

[Type text]

ZONING BOARD OF APPEALS
781-982-2100

Minutes
May 8, 2014
Cotter Room
7:00 p.m.

Members present: James Haney, Lisa Bezanson, John Shepard, Sean Reynolds
Absent: William Mullen, Marshall Adams

7:00 p.m. Petition of Carol A. Cass Trust, 111 Highland Road, Abington, for: a special permit to construct an 874 s.f. in-law addition at 111 Highland Road, under Abington Zoning By-Laws Sec. 175-32-I. The property is located on Assessors Plan 64, Plot 92A, in the R-30 Zone. Voting members: Lisa Bezanson, John Shepard, Sean Reynolds. Mrs. Bezanson made the disclosure that she, her husband and their company have done business in the past with the Russell Wheatley Co., but have no interest in this petition.

Sewer advisory – plans must be submitted to Sewer Department before Sewer sign off. Mrs. Cass wants to downsize, wants in-law for her and her husband. Mr. Shepard - plans not certified, mentioned Declaration of Covenant which must be recorded with the Registry of Deeds. Mr. Haney – that will be overseen by the Building Inspector. A certified plot plan was submitted. They may put in entrance from garage; there will be an entrance between the two units. Mr. Shepard – it was a well-maintained area. Opened to floor. John Warner came up to the table to look at the plans.

Motion to approve made by Mr. Reynolds, ensuring that all the elements were met, including the Registry of Deeds, seconded by Mr. Shepard, unanimous.

7:05 p.m. Petition of Bill Dessaps, 1105 Plymouth Street, Bridgewater, for: a variance to rent ten cars and sell five used cars at 201 North Quincy Street, under Abington Zoning By-Laws Sec. 175-21-F-2. The property is located on Assessors Plan 34, Plot 3, in the Highway Commercial Zone. Voting members: James Haney, Lisa Bezanson, Sean Reynolds.

Sewer advisory – appears to have no bearing on sewer system. Mr. Dessaps attended with Atty. Steven Lowell. Mr. Dessaps currently has pawn shop and resale shop, is expanding a little bit. Looking to do car rentals. There is commercial garage near him, and rentals would be beneficial. Mr. Shepard - would have concerns about signage and security. Mr. Dessaps - it will be gated; he has permission to do that. Mr. Reynolds thought there should be more information – date filed, relief requested. Atty. Lowell – they would be happy to supply more information. Brockton abutters were sent notices.

Opened to floor:

Enrico DiScipio, 441 Hovenden Avenue, Brockton – lives right across the street from this location. Doesn't know doesn't know where he would put 15 more cars. There are enough cars in the area. There is a gas station, Means Auto, the junk yard. There are a lot of trucks going in and out of that area. The owner doesn't care; he'll rent to anybody. He has been there 27 years, and the place has gone downhill. Too close to the street at this location. Place is a junk yard in the back. Doesn't know why more people aren't here. Wishes the owner would sell property. Doesn't think there is enough room for 15 cars.

Closed back to table. Board felt plan should be amended. Board suggested continuing the hearing to bring in plans with surveyor type drawings. Would have to comply with ZBA requirements for parking spaces for HC zone. Would still have to go to BOS for Class II license. Mr. Reynolds suggested they meet with neighbors. Applicant requested continuation to June 12 at 7:00 p.m.

Motion to continue to June 12, 2014 at 7:00 p.m. made by Mr. Reynolds, seconded by Mrs. Bezanson, unanimous.

7:10 p.m. Petition of Ingrid Johnson, 49 Susan Road, Brockton, for: a special permit to construct a single family house with site appurtenances in the Floodplain and Wetlands Protection District at 78 Crabtree Lane, under Abington Zoning By-Laws Sec. 175-35. The property is located on Assessors Plan 44, Plot 128, in the R-30 Zone. Voting members: James Haney, Lisa Bezanson, John Shepard. Mrs. Bezanson made the disclosure that she, her husband and their company have done business in the past with the Russell Wheatley Company, but have no interest in this petition.

Sewer advisory – there is no capacity at the present time. John Cotter and Russ Wheatley gave presentation. Property lies in FPWPD. They have been before Conservation Commission, and hearing was continued to May 13, 2014. In 2003 a special permit had been issued on this lot as well as the other lots in the Dudley Settlement Subdivision. The permit had expired, so they had to re-apply. They have put house in same location as 2003. There are wetlands in back of lot. They have spoken with one of neighbors. Neighbors were concerned with getting extra drainage dumping on to their property. They looked at it and revised their drainage swale. There is swale on easterly property line, and designed it so it would have a small berm on the neighbor's side of it, so when water runs down the slope, it will enter the swale and continue into the replication area. It would be depressed into the ground by 1-2 feet. It will be good insurance that any runoff from the project will enter into the swale, run to the back of the property, which is the natural course of the contours and enter into the wetlands area. It would not pose any harm to the neighbor's property. The other side is all wetlands; they are keeping to the north east side of the property. Utilities are all going to be municipal. Electric is underground. Flagging was done by Brooke Monroe. There is a small drainage ditch under the cut-through between the two cul de sacs. Front of road is highest point on the lot.

It slopes a little towards the neighbor's property, and that is why they put the swale in. They requested a waiver of the EIS because it's a single family house, and they are going to Conservation and will have an Order of Conditions. It's been the process to waive EIS when

filing with the Conservation Commission and the Order of Conditions has been held as the EIS. It will be built up around house. They will be filling 1100 s.f. of wetlands and replicating 2200 s.f. Mr. Reynolds - is it under a purchase and sale agreement? Yes. Mr. Norton is going to be selling it to Ingrid Johnson. Mr. Reynolds - questioned the waiver of EIS. Did they have case law? No. Mr. Cotter – typically it's been the process to waive EIS when filing with the Conservation Commission and the Order of Conditions has been held as the EIS. They hope to finish with Conservation on 5/13. Mr. Reynolds would rather have the Order of Conditions before ZBA votes where wetlands are involved. Conservation had been continued for neighbors' concerns. Mr. Cotter - they extended swale into replication area so anything coming from property is directed into swale. Mrs. Bezanson suggested not coming to ZBA for FPWPD without coming to Conservation first. Mr. Cotter- they can come in with Order of Conditions or EIS at the next meeting; impact on single family house is minimal.

Opened to floor:

Shawn Reilly - bylaw does address waivers. Commercial and three units or above are usually not waived; typically 1-2 families have been granted waivers. Each plan is handled differently, due to setbacks. Typically the zoning is first, especially if setback relief is requested.

Closed and back to table. Discussion by board ensued. Board didn't want to make approval conditional. Mr. Cotter – requested to continue to June 12, 2014 at 7:05 p.m.

Motion to continue to June 12, 2014 at 7:05 p.m. made by Mr. Shepard, seconded by Mrs. Bezanson, unanimous.

7:15 p.m. Petition of Dan Sullivan, 420 Centre Avenue, Abington, for: a finding/special permit to legalize existing two-family home at 420 Centre Avenue, under Massachusetts General Laws Ch. 40A, Sec. 6/Abington Zoning By-Laws Sec. 175-A-2. The property is located on Assessors Plan 32, Plot 63, in the Highway Commercial Zone. Voting members: James Haney, John Shepard, Sean Reynolds.

Sewer advisory – appears to have no bearing on sewer system. Letter received from Jim Batson, 410 Centre Avenue, in favor of petition. Mrs. Bezanson made the disclosure that she, her husband and their company have done business with the Russell Wheatley Co. previously, but have no interest in this petition.

Mr. Sullivan explained that he went to refinance and bank told him something wasn't signed off. Has owned home for two years. Application had been signed, but not the permit. Property had been refinanced as two family several times previously. He has paid taxes on it as a two family. Opened to floor, with no questions and back to the table. Board didn't have questions.

Motion by Mr. Reynolds to approve the petition to legalize two family, supported by permit #8426, 08/02/99, seconded by Mr. Shepard, unanimous.

7:20 p.m. Petition of Patricia Beaulieu, 238 Ashland Street, Abington, for: a special permit to construct a single family house with site appurtenances in the Floodplain and Wetlands Protection District on Ashland Street, under Abington Zoning By-Laws Sec. 175-35. The property is located on Assessors Plan 9, Plot 35, in the R-30 Zone. Voting members: James Haney, Lisa

Bezanson, Sean Reynolds. Mrs. Bezanson made the disclosure that she, her husband and their company have done business with the Russell Wheatley Co. and Atty. Shawn Reilly in the past, but have no interest in this petition.

Sewer advisory - capacity doesn't exist at this time. Atty. Reilly – property is 7.1 acres. Mrs. Beaulieu also owns property two doors down. Has been there since the 1970's. Requested waiver of EIS. Mrs. Beaulieu is looking to sell this for her retirement. There is only upland available for single lot that is shown. House would be in-line with other houses in the neighborhood. They are not proposing wetlands filling. There is no FEMA Flood Zone in the build area. Has been submitted to Conservation because activity would be within 100' of the wetlands. They are on the 5/13 agenda. They are also asking for frontage and lot width variances. They can't document what the zoning back in the 70's was and what the requirements were. The existing frontage is 97', currently 110' is required. The lot widens as it goes back. The hardship is that if the variances are not granted, the lot is completely unbuildable. Because they can't definitively show that frontage is grandfathered, in order to protect the future owner, the bank and the zoning enforcement officer, they applied for the frontage and lot width variances to confirm that this is sufficient for construction.

Foundation has been designed so it would be above any flooding issues that are nearby. Plans show where the water will flow with the existing topography. They would not be flooding their neighbors. This is single family home on large lot, which would finish this area. As for hardship, there is no way to expand frontage. Wouldn't create detriment to bylaw, or derogate from the bylaw. The shape of land and location of wetlands define where house can be located. The property has been walked by botanist who said it was all wetlands in back and deemed it not buildable.

Mrs. Beaulieu is getting the permits to sell it to someone with permits in place so a new owner could build. Atty. Reilly gave history of ownership of property. Feels technically it is grandfathered. Mr. Reynolds - brought up EIS; thought this would have less impact than previous petition.

Opened to floor:
Mr. Trufant - in favor.

Closed and brought back to table. Mr. Haney – didn't have any issues with setbacks or waiver. Motion by Mr. Reynolds to accept petition and grant waiver of EIS, seconded by Mrs. Bezanson, unanimous.

Meeting adjourned at 8:30 p.m.

Respectfully submitted,

Nancy Hurst