

Zoning Board of Appeals Meeting Minutes

Minutes of July 9, 2014

Hearing on the petition of Michael and Kate Mercer of 8 Clark Street, Rochdale, Ma. for a Variance to construct a one family home 27-feet from the front line, 28.7-feet from the south property side line, 5.1-feet from the north property line and 31.1-feet from the back property line bordering the pond on the property located at 47-48 Salminen Ave. Leicester, Ma.

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

Alternate members present: Jim Reinke

Meeting called to order at 8:43PM.

Instructions were given on procedures.

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

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

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

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

Mr. Orth opened the hearing to the applicant to address the Board.

Mr. Paul Grazawitz of Graz Engineering made the presentation.

Mr. Grazawitz reviewed the plot plan showing the existing structure and the abutting structures. He explained the applicant owned the two parcels at 47 & 48 Salminen Ave, even though they are shown as two separate parcels, but practically speaking, they are one parcel divided by the private road. It's basically one building area.

The existing structure sits 1.7-feet from the north boundary line, there's a deck on the reservoir side with a similar setback, but closer to the reservoir.

They will be improving the side setbacks to the north and the other setbacks will be slightly less, but similar.

Trying to meet the 40-foot yard setback requirement on a lot, where there is only 65-feet, just doesn't work. The property has been in the family for many decades and the Mercer's would like to try and improve it. Along with this proposal they want to build a garage and put the proposed septic leach field on the other lot across the street.

Mr. Schold felt with having the additional lot across the street, makes the proposal workable, by using both lots. The structure being proposed fits in with the neighborhood and wouldn't have an adverse effect.

Mr. Reinke asked if there should be some clarification for a second variance to include the garage being before the front plain of the house.

Mr. Hathaway said the variance the Board is hearing is only on the house, but Mr. Reinke did raise a good point, although he felt that would be up to the Building Inspector.

Mr. Orth felt that because the garage was being placed across the street, it wasn't exactly in front of the house.

Mr. Hathaway explained that accessory structures have to be at least 10-feet from the property line and the issue here is the garage was on a different lot. The Engineer did note that both lots were being considered as one piece of property, with a road going through the middle of it.

Mr. Reinke said there were two things being discussed, the front plain of the house and an accessory building without a residence on the lot. His concern was having the two separate lots, separated by the centerline of the road and possibly creating an issue similar to the Maple Lane Appeal.

Mr. Hathaway said the Board was only hearing on the dimensional relief for the house and felt the Building Inspector would send the applicant back to the Board if they need to apply for an additional variance for the garage.

Mr. Grazawitz said their request was for dimensional relief for the house and felt the garage would be a separate issue. That was the feedback he got from the building inspector.

Mr. Orth explained the difference between the Maple Lane issue and this application, had more to do with the Mortgage Company's error during the foreclosure. He felt the discussion tonight was only on the house, not the garage, because the notification sent out, was just on the house.

Mr. Hathaway agreed and noted the Finding of Facts, supporting the approval for the variance, was only related to the house and that statement didn't apply to the garage.

The applicant didn't ask for a variance for the garage because it's an accessory structure and it only has to be 10-feet, but it does make it confusing because it's on the opposite side of the road.

Mr. Orth suggested to the Board that if they felt there was an issue with the garage, maybe to continue the hearing and check with the Building Inspector to see if there was an issue with the garage.

Mr. Hathaway disagreed and explained that the Board only advertised relief for the house, which was what the petitioner requested and a decision can only be made on that. If something more is needed else, it will need to be a separate filing, advertisement and hearing. He felt a continuance would be necessary.

Mr. Orth confirmed that the Board will only be deciding on the house and not the garage.

Mr. Kirwan asked during the redesigning of the footprint of the house, what was the reason the side yard setback went from 1.7-feet to 5-feet.

Mr. Hathaway felt it had to do with centering of the house on the lot.

Mr. Grazawitz agreed and also the location of the driveway and having the septic tank and pump chamber adjacent to the house on the south side.

Mr. Orth asked for any further comments or questions, hearing no further discussion, asked for a motion.

MOTION: Mr. Hathaway moved to approve the petition of Michael & Kate Mercer of 8 Clark Street, Rochdale, Ma. for a Variance to construct a single-family home 27-feet from the front line, 28.7-feet from the south property side line, 5.1-feet from the north property line and 31.1-feet from the back property line bordering the pond as shown on the plan on property located at 47-48 Salminen Ave, Rochdale, Ma.

SECONDED: Mr. Kirwan – Discussion: None

VOTE: All in Favor

Finding of Facts: Mr. Hathaway voted in favor of the motion because he felt it met the conditions for hardship and the requirement under Chapter 40A, Section 10 and the Leicester Zoning Bylaws. That there would not be an adverse effect on the neighborhood and desirable relief may be granted without substantial detriment to the public good.

Mr. Kirwan voted in favor of the motion because he agreed it met the hardship requirements in Section 10 of Chapter 40A and the Leicester Zoning Bylaws. A literal enforcement of the Bylaw would have involved substantial hardship to the petitioner.

Mr. Buckley voted in favor of the motion because he agreed it met the requirements in Section 10 of Chapter 40A and that a literal enforcement of the bylaw would involve substantial hardship to the petitioner. This will not substantially derogate from the intent or purpose of the Bylaw.

Mr. Orth voted in favor of the motion because he agreed it met the criteria of Chapter 40A, Section 10 and the Leicester's Zoning Bylaws. That owing to circumstances relating to the soil conditions, shape and topography of the land, desirable relief may be granted without substantial detriment to the public good or substantially derogating from the intent or purpose of the Bylaw.

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

MOTION: Mr. Kirwan moved to close the hearing.

SECONDED: Mr. Hathaway – Discussion: None

VOTE: All in Favor

Meeting adjourned at 9:20PM

Respectfully submitted,

Barbara Knox

Barbara Knox

General Minutes

Correspondence

- Budget Report ending 4/30/2014
- May, 2014, Building Permit's & Occupancy Permit's issued