



978-897-1302

TOWN OF MAYNARD
PLANNING BOARD

Municipal Services

MAYNARD, MASSACHUSETTS
01754

Minutes: September 11, 2012

Attending: Max Lamson, Chair, Bernie Cahill, Jason Kreil and Greg Price

This meeting was recorded.

ML – opened the public hearing on 11 Mockingbird Lane – Gene Naddeo the applicant explained that he had been in front of the ZBA requesting a variance for a setback and for the amount of building coverage; the board found that he had uniqueness as to the land. The house is set back on the property because of ledge in the front yard. The applicant could not show hardship. They denied the request. Since that time the circumstances have changed, I do not just need living space, I need bedroom for my mother in law; the board heard his request. He could not put a chair lift in to get his mother in law upstairs because the stairs are too narrow, this room downstairs will be used as a bedroom and they are also adding another bathroom for her. At the first hearing with the ZBA there was no mention of a bedroom; the first application to ZBA the room was described as a continuation of the existing space for a family living space.

BC – are you proposing a 16 x 16 room? Yes. Are all dimensions the same as your application to the ZBA - yes.

RA – this will be inspected as a bedroom and will be specific to the building permit and the certificate of occupancy.

RA – Greg Price asked if there was a hardship with the first application – no. He did not have one. We are looking at Section 16 of 40A- determination that the material changes that are different for a hardship. Does he have to validate the hardship? No

I could get a doctor's note if you need it. JK will there be exterior access to the bedroom – no.

A discussion with the applicant and the board re: location of the room; the house was built on a slab. The house is set back further on the lot than the other houses in the neighborhood; yes because of the ledge in the front yard.

Public Comments;

Vic Tomyl: in law apartment – there is a bylaw for this. A in law apartment has separate entrance to the home. Vic this is not an request for in law apartment; this is to add a room to the home. Under Section 16 – of Chapter 40A. This is not for a special permit, the mother in law is going share living space to home; not a separate dwelling.

Other homes in the area have been granted a variance to build additions to their homes.

John Panetta, 25 Mockingbird Lane – why does the applicant have to show that there is a hardship on his house. ML – Because he needs two variances from the ZBA.

Vic there are many different cases regarding variances and special permits for additions to the homes.

The ZBA will need the following – 1. Hardship, 2. Uniqueness – (soil/shape) and 3 That public good will not change in the area.

Gene will need a variance for the land, hardship and uniqueness and another one for the building coverage because it exceeds 15%. The ZBA has already found that the land was unique. He needs all three to make his case to the ZBA.

The petitioner cannot make his own hardship on the property, but he must show the board the hardship. He will have to wait two years to come back to the ZBA if you do not allow him to go back. The planning board has to determine that the new application is substantially different than the first one in order to send it back to the ZBA before the two years is up.

Question – will the ZBA possibly change its decision? The applicant will have to present to the board. It will be at a public hearing. ZBA is the granting authority. They will have to make a decision on the facts presented at their hearing.

Vic Tomyl questioned the procedure and why it has to go back to the ZBA; explained that they are the granting authority.

BC – motion to close the public hearing – Jason seconded – any further discussion – no – motion passed – 4-0

VT – will you make your decision tonight – yes ML

JK based on Chapter 40A – Section 16 is there a substantial change to the hardship to allow this to go back to the ZBA .

GP – I would have preferred to see something in writing from a health care professional – but that is not our role are role is that the application has substantially changed. Is there substantial changes to the application?

BC – I concur with GP- and the other members of the board; hardship has changed and it is clear that the first application did not contain hardship. If the applicant could show something in writing to the ZBA that there has been medical for the hardship.

We need 4 out 5 members voting in the affirmative to vote on this

GP – motion the planning board consents that the new application is substantially different according to Chapter 40A – Section 16. 2nd BC – any further discussion – no – motion passed 4-0.

Motion to adjourn.