

**Town of Leicester  
Zoning Board of Appeals  
Meeting Minutes**

Minutes of February 4, 2015

Members present: David Orth, Chairman; David Kirwan, Acting Clerk; Vaughn Hathaway

Alternate members present: Jim Reinke

Hearing on the petition of Mary E. Moore of 28 Mechanic Street, Leicester, Ma. for a Variance to demolish existing home and build new home 12.5-feet & 18.5-feet respectively from the front property boundary line; 9.9-feet & 10-feet respectively from side boundary line and 19.2-feet from rear property line.

Meeting called to order at 7:34PM

Voting at tonight's meeting: David Orth, David Kirwan, Vaughn Hathaway and Jim Reinke

Mr. Orth informed the applicant that only 4-members were present; therefore a unanimous vote for approval is required. He gave the applicant the option of continuing the hearing in order to have a 5<sup>th</sup> member present.

Ms. Moore wanted to proceed with the hearing with the 4-members present.

Instructions were given on the hearing procedures.

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

Submitted into Evidence: the green and white return receipts from the Certified Mailing to abutters; a Registered Plot Plan, the property record card and a diagram drawing of the new home

Correspondence received: Site Consideration from the Building Inspector that Mr. Orth read into the record.

Mr. Orth opened the meeting to the applicant to present her petition.

Ms. Moore said in 1960 her parents bought the house after a fire destroyed the home and her father renovated it.

The house is sinking because of the high water table and she is having trouble getting house insurance because the condition of the house.

There used to be a catch basin in front of the house, but the Town took it out and moved it down the street, which created more water entering onto the property.

Something needs to be done, so she had someone take a look at the house and was told the foundation would never be able to hold up the house because of the poor construction and the previous fire. She was also told the house is twisted and the sills were bowed.

She met with the Historical Commission and received permission to demolish the house.

She tried to staying close to the original footprint and designed a plan that would fit her and her sister's needs and still be able to have a garage, without affecting anyone around them.

The house currently sits right on Mechanic Street; their front door opens right onto the road.

That was one of the reasons the front door was moved to the other side of the house. They will

also be moving the house back away from the road. Her insurance company gave her a list of what needed to be done in order to receive insurance.

Ms. Moore noted that she owns the property to the rear and the adjacent lot to the south, so this project will not be affecting anyone on the south side or back.

The House will not have a basement due to the high water table; it will be on a slab and be level with the street. It currently has a fieldstone foundation and you can watch the water come right through the walls. The walls and the sills sit below the grade of the road.

The house was built in the 1740s.

Mr. Orth read the conditions for the granting of a variance and asked the applicant to address those conditions.

Ms. Moore said she met the setbacks on the north side and the south side setbacks won't change. The house will not further encroach on that side or in the back and they will have less of an encroachment in front.

Mr. Orth asked where the driveways will be.

Ms. Moore showed the driveways being located on each side of the house.

She noted the shed in back will be removed and the two decks in back will be made a little smaller and will not be further encroaching.

Mr. Hathaway said the letter from the Building Inspector indicated the existing home was a single-family dwelling and there's a handwritten saying "this is a two-family."

Ms. Moore said she wrote that in. She did indicate to the Building Inspector this was a two-family home she was rebuilding and didn't know why he put it as a one family.

Mr. Hathaway said the reason he asked was because two-families are allowed in that zone by Special Permit and he didn't want her finding this out when trying to get an occupancy permit.

Ms. Moore said she did show the same plan to the Building Inspector when she applied for the building permit and he saw this was a two family.

Mr. Hathaway recommended that she make it clear to the Building Inspector this was a two-family home and not a one family, before demolishing the house.

Ms. Moore agreed to call the Building Inspector and speak to him about it.

Mr. Orth asked what the hardship would be if she were not to build this.

Ms. Moore said would not be able to get insurance. The house is in need of repair and it would not be financially feasible to try and restore the house. The cellar walls and sills are crumbling; it's been through a fire and the house, as it currently stands, needs to be razed.

Mr. Orth asked for any further questions or comments; hearing none, asked for a motion.

MOTION: Mr. Reinke moved to approve the petition of Mary E. Moore of 28 Mechanic Street, Leicester, Ma. for a Variance to demolish existing home and build a new home 12.5-feet and

18.5-feet respectively from the front property boundary line; 9.9-feet & 10-feet respectively from side boundary line and 19.2-feet from rear property line.

SECONDED: Mr. Hathaway – Discussion: None

VOTE: All in Favor – VARIANCE APPROVED

**Finding of Facts:**

Jim Reinke voted in favor of the motion because he felt that owing to circumstances related to the topography of the lot, but won't affect generally the zoning district. It met the hardship financial or otherwise; the house is in disrepair and beyond the ability of being restored. It would be in harmony with purpose and intent of the Bylaw.

Vaughn Hathaway voted in favor of the motion because he felt it met hardship because of the condition of the structure and beyond repair. It will be less encroaching and he felt it satisfied Chapter 40A, Section 10 and the Zoning Bylaws.

David Kirwan voted in favor of the motion because he felt it met the hardship because of the poor condition the house was in and was beyond repair. The new structure will be less encroaching and help improve the neighborhood.

David Orth voted in favor of the motion because he agreed the hardship was met because the new footprint will be less encroaching and was in harmony with the intent and purpose of the Bylaws.

Instructions were given on appeal process and the filing of the Decision with the Registry of Deeds.

MOTION: Mr. Hathaway moved to close

SECONDED: Mr. Reinke – Discussion: None

VOTE: All in Favor

Hearing closed at 8:13PM

**General Minutes**

**Approval of Minutes**

11/19/2014 (2) – 11/25/2014 (1) – 12/3/2014 (1) – 1/7/2015 (2)

MOTION: Mr. Hathaway moved to approve the minutes of November 19<sup>th</sup>, Lot 7 Conway Drive, and 22 Pleasant Street; November 25<sup>th</sup>, 22 Pleasant Street; December 3<sup>rd</sup>, 2014, 1605 Main Street; and January 7<sup>th</sup>, 2015, 42 Tobin Road, and 35 Burncoat Lane with noted corrections.

SECONDED: Mr. Kirwan – Discussion: None

VOTE: All in Favor

Meeting adjourned at 8:30PM

Respectfully submitted:

*Barbara Knox*

Barbara Knox

Approved 5/20/2015