

Zoning Board of Appeals Meeting Minutes

Minutes of May 20, 2015

Hearing on the petition of Peter & Karla Doane of 915 Pleasant Street, Rochdale, Ma. for a Variance to construct a garage onto existing home 13.2-feet from south property line and 9.4-feet from the north property line and for a Special Permit for the extension & alteration of a pre-existing nonconforming structure on property located at 33 Burncoat Lane, Leicester, Ma.

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

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

Meeting called to order at 8:00PM

Instructions were given on the hearing procedures.

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

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

Submitted into Evidence: a Registered Plot Plan, the return receipts from the Certified Mailing to abutters and the Finding of Facts

Correspondence received: Site Consideration from the Building Inspector and a memo from the Board of Health that was read into the record by Mr. Orth.

Mr. Orth opened the meeting to the applicant to present their petition to the Board, noting the Variance will be heard first.

Mr. Jason Dubois of Bertin Engineering, representing the applicant, made the presentation.

Mr. Dubois said that Conservation Commission and Board of Health approvals were received. He showed where on the plan where Burncoat Lane and Burncoat Pond were located from the existing house. The house was shown in a lighter gray and the proposed garage was shown with a bolder line.

Currently the house sits 6.6-feet from the south sideline and the proposed garage will be 13.2-feet on that side, which will be further away from the sideline. The north side of the house is 20.9-feet at the closest point and the closest point to the proposed garage is 9.4-feet.

The required setbacks in this area are 40-feet and the property alone measures 40-feet across the entire lot, so there is no room on that lot to where they could meet today's setback requirements.

The house is rotated on the lot, at an angle and because of the existing front porch; it pushes the garage further away toward the north side, which will require taking down a portion of that porch. The two-car garage is proposed to be 22-24 feet wide. It actually shows on the plan as 22-feet. If it were 24-feet, it would further encroach the side setback on the north.

He felt this proposal is consistent with how the other homes in the neighborhood sit close on their respective lots and being close to their sidelines.

Mr. Orth asked if the leach field was going to be under the driveway.

Mr. Dubois said yes, there is currently a cesspool in the back.

Mr. Hathaway asked for the applicant to speak on what the hardship would be by not having the proposed garage.

Mr. Dubois said the owners do not have a place for storage.

Mr. Hathaway said a garage wasn't there when the property was purchased for redevelopment and storage doesn't qualify as a hardship.

Mr. Dubois explained the hardship is that house was built back in the 1950s in such a way that it's not parallel to the property lines and whatever is built there will be in the setbacks.

Mr. Hathaway explained that a hardship is something that didn't exist at the time the property was purchased and is why something needs to be done now.

Mr. Dubois understood hardship was if something existed at the time of zoning, which this did.

Mr. Hathaway stated that his question was what would be the hardship if this garage was not built.

Mr. Orth asked what the impact would be if it were to be a one-car garage as opposed to a two-car garage or what would the hardship be if a garage was not built there at all.

Mr. Schold asked if this was going to be a year round home. Mr. Dubois said yes.

Mr. Schold felt that maybe it would be to allow the owner to pull into the garage and not have to go out into the weather to get into their home. Or maybe there's a medical issue with a parent or something of that nature.

Mr. Dubois felt any type of addition that isn't there when the property is bought, is a hardship no matter what.

Mr. Orth said the point is what the hardship would be if the garage was denied.

Mr. Kirwan read the requirements for the granting of a Variance; (Chapter 40A, Section 10.)

Mr. Hathaway said he understood it not being detrimental to the neighborhood, but he did not understand that if the Board didn't grant the variance, what the hardship would be. For example, a hardship could be the need to have shelter for an elderly or disabled person to be brought into the house safely when it's snowing or raining.

Ms. Karla Doane said the plan is to have this all in place so they can live there year round. The garage will not be mainly for a vehicle, but to have space for storage. There's no closet space in the house and they don't have a shed, so this was their plan to be able to live there. If they can't do this, it's not going to be something that will work.

Mr. Hathaway explained the Town Bylaw for accessory structures, such as a shed, that is allowed to be 10-feet from the lot line and he noted that could be another option for storage.

Mr. Orth said an accessory structure is not part of the house, which makes the rules are different. A shed can be put in the back or side yard and can be located within 10-feet of the property line and allowed without having to get a special permit. If the purpose of the garage is for storage, a shed can be used for that storage.

Ms. Doane asked if the garage would be completely out if they downsized the garage and would that be a viable option.

Mr. Orth said it would depend on how much would be encroaching if it were downsized to a single car garage.

Mr. Hathaway explained that it would still be encroaching within the setback and would still require demonstration of a hardship if a variance was not granted. It may be easier for the Board to understand the hardship, but the applicant would still need to talk to the hardship aspects if it were not granted.

Mr. Kirwan explained when describing a hardship, it has to differentiate from something that is nice to have and a two-car garage is nice to have. We can all understand the desire to have one and to be able to store vehicles or products that would be protected from the elements.

The argument would be something nice to have versus the hardship; such as someone who is wheelchair bound or someone who has a special needs child.

There needs to be a real life hardship that needs to be managed in the place in which the individual lives.

Mr. Hathaway explained that the Bylaw in which the Board is required to work within, the Board has to be clear in its decision and meeting the conditions for a variance.

Mr. Dubois requested a continuance, so they can go back and see what can be done on making the garage smaller.

Ms. Moore asked how long the applicant owned the house. Ms. Doane said since 2010.

Ms. Moore asked when the house was bought, if they envisioned doing something like this.

Ms. Doane said yes.

Mr. Schold felt that at some point, the Bylaws need to address the issue that the Town allowed these lots to be developed.

Mr. Hathaway agreed and noted he has spoken with the Town Planner in the past suggesting lake front properties having less restrictive setbacks and she agreed to look into it as something to bring up at a future Town Meeting.

After a brief discussion, it was agreed to continue to June 17th.

MOTION: Mr. Schold moved to continue the petition of Peter & Karla Doane, 33 Burncoat Lane, Leicester to June 17th at 7:30PM

SECONDED: Mr. Reinke – Discussion: None

VOTE: All in Favor

Meeting adjourned at 8:35PM

Respectfully submitted:

Barbara Knox

Barbara Knox

General Minutes

Approval of Minutes

- 2/4/2015

MOTION: Mr. Kirwan moved to approve the minutes of February 4, 2015 for 28 Mechanic Street, Leicester, Ma. with minor corrections as noted.

SECONDED: Mr. Reinke – Discussion: None

VOTE: All in Favor

Correspondence

- Copy of a letter from the Building Inspector to Kevin Hart, 1030 Stafford Street, Rochdale regarding a Cease & Desist for Auto Dismantling.
- Copy of Building Permit and Occupancy Permits issued for December 2014, January 2015 and February 2015
- Notice received regarding FY 2016 Appointment/Reappointments. David Orth & James Reinke were both up for Reappointment. Both have agreed to being reappointed.

Meeting adjourned at 8:45PM

Respectfully submitted:

Barbara Knox

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