

Topsfield Zoning Board of Appeals
June 22, 2010

Chairman Moriarty called the meeting to order at 8:00 PM. Board members present were Bob Moriarty, Kristin Palace, Tony Penta, Lisa Stern-Taylor and Scott Dow. Roberta Knight, Community Development Coordinator was also present as well as the applicants, their representatives and interested residents. See attendance sheets for specific public hearings.

188 Washington Street: At 8:00PM, Chairman Moriarty called to order the public hearing to consider the application of Ellen Condon for premises located at 188 Washington Street, a non-conforming lot, requesting a finding pursuant to Article III, Section 3.05 of the Zoning By-Law relative to the demolition and replacement of a deck and porch with a new deck. Ms. Condon's builder George Baptista informed the Board that the replacement deck was actually smaller than the existing structure.

Clerk Kristin Palace made the motion to approve a finding pursuant to Section 3.05 of the Topsfield Zoning By-law that the replacement deck would not be substantially more detrimental or objectionable to the neighborhood; seconded by Member Lisa Taylor; so voted 5-0.

August Schedule: The Board discussed meeting dates for the August monthly meeting. August 17th and August 31st were proposed dates that all members would be available. Ms. Palace would check her schedule and get back to the Board.

Minutes: Clerk Kristin Palace made the motion to approve the minutes of May 25, 2010 as written; seconded by Chairman Bob Moriarty; so voted 5-0.

103 Main Street: At 8:15PM, Chairman Moriarty called to order the public hearing to consider the application of Brian and Laura O'Connor for premises located at 103 Main Street, a non-conforming lot, requesting a variance from the required setback pursuant to Article IV, Section 4.06 Accessory Buildings to decrease the right side setback to five (5) feet in order to build a detached extended two-door garage with room above.

The Applicant Brian O'Connor explained to the Board that he would like to construct a garage on the property that would allow his family to safely load and unload children and elderly adults.

Mr. O'Connor noted that his house is located on Main Street which is a busy thoroughfare. Main Street curves at this location making visibility difficult. He also explained that his lot is pie shaped, being more narrow toward the rear of the property, and that the back yard is elevated in the center and slopes steeply off on three sides because of a recently installed septic system. The Main Street location and topography of the lot work together to eliminate all choices for a location for the garage other than the one shown on the plan he submitted with his application. The proposed location would allow them to preserve the current driveway as designed to allow adequate turn-around

for direct head-out access back to Main Street which is a critical safety feature. It would also preserve a necessary ten (10) foot setback to the existing septic pump station and a safe and adequate buffer between the garage and the line connection to the leaching field.

Deryn Kellogg, the current neighbor to the south whose lot would border the proposed garage, supports the project as he believes that the proposed garage would improve the lot and provide a privacy buffer between the yards. Currently the elevation difference between the adjoining lots does not allow privacy since the O'Connor's yard "looks down" into the fenced area of the adjacent Kellogg lot. This condition would be solved by the proposed location of the garage.

Mr. O'Connor noted that as the proposed garage would be visible from the street and under the jurisdiction of the Historical Commission, he has worked to make the design both aesthetically pleasing and in conformance with the general historical character of the area.

Upon questioning by the members, Mr. O'Connor noted that the height of the two-story structure would not be higher than the existing house based on the elevation at the proposed location for the structure. There would be storage on the first floor with space for a third vehicle behind the vehicle bay on the right. The second floor may be used as a fitness room. The building will have electrical service, but will not have oil, gas, or water service.

The Board found, pursuant to M.G.L. c. 40A, §10, and after taking into account the objectives of Article IV of the Topsfield Zoning By-Law, that owing to the shape and topography of the lot and the placement of the structures thereon which affects this lot but does not affect generally other lots in the zoning district, a literal enforcement of the Topsfield Zoning By-Law would cause substantial hardship to the applicant. The Board further found that relief from the 10 feet set-back requirement may be granted to Brian & Laura O'Connor and the subject lot without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-law.

Clerk Kristin Palace moved that the Board adopt the foregoing findings and grant a variance for a five feet side setback on south side of lot pursuant Article IV, Section 4.06 Accessory Buildings to Brian & Laura O'Connor:

The motion was seconded by Member Lisa Taylor; so voted; 5-0

362 Boston Street: At 8:45PM, Chairman Moriarty called to order the public hearing to consider the application of Walsh Properties, LLC for premises located at 362 Boston Street for the demolition and removal of all existing structures and the redevelopment of the property for retail and office uses requesting (1.) variance relief pursuant to Article IV, Section 4.12 D Parking and Section 4.02 Table of Dimensional and Density Regulations; Article XI Groundwater Protection District Sections 6.1, 6.2.4 & 6.2.5 and

alternatively requesting office and retail uses in this district by special permit under Article XI, Section 6.3.5; (2.) special permit relief to allow various potential retail uses on the property pursuant to Article V, Section 5.04 and Article III, Table of Use Regulations Sections 4.02 thru 4.9, Sections 4.12A, 4.12B, 4.12D, 4.12E, 4.16, 4.17, Sections 4.24 thru 4.27, Section 5.10; and (3.) site plan review pursuant to Article IX of the Topsfield Zoning Bylaw.

Architect William Balkus, Attorney Donald Borenstein and Engineer John Morin represented the Applicant Walsh Properties LLC.

Architectural Site Review: William Balkus noted as follows:

- Triangular shape lot currently housing three buildings (house, barn & shed)
- Significant Structure and has been reviewed under the Demolition Delay By-law
- Business Highway North District
- New commercial building sited on lot with 40 feet set back for frontage and access on Ipswich Road
- Part of building does not meet the setback for Averill Street
- 3,000 square feet building footprint
- Present building footprints together are approximately 2,000 square feet
- Raised septic system to be located in back pie shaped area
- New primary access relocated on Ipswich Road
- 21 parking spaces with parking over septic system
- Front parking area with one handicapped parking space
- Access on Averill Street for only emergency fire apparatus
- First floor of building to be retail space
- Second floor of building to be office space with common area (30% of floor area)
- Hip roof with gables on both front and back; dormers on each end
- Signage will be black and gold

At this time Attorney Borenstein noted that the site was an under utilized property with wetland and technical challenges; however, he was confident that the development team would be able produce a site development plan that would satisfy the Conservation Commission and be in compliance with wetland regulations.

Engineering Site Review: John Morin noted as follows:

- Plan to have access from Ipswich Road noting existing curb cuts on Ipswich Road, Boston Street and Averill Road
- Ipswich Road access would not require permitting from Mass Highway
- Significant wetland issues since Mile Brook, a perennial stream runs through the property making the entire site within the 200 feet Riverfront Area
- Site is also in Zone 2 of the Groundwater Protection District

- Proposed septic system with the use of alternative technology allows for an increased septic load rate and is designed in accordance with the State Title V septic regulations
- Septic load rate of 550 gallons per acre per day, which is in excess of the rate of 110 gallons per ¼ acre per day (440 gallons/acre/day) that is permitted under the By-law and would require a variance
- Stormwater and drainage for the site would be addressed with the installation of 2 underground chambers: one for a storage area, the second for infiltration
- 21 parking spaces of which four (4) spaces are located in the front setback; one handicap space would access a ramp to the walkway located around the structure
- Two (2) retaining walls for minimum grade changes for drainage
- All snow would be removed off the site; same for trash removal
- Underground utilities from Route 1 which would require a new pole to be installed

Variations and Special Permit Relief: Attorney Donald Borenstein reviewed the Addendum attached to the application. For specific details of the variance and special permit relief requested for the redevelopment of the property, refer to the Addendum dated June 1, 2010 incorporated and attached hereto. He also noted that the Groundwater Protection Overlay District does not appear to account for commercial uses in this overlay zone. The Applicant requests that the Board allow office and retail use in the District with the issuance of special use permits.

At this time Chairman Moriarty informed Attorney Borenstein that the Board would require an engineering peer review which would be funded pursuant to Chapter 41, Section 53G by the Applicant. Ms. Knight noted that peer reviews no longer came under Chapter 30B procurement guidelines. She recommended using the consultant services of the BSC Group and would draft a Request for Proposal for per review consultant services with guidelines to reduce duplication of effort relative to other board applications.

Chairman Moriarty then queried as to the sequencing of filings since the project would require permits from the Conservation Commission, Planning Board and Board of Health. Attorney Borenstein replied that the plan for the sequencing of the multi-board permitting process would begin with the Zoning Board for use and variances. Any modifications to the zoning decision that would be required due to permitting decisions by other boards would then be brought back to the Board for review.

Transportation Review: Howard/Stein-Hudson Associates, Inc.

Traffic Impact & Access Study: Data to support project proposal to use Ipswich Road as primary access:

- Two-way vehicular access to the existing site is currently provided via a curb cut on Boston Street

- Current secondary access to site from Ipswich Road and Averill Street
- Primary access for redeveloped site will be on Ipswich Road; existing curb to be relocated approximately 60 feet west of its current location
- Curb cut on Boston Street will be discontinued; Averill Street driveway to be relocated approximately 40 feet east of existing location
- Traffic study focused on time periods as the “worst case” scenario for analysis purposes: 4:00PM to 6:00PM weekdays, 11:00AM to 2:00PM on Saturday
- Study indicated that project would generate approximately 17 vehicle trips during the weekday evening peak hour and approximately 17 vehicle trips during the Saturday mid-day peak hour.

A letter from Angela Zimm regarding the project was entered into the record.

The public hearing was continued to the July 27, 2010 meeting.

The meeting was adjourned at 10:20 PM

Respectively submitted,

Roberta M. Knight
Community Development Coordinator