

Minutes of the Zoning Board of Appeals Board Meeting
7:00 PM August 29, 2016
195 Main Street, Maynard - Room 101

Members present: Chair Paul Scheiner, Leslie Bryant, Jamal De Vita, Marilyn Messenger
Also present: Town Planner Bill Nemser

7:00 p.m. Chair Scheiner called the meeting to order

Chair Scheiner opened the public hearing by reading the legal notice: 7 Summer Hill Rd, pursuant to Massachusetts General Laws, Chapter 40A s.5, the Maynard Zoning Board of Appeals will hold a public hearing on Monday, August 29, 2016 at 7:00 p.m. at the Maynard Town Building, 195 Main Street, Maynard, Room 101 to hear all persons interested in the Petition filed by Bill Duggan, 7 Summer Hill Road, Maynard, MA 01754. The subject property, 7 Summer Hill Road, is located within the Single Residential District (S2). The petitioner is requesting a variance from Section 4 of the Zoning Bylaws to allow a reduced rear setback of 24 feet (30 feet required) for a back porch. A copy of the application package is on file with the Office of Municipal Services Office, Planning Division during normal business hours. Upon preparing documents for this hearing it was determined that an additional variance request for extending the already reached maximum coverage for the lot will be needed.

Petitioner Bill Duggan appeared before the Board. The proposal is for a reduced rear setback of 24 ft for a 9 ft back porch addition. Mr. Duggan stated that the other houses abutting have rear screened porches, the petitioner also provided abutter letters in favor of the granting the variance. Town Planner Bill Nemser stated that the property predates the zoning, the lot is 9844 s.f., 20,000 s.f. is now required in the S2 zoning district. Chair Scheiner read the three criteria required for findings by the Board. The abutter letters satisfy the third criteria, that it is not a detriment to the public good. There were no abutters in attendance. Marilyn asked what the hardship is. The Board discussed that the lot size is half of what is currently required in this district, all the abutters have screen porches. There are only four members present, a variance requires four votes, the petitioner can request the hearing be continued to a meeting with five members. The lot size is not consistent with lots in this zoning district, there is a financial hardship if porch cannot be built owner needs to move due to a personal health situation which is why the owner is trying to build the porch.

A motion was made by Marilyn Messenger to close the public hearing, seconded by Jamal DeVita. The Board voted 4 to 0 in favor of the motion.

The Board deliberated on the request. The lot is non-conforming, the existing structure meets the required setback requirements, the lot does not meet frontage requirement. Jamal feels that the hardship is financial, it does not derogate from the intent of the bylaw as the surrounding houses have porches, the abutters are in support of the variance. Lot coverage will increase from 19% to 20%, and the rear setback will be a new conformity thus the requirement for a variance not a special permit. Chair Scheiner polled the Board, Marilyn does not feel it is a financial hardship to want a porch, Chair Scheiner is also leaning in the same direction. Jamal stated the owners reason for wanting a porch is

personal which cannot be considered criteria for a hardship, the lot does not meet lot size for the zoning district S2, the decision should be on a case by case basis.

A motion was made by Marilyn to grant the variance to allow relief from the dimensional requirements of the Zoning Bylaw to create a nonconforming structure 24 ft rear setback and increase the lot coverage to 20%(2,038 s.f.) for a three season screened porch at 7 Summer Hill Road, seconded by Jamal De Vita,

Bill stated that findings must be listed before a vote taken;

Jamal De Vita amended the motion to state that the Board finds that the uniqueness of the lot based on lot size and zoning district, and potential hardship the addition of the porch would be commensurate with the other houses in the neighborhood and could affect the value in the future, three abutters have spoken in favor of the petition so it is not detrimental to the public good, seconded by Marilyn.

Jamal De Vita amended the motion to add the uniqueness of the lot is that the house was placed in the middle of the lot if it were placed closer to the street which would still conform to front setback, the porch in the rear would not have required a variance, seconded by Marilyn Messenger. The Board voted 4 to 0 in favor of the motion.

The Board then went back to the amended motion. The vote on the amended motion was 3 to 1.

The Board then voted on the original motion, the vote on the motion was 3 to 1, a unanimous vote is required for the variance therefore the motion does not pass.

Prospective Board Members

There were three residents introduced, Bill stated the Board needs a full time member and an alternate.

A motion was made by Marilyn Messenger to adjourn, seconded by Jamal De Vita.

Meeting adjourned at 8:13 p.m.

Introduce prospective ZBA members

4. Town Planner Updates

5. Correspondence – Review/questions
