Christopher Hallen of 19 Ackley Drive, Rochdale, MA for a Variance to build an addition onto home within the side and rear setbacks and for a Special Permit to extend a pre-existing nonconforming structure.

Members present: David Kirwan, Chair; Vaughn Hathaway, Acting Clerk

Alternate members present: Jim Reinke, Dick Johnston, Mary Moore

Meeting called to order at 7:30PM

Mr. Kirwan gave the instructions on the meeting procedures, noting this hearing was being held for a Variance and Special Permit and that the Variance would be heard first.

Voting at tonight's meeting: David Kirwan, Jim Reinke, Dick Johnston, Mary Moore, and Vaughn Hathaway

Mr. Hathaway read the Notice, Application and a letter from the Building Inspector into the record.

Submitted into evidence: Registered Plot Plan, return receipts from the Certified Mailing

Correspondence received: Site Consideration from the Building Inspector that was read into the record by Mr. Kirwan.

Mr. Kirwan opened the meeting to the applicant to present their petition.

Mr. Keith Burt of Burt Builders presented the petition.

The plan shows the outside perimeters of the building and from the back point there's 18 feet and they used the measurement of 24 feet, so potentially it's 19-feet and there would only be a 1-foot difference there.

The plans show 24 feet to the rear, off the width of the existing property, and will extend on the other side, where they had plenty of room from the setback of 15-feet.

Mr. Hathaway asked what was jutting out on the plan.

Mr. Burt said that was a bedroom and in the front was a room, with a staircase going up into a loft. They plan to take off the piece in back and could actually gain some room on the 19-foot rear setback.

Mr. Hathaway asked why the addition had to be put there and not some other location on the lot where it would conform to the setbacks.

Mr. Burt said trying to put the addition on the other side would completely negate the existing layout of the house and everything would need to be changed.

The back piece, which is their bedroom, is coming off. The entire addition will be bedrooms and a living room to accommodate 3 children and 2 adults.

It was the most logical spot for the house that exists now, to add the bedrooms necessary to accommodate their family.

Mr. Hathaway asked if the lot had septic. Mr. Burt said no, it was on Town sewer.

Mr. Kirwan asked the applicant to address the hardship requirement.

Mr. Chris Hallen, 19 Ackley Drive said he is the current property owner and used to live in the In-law apartment with his parents, which was originally built for his grandmother. He and his wife bought the house when they only had 1 child and now they have 3 children, who are currently sleeping in one bedroom. They would like to expand the home to accommodate their family.

Mr. Burt said the financial hardship was hooking into the Town sewer because of a failed septic system and having to get a right-of-way through their neighbor's property.

Mr. Reinke asked where the driveway was located and how big it was. Mr. Burt pointed out the location and explained it could fit up to 4 cars single lane and was around 30 to 40-feet.

Ms. Moore pointed out there was a drop off. Mr. Burt agreed.

Mr. Johnston said it was mentioned about the probability of removing the back addition. He felt if the addition was coming down that they didn't need to be concerned with the rear setbacks, if they were still going to add on 24-feet, because it looks like it's around 6 to 8 feet deep.

Another question he had was why they couldn't shift the entire addition over to the right, which would allow the addition to be 15-feet away from the sideline.

Mr. Burt said it could be possible but then there's the matter on the cost of the building.

Ms. Maggie Hallen, 19 Ackley Drive explained if they were to build as just suggested, she felt would put the structure closer to the stream. Also, they have 3 children and they wanted that part of the house to be further away from the street. She felt the proposed layout would work out better for them.

Mr. Johnston suggested if the addition was moved to the south, would not put it closer to the street and that way it would allow the addition to be at least 15-feet from the side boundary.

Mr. Hathaway agreed and asked if the addition could be moved in, having it meet the width of the house, to get the 15 feet necessary. He felt the addition, as proposed, was going to take up the entire side of the lot.

Ms. Moore asked if the inside staircase could be placed in another spot.

Mr. Burt said they would probably have to change and shift the inside design to accommodate the proposed change.

Mr. Hallen explained with the suggested design, they wouldn't lose the play yard and the usable part of their property shrinks. He felt with their proposal, they can keep the same roof line and have the addition look like one house that's aesthetically pleasing. If the addition was bumped forward, they would have a bunch of different roof lines. He said that there was also a sewer easement through his property. They were trying their best to make it all aesthetically fit.

As for the staircase, there are two sections to the house, one part was the main building, which was a carriage house built with barn beams and the front portion was an addition put on a long time ago. One of the main beams runs through the living room, then there's the bathroom and a 3-foot sectional wall, which is the main header that controls the beam going over. If they move the stairs over, the main beam may need to be addressed.

Mr. Hathaway said they were only talking 7 more feet and felt it would still accommodate their need.

Mr. Hallen said it wasn't exactly what they wanted, but they would consider it.

Mr. Reinke suggested having their builder review the change a little closer and to continue the hearing, allowing them more time to figure it out.

He said moving something 7-feet may not sound like much on the plan, but it could interfere with the size of the rooms and the flow layout.

Mr. Burt asked if they move the addition over and find the setback still infringes, would a special permit still be required.

Mr. Hathaway said yes.

Ms. Moore said a variance wouldn't be needed if it meets the setbacks.

Mr. Burt asked if they meet the back setbacks, will they still need a variance on the side.

Ms. Moore said a variance would be needed if the side didn't meet the 15 feet. If the addition meets the setback in back at 25 feet and the side setback of 15 feet, then only a special permit would be needed for nonconforming.

Mr. Hathaway explained the special permit was for an extension of a pre-existing nonconforming structure, as long as it's kept within the same footprint.

Mr. Kirwan opened discussion to the public.

Mr. Ed Faron, 740 Pleasant Street said his property abuts this property in back and the concern with the wetland did go before Conservation. The current distance from the back of the house to his property line is 42 feet and then there's a slight drop. Then there's about 15-feet onto his land, before the wetland begins. The wetland pretty much runs the width of the existing house and doesn't run the width of their remaining property.

If the Hallen's put in 24-feet, having the width of the building 24 x 30, there will be 18-feet from his property line and 15 feet from the beginning of the wetland.

Right now, there is approximately 1290- square feet from the back of his property and if they construct something that's 25 x 30 or 750-square feet, it leaves 540 square feet.

He explained the way the yard presently slopes, it slopes to the north, to the house immediately on the right and in that area, there has never been any runoff come down into the wetland. His concern that during construction, they can maintain the same grade that is currently there, so anything that comes off the roof, will not flow east towards the wetland and affect his property. He has no opposition to the addition, but his concern was with the runoff and the effect it would have to the wetlands and his property.

Mr. Kirwan noted for the applicant that as far as the side setback, not to forget to include the overhang.

Mr. Hathaway agreed, explaining that the Town Bylaw does take into account the overhang, but there had been past concerns with an overhang contributing to the runoff issues.

Mr. Kirwan suggested providing some information regarding the drainage coming off the roof and how it will be managed.

Mr. Burt said they have no intention to change the grading of the house. Right now, the yard steps down into the area they will be building and they will maintain that area with lawn. After some discussion, all agreed to continue the hearing to Thursday, April 14th at 7:30PM.

Mr. Hathaway reiterated what the Board would be looking for at the continuance.

1) Reworking the plan to minimize or eliminate the need for one or both setbacks; 2) to show on the revised plot plan, the new addition as it will be built and placed on the lot; 3) address the water flow management; and 4) provide further information regarding the easement.

Mr. Hallen asked if their neighbor gifted them 7-feet, would they be able to keep their present design.

Mr. Hathaway said if the neighbor gifted 7-feet from the side, it would no longer be infringing on the setback, and a variance would not be needed, but a special permit would still be needed.

Hearing no further discussion, Mr. Kirwan asked for a motion to continue.

MOTION: Mr. Hathaway moved to continue the public hearing for 19 Ackley Drive to Thursday, April 14th, 2016 at 7:30PM

SECONDED: Mr. Reinke – Discussion: None - VOTE: All in Favor

Meeting adjourned at 8:15 PM

Respectfully submitted:

Barbara Knox

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