



TOWN OF MEDFIELD

Office of the

BOARD OF APPEALS

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-2009

(508) 359-3027
(508) 359- 6182 Fax

MEETING OF:
January 13, 2021
MINUTES

Members Present: John J. McNicholas; Chairman; Michael W. Whitcher, Member; William McNiff, Member

Members Absent: Jared Gustafson, Associate Member; Jared Spinelli, Associate Member; Charles Peck, Associate Member

Staff Present: Sarah Raposa, Town Planner; Marion Bonoldi, Recording Clerk

Others Present: Brian Nixon, James Murphy, Edmund Prescottano, Kevin Sullivan, Chris Potts-McCue

Location: Virtual Zoom Webinar

At approximately 7:30 pm, Chair Jack McNicholas called the meeting to order and announced the meeting is being recorded. Chair McNicholas explained procedures for the meeting

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Medfield Zoning Board of Appeals is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen to or view this meeting while in progress may do so by following the instructions on the agenda and meeting notice. The meeting is being recorded.

Brian and Sarah Nixon (applicant/owners) seeks a special permit under MGL Chpt. 40A §9 and/or Medfield Zoning Bylaw §300-9.1.C.2. and the Table of Area Regulations referenced in §300-6.2 of the Zoning Bylaw that the proposed work consisting of a reconfiguration of the lot line between 57 Pound Street and 58 South Street (specifically the proposed reduced side yard setback to the garage) will not be substantially more detrimental to the neighborhood than the existing nonconforming nature; and/or a variance from Chapter 300 Attachment 3. The property is located at 57 Pound Street; Assessors' Map 37 Lot 134; RU Zoning District with Secondary Aquifer Overlay.

Ms. Raposa introduced Mr. Brian Nixon and Mr. Edmund Prescottano. Mr. Nixon explained the land swap brought before the Planning Board. The plans were shared with the Board. Mr. Nixon said his non-conforming lot becomes more non-conforming once the swap is done. Mr. Nixon said the purpose is to give more useable land to both properties. Ms. Raposa zoomed into the lot line that is becoming more non-conforming. Ms. Raposa said Mr. Nixon is in the RU zone and Mr. Prescottano is in the RS zone. Ms. Raposa explained that the original charts had incorrect zones and has since been corrected. Chair McNicholas said the lot line is 10.8 feet as it exists and changes to 1.3 feet with the swap. Mr. Nixon said correct. Mr. Whitcher said the swap seems to

improve the side setback on 58 South Street. Mr. Whitcher doesn't feel the increasing non-conformity is a significant change. Mr. McNiff said the swap makes more available space for each lot. Mr. McNiff asked if there are any plans to remove trees. Mr. Nixon said the long narrow piece of land is currently all grass and the area behind the garage has hemlocks; no trees are going to be removed. Mr. McNiff asked if any major changes will be happening. Mr. Nixon said there are no plans for major changes to either parcel. Chair McNicholas asked if each owner will be deeding the parcels to one another. Mr. Nixon said yes; they have an attorney that will handle the swap.

Chair McNicholas said there is no one to speak in favor or against the application. Chair McNicholas doesn't believe a formal site visit is necessary. Mr. McNiff and Mr. Whitcher agree.

Mr. Whitcher made a motion close the hearing. Seconded by Mr. McNiff. Roll Call Vote: Roll Call vote: MW=yes; WM=yes, JM=yes. The Vote: 3-0.

Kevin and Heather Sullivan (applicant/owners) seeks a special permit under MGL Chpt. 40A §9 and/or Medfield Zoning Bylaw §300-9.1.C.2. and the Table of Area Regulations referenced in §300-6.2 of the Zoning Bylaw that the proposed work consisting of a 10' x 20' farmer's' style porch to the front of their home will not be substantially more detrimental to the neighborhood than the existing nonconforming nature; and/or a variance from Chapter 300 Attachment 3. The property is located at 24 Tubwreck Drive; Assessors' Map 69 Lot 102; RT Zoning District; and was originally permitted under Zoning Bylaw Section 7, Open Space Residential Development (ZBA Decision Numbers 544 and 571)

Mr. James Murphy, attorney for the applicant, said the applicants have lived at the property since 2016 and have 3 children. The plans were shared with the Board. Mr. Murphy said the house is located in an open space development. The proposed porch does not meet setback requirement and there is a utility easement on the property. Mr. Murphy said home has been there long enough to satisfy Chapter 40A Section 7 and the porch is not going to be closer the 6.9 feet. The proposed application has letter of supports from abutters on each side. Ms. Raposa said there is one letter from the Chapman's. Mr. Murphy said he has another letter from the Mahoney's. Ms. Raposa said she did not receive the letter from the Mahoney's. Mr. Murphy read the Mahoney's letter into the record. The letter was in support of the application from 22 Tubwreck Drive. Mr. Murphy said he will forward the letter to Ms. Raposa for the record.

Chair McNicholas said there is a 6.8 ft. setback from a utility easement. Mr. Murphy said yes. Mr. Whitcher said he has no specific questions. Mr. Whitcher said the application seems straight forward. Mr. McNiff said he drove by the property today. Mr. McNiff said he is happy the neighbors have no issues with it. Mr. Whitcher asked if there are any requirements with the home owner association that need to be followed. Mr. Sullivan said they have been in contact with the home owner's association and there are no issues. Mr. Murphy said the ZBA decision is only for the dimensional requirements. Mr. Whitcher said stylistically will the house blend in. Mr. Sullivan said the plan is to have it blend in with the home and the neighborhood.

Chair McNicholas said there is no one present to speak in favor or against the application. Chair McNicholas said there is no reason for a formal site visit. Mr. McNiff and Mr. Whitcher agreed. Mr. Whitcher made a motion close the hearing. Seconded by Mr. McNiff. Roll Call Vote: Roll Call vote: MW=yes; WM=yes, JM=yes. The Vote: 3-0.

Minutes

Mr. Whitcher asked to hold on the approval of minutes of December 17, 2020. Mr. Whitcher would like some time to review the minutes in more detail. The Board agreed to schedule a meeting next week to approve the minutes.

Deliberations

57 Pound Street – Mr. McNiff said the neighbors are not objecting and the swap seems to make sense to the lots. Mr. McNiff sees no reason to not grant the permit. Mr. Whitcher asked if the conditions should include a recording of the deed. Mr. Whitcher feels the condition is necessary to not cause confusion moving forward. Chair McNicholas agreed. Mr. Whitcher made a motion to approve the special permit for 57 Pound Street. Seconded by Mr. McNiff. Roll Call Vote: Roll Call vote: MW=yes; WM=yes, JM=yes. The Vote: 3-0. Mr. McNiff will draft the decision.

24 Tubwreck Drive – Mr. Whitcher sees no reason to not issue the special permit. Mr. McNiff said the proposal will improve the property and the neighbors are in support. Mr. Whitcher made a motion to approve the special permit for 24 Tubwreck Drive. Seconded by Mr. McNiff. Roll Call Vote: Roll Call vote: MW=yes; WM=yes, JM=yes. The Vote: 3-0. Mr. Whitcher will draft the decision.

Work Session: Historic Properties Bylaw Review

Chair McNicholas said he does not want to go into the historic properties bylaw review in a lot of depth tonight. Chair McNicholas said in light of the Clark Tavern hearing and decision; the bylaw needs some review. Chair McNicholas said the practical implementation of the bylaw for the ZBA is complicated. Chair McNicholas feels a working group with members of other boards and the ZBA could look at the bylaw in depth and improve the language. Mr. Whitcher agrees that the bylaw under Section D and Subsection 4 need clearer wording. Mr. Whitcher said the historic preservation section needs to be clear. Mr. Whitcher feels with the number of historic properties in town; this issue will come up again. Mr. Whitcher feels the language needs to be streamlined. Chair McNicholas said there needs to be clarification between structure and property in terms of preservation. Mr. McNiff believes the bylaw does need review. Mr. McNiff said the preservation of a property verse what can be salvaged at a property needs to be reviewed. Chair McNicholas said clearer definitions in Section 4 needs to be reviewed and possibly reworked.

Chair McNicholas said Mr. Mark Cerel was the original drafter of the decision in 2003. Chair McNicholas feels that the Board should reach out to people to get a group together. Ms. Raposa suggested members of the working group should be from the Historical Commission, Historical District Commission and Mr. Mark Cerel.

The Board is in favor of pursuing a Historic Properties Bylaw Review working group.

At approximately 8:15 am, Mr. McNiff made a motion to adjourn. Seconded by Mr. Whitcher. Roll Call Vote: MW=yes; JM=yes, WM=yes. The Vote: 3-0.

Respectfully Submitted,

Marion Bonoldi, Recording Clerk