

ZONING BOARD OF APPEALS HEARING
Police Station Community Room
Tuesday – June 22, 2010 – 7:30 pm

Present: Board Chairman David Lavenburg, Members Stephen Bennett, Ellen Freyman, Daniel Plotkin, Russell Preston, Mark Sirulnik and Dave Spencer.

Absent: Jim Ryan

Chairman Lavenburg opened the hearing at 7:30 p.m.

Old Business:

Petition #2010-10; #35 Terry Drive, Whipple; request for special permit or variance for new single family dwelling. Attorney Stanley Komack spoke on behalf of the applicant. Attorney Komack referenced a prior Zoning Board decision from 1987 regarding this property, in particular a dissenting opinion in that matter. At that time, the Board seemed inclined to grant a variance except for the neighbors' objections. Attorney Komack has secured written assent from 15 of 19 of the current abutters to the property for the granting of the applicant's variance to build a house. In addition, Attorney Komack pointed out that the unusual shape and placement of the property satisfies the variance requirement of unique topography and that denial of a building permit would create a hardship for the Whipples, especially concerning health issues of Mrs. Whipple. Chairman Lavenburg opened the meeting for public comment. As no one from the public came forward to speak for or against the application, Chairman Lavenburg closed the hearing to public comment. The Board discussed whether the lot has been taxed as open space or as a buildable lot. They discussed the four requirements which must be met in order for a variance to be issued, with concerns voiced as to whether this property is actually unique in topography. Attorney Komack then requested that the applicant's petition be withdrawn. Member Preston made a motion that the applicant be allowed to withdraw the motion without prejudice, which was seconded by Member Plotkin. A vote was called and Members Lavenburg, Freyman, Plotkin, Preston and Sirulnik voted unanimously in favor of the motion, allowing the applicant to withdraw the petition without prejudice.

New Business:

Petition #2010-16; 19 Osceola Lane, Freedman; application for a special permit for addition on rear of non-conforming dwelling. Michael and Patricia Freedman appeared before the Board. The Board identified the existing non-conformities to be frontage and lot size. The Hearing was opened to public comment and abutter Ron Kistner (131 Lynnwood Drive) asked about the height of the proposed addition as well as whether it would conform in color to the existing structure. The applicant stated the addition would only be one story high and would blend in with the existing dwelling. Mr. Kistner stated he had no objection to the petition as long as the new addition would conform to the existing structure. As no one else from the public spoke for or against the petition, Chairman Lavenburg closed the Hearing to further public comment. Member Plotkin made a motion that the Board make a finding that the proposed addition would increase the existing non-conformities by adding to site density. Member Preston seconded the motion. A vote was called and Members Lavenburg, Freyman, Plotkin, Preston and Spencer all voted in favor of the motion. Member Plotkin made a motion that the Board make a second finding that the proposed addition would not be substantially more detrimental than the existing non-conformities and that it would generally conform to the neighborhood and noted that no one from the public spoke against the application. Member Preston seconded the motion. A vote was called and Members Lavenburg,

Freyman, Plotkin, Preston and Spencer all voted in favor of the motion; the special permit will be granted.

Petition 2010-17; 34 Vanguard Lane, Bogdanis; request for special permit to enclose existing rear porch on non-conforming dwelling. Karina and Felix Bogdanis appeared before the Board. The existing non-conformities were identified as lot size, frontage and front setback. No one from the public spoke for or against the petition. Member Preston made a motion that the Board find that the proposed enclosure of the porch would not increase any pre-existing non-conformities. Member Plotkin seconded the motion. Members Lavenburg, Freyman, Plotkin, Preston and Sirulnik voted in favor of the motion; the special permit is granted.

Petition 2010-18; 15 Roseland Terrace, Colony Realty LLC; request special permit for deck addition on rear of non-conforming dwelling being rebuilt. Joseph Pacella appeared before the Board representing Colony Realty LLC. The existing non-conformities were identified as frontage, front setback, rear setback, side setbacks, and lot size. No one from the public spoke for or against the petition. Member Sirulnik made a motion that the Board find that the proposed deck addition would intensify the existing non-conformities as it would increase the site density. Member Plotkin seconded the motion. Members Lavenburg, Freyman, Plotkin, Preston and Sirulnik voted in favor of the motion. Member Sirulnik made a motion that the Board find that the proposed addition would conform with the character of the neighborhood and would not be more detrimental than the existing non-conformities, and noted that no one from the public spoke against the application. Members Lavenburg, Freyman, Plotkin, Preston and Sirulnik voted in favor of the motion; the special permit is granted.

Petition 2010-19; 68 Hopkins Place; Jagodowski; request special permit for deck addition on rear of non-conforming dwelling. Thomas Jagodowski appeared before the Board. The existing non-conformities were identified as lot size, frontage and front setback. No one from the public spoke for or against the petition. Member Freyman made a motion that the Board find the proposed 12 foot by 20 foot deck addition on the rear of the residence would increase the existing non-conformities as to site density. Member Plotkin seconded the motion. Members Lavenburg, Bennett, Freyman, Plotkin, and Preston voted in favor of the motion. Member Freyman made a motion, seconded by Member Plotkin, that the Board make a second finding that the proposed addition would not be substantially more detrimental than the existing non-conformities, that it would have no adverse effect on the neighborhood and noted that no one from the public spoke against the petition. Members Lavenburg, Bennett, Freyman, Plotkin, and Preston voted in favor of the motion; the special permit is granted.

Petition 2010-20; 62 Fairfield Terrace; Diana; request special permit for deck addition to rear of non-conforming dwelling. Deborah Diana appeared before the Board. The existing non-conformities were identified as lot size, frontage and south setback. The Board noted the proposed deck would encroach an additional foot into what is currently a ten foot side setback. Some discussion took place as to whether the additional encroachment causes a new non-conformity or an increase to the existing non-conformity. No one from the public spoke for or against the petition. Member Spencer made a motion, seconded by Member Plotkin, that the Board find the proposed deck addition would increase the existing non-conformities by reducing the open space of the lot and by further increasing the north sideyard setback non-conformity. Members Lavenburg, Freyman, Plotkin, Preston and Spencer voted in favor of the motion. Member Spencer made a motion, seconded by Member Plotkin, that the Board further find that the proposed addition would not be substantially more detrimental than the existing non-conformities, that it would generally conform with the look of the

neighborhood, and that no one from the public spoke against the petition. Members Lavenburg, Freyman, Plotkin and Preston voted in favor of the motion. Member Spencer voted against the motion. The motion passed; the special permit is granted.

Petition 2010-21; 81 Nevins Avenue; Miffitt & Remig; request special permit for deck addition to rear of non-conforming dwelling. Frances Miffitt and Lesley Remig appeared before the Board. The existing non-conformities were identified as frontage and front setback. Although no one from the public spoke for or against the application, the applicants stated their neighbors had expressed support for the addition and willingness to speak at the meeting if necessary. Member Bennett made a motion, seconded by Member Plotkin, that the Board find the proposed deck addition would not intensify the existing non-conformities and that the special permit should be issued. Members Lavenburg, Bennett, Freyman, Plotkin and Preston voted in favor of the motion; the special permit is granted.

Petition 2010-22; 906 Shaker Road; Alta Moda Hair & Nails; request finding that there is adequate off-street parking for new use at this location. Maria and Michael Scibelli appeared before the Board. After review of the documents submitted, the Board determined they need further specific information as to the current tenants of the building, their square footage, and their number of employees before a determination of adequate parking can be made. Member Bennett made a motion, seconded by Member Plotkin, that the matter be continued to the July 20, 2010 Hearing so the applicant can obtain and submit the needed information. Members Lavenburg, Bennett, Freyman, Plotkin, and Preston voted in favor of the motion, continuing the matter to July 20, 2010.

Acceptance of Minutes: Member Plotkin moved that the Board accept the minutes of the May 18, 2010 Hearing as presented. Member Preston seconded the motion. A vote was called and Members Lavenburg, Bennett, Plotkin, Preston and Spencer voted in favor of the motion, passing it unanimously.

Adjournment: The Hearing adjourned at 9:23 pm.

Respectfully submitted,
Elayne Ayan, Recording Secretary