

Zoning Board of Appeals Meeting Minutes

Minutes of July 19, 2017

Hearing on the petition of Shari & Robert Frigon of 163 Northwest Road, Spencer, MA for a Variance from the minimum lot size requirement and the sideline dimensional requirement to replace existing home on property located at 40 Lake Sargent Drive, Leicester, MA

Members present: Vaughn Hathaway, Chair; Jim Buckley, Clerk; David Kirwan, David Orth
Alternate members present: Jim Reinke, Dick Johnston

Meeting called to order at 7:35PM

Mr. Jim Reinke recused himself as voting member due to being a direct abutter.

Instructions given on hearing procedures.

Voting at tonight's hearing: Jim Buckley, Vaughn Hathaway, David Kirwan, David Orth and Dick Johnston

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

Submitted into Evidence: Registered Plot Plan that did not show proposed structure; a plot plan showing existing & proposed structure, return receipts from Certified Mailing to abutters and pictures of property and structure.

Correspondence received: None

At this point, Mr. Hathaway opened discussion for the applicants to present their petition.

Mr. Robert Frigon explained they were looking to demolish the existing home and build a new home to live in full time. The house will be almost on the same foundation as it sits now, except they will be moving it back around 6-feet into the hill and further away from the water. The closest portion was at the front retaining wall where there's a little jog for a step and that sits 5-inches from the borderline. The house will be 2 ½ stories high.

There's a very large boulder on one side of the house that can't be moved, so they were unable to get any closer to that side. They will not encroach any closer to that side than they do now.

Mr. Hathaway asked if there was a Registered Plot Plan showing the proposed structure.

Ms. Shari Frigon said they have a registered plan showing the existing structure, but not one with the proposed structure because they didn't know if they would be allowed to build.

Mr. Hathaway explained the Board typically requires applicants have a plot plan that shows the existing & proposed structure and how far it was from the lot lines.

Ms. Frigon reviewed the plans that showed the existing and proposed house.

Mr. Hathaway said the Board has a requirement for a registered plot plan that shows the proposed structure on it, because they need something accurate in order to make a decision.

Ms. Frigon explained they didn't want to put the money into something they weren't sure would be approved.

Mr. Hathaway felt the Board would be unable to make a determination tonight without having a Registered Plot Plan showing the proposed house. Although, discussion could still be held with any other concerns there might be.

Mr. Orth explained why the Board needed a Registered Plot Plan showing the new proposed structure.

Mr. Hathaway said the plan also needs to show the dimensions from the house to lot line, as well as the setbacks for the existing house and proposed house.

Mr. Orth further explained the Board could only assume that what the applicant had brought here tonight was accurate, but there wasn't a registered plan to confirm that.

He agreed a decision cannot be made tonight.

Mr. Kirwan said one of the reasons mentioned for this variance to be approved was the fact other lots on the street were not compliant. He felt that did not play into a variance decision.

He asked the applicant to expand upon their hardship and to further explain that if this variance was not approved, what were the hardships involved.

Ms. Frigon said they have a lot invested in the house and they need to make it accessible for her mother, who will be moving in with them and needs extra care.

Mr. Kirwan asked if it was because of the boulder that there was no other option to position the house on the lot. Mr. Frigon said yes, it was all ledge there.

Mr. Hathaway asked where the septic was located.

Ms. Frigon said they would be hooked into Town sewer.

Mr. Hathaway noted that one of the plans showed a deck and he wanted to make sure that any plans drawn included everything to do with the proposed structure.

He said where the rock was located, does not allow moving the house. He asked by ignoring the rock, what would the setbacks be.

Ms. Frigon said the way it jogs back, would put them within 25 feet of the water and they are only 5-inches over. If they have to make the house 5-inches smaller, they will.

Mr. Hathaway said in that area, there was a 25-foot setback and this is about 5-inches over. Moving the house and ignoring the boulder, would eliminate that setback.

Mr. Johnston said some lake front property owners have found they owned property under the lake. He explained when these lake subdivisions were put together, some properties identified square footage into the water and that the property owner found they owned that land. He asked if they had looked into that, because if that were the case, this would not be an issue.

Ms. Frigon showed their registered plan with the existing house.

Mr. Reinke explained he viewed the original 1933 subdivision plan for this area and property owners around the lake, did not own land under the water.

Mr. Kirwan asked if the structure would block any of the neighbors' view of the lake.

Mr. Frigon said no, their property sits down from the road.

Mr. Reinke said he is a direct abutter. The residents own the right of way to the lake and this house will not encroach any further to that right of way than it does now.

He explained the boulder on that property was better described as 100% ledge and not just a rock on the surface. There was no way that rock could be moved and he confirmed this was the only spot on the lot where the house can be placed.

He said as an abutter, he had no problem with the way the house was designed and felt it will keep in harmony with the neighborhood. Since the original layout of this area in 1933, the neighborhood has changed throughout the years.

This lot was one of two lots left that were still campsites on the entire lake. This upgrade would put it in harmony with the rest of the neighborhood, rather than it remaining a one-story cinderblock seasonal camp.

Mr. Hathaway said as noted earlier, the Board was not prepared to make a decision tonight, but agreed to allow discussion in order to bring out any concerns that would need to be addressed before the next meeting.

Mr. Orth agreed with what was pointed out that the house will not be further encroaching and would be an improvement to the neighborhood. As well as the rock being more than just a rock. He did not have a problem with this application. They were staying within the same setbacks as the existing home.

Mr. Hathaway said because this issue had come up in the past, he asked what direction the roof would be slanting and would the overhang further encroach.

Mr. Frigon said it's a gable roof to the side and the overhang would be around 6-inches.

Mr. Buckley also didn't have a big concern with this. The house won't be encroaching any further than it is now. It is a bigger home and all the lots around there are small. He felt applicants should always try to make their plan least encroaching as possible. However, if the builder designs the home to be 30-feet wide, doesn't mean it has to be 30-feet wide. Ms. Frigon said they were trying for a little more room inside, but they can make it 29-feet. Mr. Buckley explained that they were asking for the Town to vary from the Bylaws that the entire Town voted in. He felt an effort should be made to try to meet what the Bylaw requires.

Mr. Hathaway noted if they found it hard to meet the requirements, it would be a hardship that would need to be described to the Board.

Mr. Kirwan said by cutting some of the square footage off, causes financial issues, let the Board know that as well, because part of the hardship could be financial.

Mr. Hathaway wanted to confirm that the revised plan include the steps and that it's a Registered Plot Plan showing the existing and proposed home.

Mr. Hathaway pointed out that this application was in jeopardy of reaching the statutory time limit. He asked the applicants if they agreed to waiving the time limit.

Mr. & Mrs. Frigon both agreed to waive the statutory time limit.

MOTION: Mr. Buckley moved to accept the request made by Shari & Robert Frigon to waive the statutory time limit in which to make a decision.

SECONDED: Mr. Kirwan – Discussion: None – VOTE: All in Favor

MOTION: Mr. Buckley moved to continue the hearing on the petition of Shari & Robert Frigon of 163 Norwest Road, Spencer, MA for a Variance on property located at 40 Lake Sargent Drive, Leicester, MA, to Thursday, August 17, 2017 at 7:30PM

SECONDED: Mr. Orth – Discussion: None – VOTE: All in Favor

Adjourned at 8:15PM

Respectfully submitted:

Barbara Knox

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General Minutes

Correspondence

A letter from Michelle Buck, Town Planner regarding ZBA filing fees.

Mr. Hathaway read the letter into the record.

Ms. Buck noted in her letter that upon reviewing the estimated staff time for processing ZBA applications, the current fee did not cover the Town's cost. She recommended a conservative increase from \$55 to \$150.

After some discussion, the Board agreed the current fee had been the same for over 20 years and an increase was warranted.

MOTION: Mr. Kirwan moved to raise the ZBA filing fees to \$175.00

SECONDED: Mr. Buckley – Discussion: None – VOTE: All in Favor

Approval of Minutes

6/7/2017

MOTION: Mr. Kirwan moved to approve the minutes of June 7, 2017 for 26 Crestwood Drive with minor typo corrections

SECONDED: Mr. Johnston – Discussion: None – VOTE: All in Favor

Meeting adjourned at 8:40PM

Respectfully submitted:

Barbara Knox

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