

Approved 3-5-09

Present were: McDonough (Acting Chair), Brown, Baime, Batchelder (Acting Clerk), Ranalli

McDonough gave an overview of the Board's procedure & public hearing process.

Petition No: 3823

Premises: 21 Birch Road

Petitioner: Owen

David & Annette Owen were present to request a variance from Section 4.1.2 &/or a special permit under Section 3.3.5 to construct an addition/alteration that will not meet the minimum front setback. Their lot is on the corner of Thresher Rd. & Birch Road and is located in the SRB District. The existing attached garage is approx. 39.12' from Birch Rd. Alex Svirski, architect, presented the proposal: second story addition (conforming) overhanging the first floor with farmer's porch. The proposed porch will be setback 39.12' from Thresher Rd. The addition/alterations will increase the living space on the second floor & allow all bedrooms to be moved to the second story. The porch will provide structural support of the new roof. The house is sited at a 30-degree angle to the street. The proposed, non-conforming setback to Thresher Road is 31.99'. Svirski argued that the hardship the location of the house on the lot. McDonough asked to clarify that the only addition to the existing footprint is the covered steps. Svirski confirmed this noting that the steps are not attached to the house, but the porch roof is attached. Brown reminded the Board that the roof & side porch are the zoning violation. He suggested removing the side porch from the project, thus bringing it into compliance. McDonough asked if the second story overhangs the first on the side of the house. It does not. Svirski stated that it is designed as proposed for aesthetic reasons & that alternative locations for the addition would require structural changes to the existing house. The Board discussed the hardship argument, that the position of the house on the lot creates a zoning issue for any addition. No one knew when Thresher Road was built. Svirski submitted several letters of support from neighbors that McDonough read into the record. Richard Schmidt, 27 Birch Rd., voiced his support, as did Ray Adams, 20 Birch Rd., Pam Wright, 16 Birch Rd., Jim Stamas, 5 Thresher Rd., & Mr. & Mrs. McDonough, 8 Thresher Rd. Michael Ristuccia, local developer, asked whether the status of corner lot & having to meet two front setback minimums is a hardship. Brown noted that this applies throughout Town & not only this lot. The Board discussed whether to view the property & decided to waive a view. The Owens pointed out that only a small portion of the side porch would encroach into the setback. McDonough asked for the length of the side porch. Svirski stated that it is 17'. Ranalli made a motion to close the public hearing. Batchelder seconded the motion & the Board voted (5-0) to close the hearing. The Board then proceeded to deliberate. Baime commented that it would be helpful to know when Thresher Road was built. Batchelder noted that the maximum encroachment would be 8' adding that the hardship is the location of the house on the lot. She spoke in favor of granting a variance. Baime felt that the expansion could be accomplished on the rear of the house. Brown agreed that the side porch is a problem, that there is no hardship & that it's immaterial when Thresher Road was built. McDonough asked if there were no

extension, would the second floor be decreased. Brown stated that the second floor extends only into the front of the house & is within the setback. McDonough agreed with Brown that it's purely aesthetic. Batchelder felt the effort to create an aesthetic should be considered. Ranalli agreed with Batchelder regarding aesthetics & hardship, adding that there is no extension of the footprint & the neighbors support it. Batchelder made a motion to grant a variance. Ranalli seconded the motion. Batchelder & Ranalli voted in favor of granting the variance. Brown, McDonough & Baime voted against granting the variance. Brown will write the decision.

Petition No: 3825

Premises: 65 Haggetts Pond Road

Petitioner: Ristuccia

Michael Ristuccia represented himself in his request for a variance from Section 4.1.2, special permit under Section 3.3.5 & as a Party Aggrieved for review of the decision made by the Building Inspector to renovate an existing non-conforming porch. Ristuccia gave an overview of his renovation of the Moses Haggett house, including an existing non-conforming porch as to front setback. He believes the house was built prior to the road. He is not expanding it at all, but replacing the rotted wood floor & railings. It is located underneath the second floor (which acts as the porch roof). He showed copies of a picture of the house, which was built in 1750. The two porch posts support the second floor above it. There were sonotubes & posts under the wood decking that will also be replaced. There is no basement under the porch, but the house has a partial basement. He never received a written denial from the Inspector, but just a verbal denial. Ristuccia explained that on 11/12/08 he applied for a building permit to renovate the house. On 11/20/08 he submitted additional materials as requested. On 12/23/08 the Inspector requested more information. On the Monday after Christmas, he was told he needed to go to Zoning. On the Tuesday after the New Year, he tried to get a building permit for the renovations excluding the porch & was denied. Betsy Hirst, 2 Wood Hill Rd., commented on the extreme proximity of the house to the road & the removal of a thicket that protected the house from cars/headlight glare. She asked that a barrier be replaced. Tim Turbett, 55 Haggetts Pond Rd., voiced concern about a porch light deceiving motorists in the absence of the thicket. He also wants the barrier replaced. Ristuccia agreed to replace the barrier. Baime commented that the Inspector could have allowed the alteration under Section 3.3.5 due to no increase in the non-conformity. Ristuccia asked the Board to find that no relief is necessary. Batchelder made a motion to close the public hearing. Brown seconded the motion & the Board voted (5-0) to close the hearing. The Board then proceeded to deliberate. Ranalli suggested dealing with the Party Aggrieved request first. She found no need for a variance per section 3.3.5. Brown noted the imperative structural support that the porch provides & sees this as ordinary repairs. Ranalli made a motion to overturn the Inspector. Batchelder added that no relief is required and seconded the motion. The Board voted (5-0) to overturn the Inspector of Buildings. Brown then made a motion to deny as moot the variance & special permit. Baime seconded the motion. The Board voted (5-0) to deny them as moot. McDonough will write the decision.

Petition No: 3826  
Premises: 5 Granli Dr  
Petitioner: Sullivan

Attorney Mark Johnson represented the Sullivan's request for a special permit under Section 3.1.3.F.4 to construct a family dwelling unit for Mrs. Sullivan's mother, Mrs. Ruby. The house is located in the SRC District & the proposed unit will conform to all dimensional requirements. Johnson submitted a letter from a physician summarizing her general deteriorating health reminding the Board that the kitchen is what make this a separate unit. John Sullivan, architect/resident, presented the drawings & gave the background on the design, which include accommodations for future accessibility issues. Batchelder noted the ease of access from the driveway. The Sullivan's have spoken with the neighbors. Batchelder informed the petitioners that the Board usually grants family dwelling units for 5-years. Brown added that when the need for the unit ceases, it cannot be used as a separate dwelling unit for non-family. Brown made a motion to close the public hearing. Batchelder seconded the motion & the Board voted (5-0) to close the hearing. The Board then proceeded to deliberate. Brown stated that it meets the criteria for a family dwelling unit & moved to grant a special permit under Section 3.1.3.F.4 for 5 years & to deny the variance as moot. Batchelder seconded the motion. The Board voted (5-0) to grant the special permit for 5 years. Batchelder will write the decision.

Baime then made a motion to approve the minutes of 11/6/08, 12/4/08 & 1/8/09. Batchelder seconded the motion & the Board voted (5-0) to approve the minutes.

The meeting adjourned at 8:23 p.m.