

LONGMEADOW ZONING BOARD OF APPEALS
Minutes of June 26, 2007 hearing

McDonough, 25 Harwich Rd., requesting a Special Permit to remove and replace an existing porch, Petition #2007-7.

Petition was continued to July 18, 2007.

O'Connor, 80 Barclay St., requesting a Special Permit to add a one car garage & remodel existing porch, Petition #2007-12.

At the June 6, 2007 Mr. O'Connor and Tony Pagnoli appeared before the Board on behalf of Mrs. O'Connor. They presented plans showing the existing structure with the proposed addition to the western side of the dwelling.

The Board noted that the existing non-conformities were the primary setback and the existing lot size.

The Board discussed the issue of the addition creating a new nonconformity on the western side of the dwelling. The addition would be 7' from the westerly property line.

They also discussed the placement of the structure and limitations of the lot. The Board noted that neither the zoning by-laws nor M.G.L. c40A permitted an applicant to obtain a special permit when the proposed structure creates a new nonconformity. The Board indicated that the Applicant may qualify for a Variance. The Applicant then decided to amend the application by changing the request for a Special Permit to a Variance. The Board agreed to allow the applicant to amend the application. The hearing was continued to June 26, 2007.

Mr. O'Connor and Mr. Pagnoni appeared again before the Board representing Mrs. O'Connor and requesting a Variance. The Applicants introduced pictures showing the property and explained that the hardship was due to the topography of the property and it would increase costs associated with the addition.

The Board reviewed the pictures and discussed the requirements of meeting a Variance and that the general consensus of the Board was they met the requirements of a Variance due to the unique topography of the property.

No one from the public spoke for or against the petition.

A motion was made and seconded to allow the proposed addition to the westerly side of the dwelling per the plans as submitted and does meet the requirements for a Variance due to the properties unique topography. The addition being no closer than 7' from the property line.

Board Members Lavenburg, Plotkin, Sirulnik, Bean and Preston all voted in favor of the motion therefore granting the Variance.

Douglas, 42 Ellington St., requesting a Special Permit to add to the rear of the dwelling, Petition #2007-16.

Ms. Douglas appeared before the Board requesting a Special Permit to add an 18.5' X 20' addition on the rear of the dwelling. She explained the nature of the proposed addition and stated that the exterior design and materials will complement that to the existing dwelling.

The Board discussed the nature of the existing non-conformities. The Board further discussed and agreed that the plans as submitted will result in an intensification of the existing nonconformities, such as the easterly side set back that measures only 9.28 feet from the lot line.

The Board noted that notwithstanding the increased nonconformities that result with the addition, the construction will generally conform to dwellings in the neighborhood and that as such no detrimental effect upon the neighborhood would result from granting the Special Permit, subject to public comment.

No one from the public spoke for or against the petition.

A motion was made and seconded to allow the proposed 18.5' by 20' upon the rear of the dwelling would be more intensive than the existing nonconformities of front and side set backs as well as lot frontage.

Board members Preston, Bean, Lavenburg, Sirulnik and Plotkin all voted in favor of the motion therefore leading to a second motion.

A second motion was made and seconded that the proposed addition would not be more substantially more detrimental to the neighborhood than the existing nonconformities in that the construction proposed will generally conform to the neighborhood and that no members of the public spoke in opposition to the petition.

Board Members Preston, Bean, Lavenburg, Sirulnik and Plotkin all voted in favor of the motion therefore the Special Permit was granted.

Duval, 183 Homestead Blvd., requesting a Special Permit to add a single story addition to the east side of the dwelling, Petition #2007-17.

Ms. Duval appeared before the Board requesting a Special Permit to add a single story addition to the east side of the dwelling. The addition would not encroach beyond the current home setbacks.

No one from the public spoke for or against the petition.

A motion was made and seconded that the proposed addition per the plans submitted would be more intensive than the than the existing nonconformities.

Board Members Plotkin, Lavenburg, Sirulnik, Preston and Bean all voted in favor of the motion therefore moving to step 2.

A second motion was made and seconded that the extension of the nonconformity would not be substantially detrimental to the neighborhood than the existing nonconformities.

Board Members Plotkin, Lavenburg, Sirulnik, Preston and Bean all voted in favor of the motion therefore the Special Permit was granted.

Oh, 513 Williams St., requesting a Variance to be allowed to put fencing within the primary setback along Heather Rd., Petition #2007-18.

Mr. Oh appeared before the Board and requesting a Variance to be allowed to put up a 6 foot high fence along Heather Road approximately 25 feet inside of the primary setback and 16 feet in an easterly direction off of the back corner of the structure.

The Board asked Mr. Oh what the purpose for the fencing location. Mr. Oh explained that his property sloped to the back west corner and placing a fence that complied with the Bylaws would not give him the privacy and

security he needed to keep his children safe. Mr. Oh also noted that the shape of the lot itself as the bases for seeking a Variance.

The Board reviewed the fencing bylaws which states “No fence shall be erected in any zone except a fence which shall be within one of the classes and of a height as set forth herein, subject to the provisions of Article VI, Section H and which shall not be constructed forward of the primary setback”. The Board then reviewed the requirements of a Variance pursuant to M.G.L., Chapter 40A, Sub-section 10.

Donna and David Lerberman of 42 Heather Road spoke against the granting of the Variance. The Board also noted a letter that was received from Mr. & Mrs. Nadler of 33 Heather Road which contained signatures and names from other residents of Heather Road who opposed the application. Dr. Gerald Cutting of 6 Wilkin Drive spoke in favor of the request.

Based on the presentation by the Applicants and the members of the public the Board concluded that the shape of the lot is not a sufficient basis upon which to grant a Variance. The Applicants preference for the additional privacy and security that the fencing might provide are concerns that are not necessarily unique to the Applicants and finally the topography of the property is not unique to the zoning district. The hardship, if any, that the applicant will experience results from a literal enforcement of the by law will not be substantial.

A motion was made and seconded that the proposed fence along Heather Road does not meet the requirements for a Variance as no substantial hardship was established relating to the soil conditions, shape and topography of the land.

Board Members Lavenburg, Plotkin, Sirulnik, Bean and Preston all voted in favor of the motion. The Variance was denied.

Kotoski, 43 Meadow Road, requesting a Special Permit to add to the east side of the dwelling, Petition #2007-19.

The Applicants appeared before the Board requesting a Special Permit to construct a 10’ by 12’ single story bath and laundry room addition immediately east of the existing dwelling. They explained that although the existing dwelling is nonconforming due to having a primary setback of only 25’, a 10’ side setback at the west property line and a frontage of approximately 60’ on Meadow Road, the proposed addition would have a 31 foot primary setback, which would exceed that currently existing at the site, and would otherwise conform to the By-Laws in every respect.

No one from the public spoke for or against the petition.

A motion was made and seconded that the proposed 10’ by 12’ foot addition located no closer than 19’ on the east side of the dwelling and being no closer than 31’ from the north (front) property line along Meadow Road would be more intensive than the existing nonconformities.

Board Members Lavenburg, Plotkin, Bean, Preston and Sirulnik all voted in favor of the motion therefore moving to step 2.

A second motion was made and seconded that the Board find that because the proposed addition will be set back further from the north (front) property line than the existing and will exceed the required side and rear setbacks would not be substantially more detrimental to the neighborhood than the existing non-conformity.

Board Members Lavenburg, Plotkin, Bean, Preston and Sirulnik all voted in favor of the motion therefore the Special Permit was granted.

Boggis, 45 Harwich Rd., requesting a Special Permit to enclose an existing porch on the rear of the dwelling, Petition #2007-20.

Mr. Boggis appeared before the Board requesting a Special Permit to enclose an existing single story porch on the rear (south) of the dwelling. He explained that although the existing setbacks of the dwelling are nonconforming the existing porch itself has a side setback of approximately 19 feet from the west side property line and a 39' setback from the rear property line.

No one from the public spoke for or against the petition.

A motion was made and seconded that the proposed enclosure of the existing porch at the rear of the dwelling having a 9 foot side setbacks at the east and west side property lines, a 35 foot primary setback and a 65 foot frontage along Harwich Road, conforms to the Zoning By-Law in every respect, because the porch is set back approximately 19 feet from the nearest side property line and 39 feet from the rear property line will generally conform to the neighborhood, the proposed enclosure of the porch itself does not increase the existing nonconformities and would not be substantially more detrimental to the neighborhood than the existing nonconformities.

Board Members Lavenburg, Plotkin, Bean, Preston and Sirulnik all voted in the affirmative therefore granting the Special Permit.