

Present were: Jeton (Acting Chair); Batchelder (Acting Clerk); Brown (Member); Ranalli & Matey (Associate Members).

The meeting opened at 7:00 p.m.

Petition No.: 3850

Premises affected: 17 High Street

Petitioner: Robinson

Members: Jeton, Batchelder, Brown, Ranalli, Matey

Mrs. Robinson represented herself & her husband in their request for a variance to construct a 1 ½ story detached garage. The hardship was presented as an increase in the distance from house, increase in paving and decrease in yard area. Direct abutter, Chris Rose, 21 High St, voiced support for the proposal & concern over past drainage issues. The Robinsons & Roses have agreed on drainage mitigation privately. Batchelder made a motion to close the hearing. Ranalli seconded the motion & the Board voted (5-0) to close the hearing. The Board then proceeded to deliberate. Batchelder is in favor citing lot shape, size & topography as the hardship. Ranalli, Brown & Matey disagreed. Jeton agreed with Batchelder. Brown made a motion to grant a variance. Batchelder seconded the motion. The Board voted (2 for, 3 against) the requested variance. Matey will write the decision.

Petition No.: 3845

Premises affected: 26 Shipman Road

Petitioner: Quinn

Members: Jeton, Batchelder, Brown, Ranalli, Matey

Mr. & Mrs. Quinn represented themselves in their request for a variance &/or a special permit to construct additions & alterations that will not meet minimum setback requirements. Mr. Brown disclosed that the Quinn's designer is a member of a professional organization that he also belongs to. No one objected to his participation in the hearing. The house was built in 1937 on a 10,000 sq. ft. lot. They wish to demolish the existing garage to construct a larger one, add a covered front entrance & a pergola. Brown pointed out that the pergola creates a new non-conformity by encroaching into the rear setback & asked for the hardship. Mrs. Quinn stated the hardship as a small lot. The Board discussed the option of building a smaller, conforming pergola & whether abutting houses have similar setbacks. Other neighbors asked to see the plans. 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. Brown noted that the house, built in 1937, is a pre-existing non-conforming structure and therefore the additions/alterations could be done under a special permit. He voiced concern over the lack of hardship for encroachment into the rear setback suggesting the pergola could be constructed to conform. Brown made a motion to grant a special permit for the additions & alterations with the condition that the 30' rear setback be maintained as to the pergola. There was no second for the motion. Brown then made a motion to grant a special permit for the additions & alterations except the pergola may not extend into the rear setback. Ranalli seconded the motion & the Board voted (5-0) to grant the special permit with condition. Brown will write the decision.

Petition No.: 3844

Premises affected: 2 Farrwood Dr

Petitioner: Shankar

Members: Jeton, Batchelder, Brown, Ranalli, Matey

Mr. Marimuthu Shankar represented himself & his wife in their request for the continued existence of an in-ground swimming pool that was rendered non-conforming when they razed the existing house to build a new one. He noted that the address was formerly known as 82 Gould Road. The pool, which they want to keep, is located in what is now considered the front yard. Jeton noted that the septic system is located between the new house and the pool. The Shankars have spoken with their neighbors and none opposed it. Inspector of Buildings Kaija Gilmore explained that when the applicants applied for a building permit, the pool was not shown on the plan. 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. Batchelder pointed out the hardship as being a corner lot. Brown added that it would be costly to relocate the pool, particularly due to the location of the septic system. He feels it can be allowed by a variance. Jeton agreed. Batchelder made a motion to grant a variance. Ranalli seconded the motion & the Board voted (5-0) to grant a variance. Batchelder will write the decision.

Petition No.: 3847

Premises affected: 11 Rolling Ridge Rd

Petitioner: Meshnick / Roth

Members: Jeton, Batchelder, Brown, Ranalli, Matey

Howard Meshnick represented himself & his wife, Lesley Roth, who was also present. They are requesting a variance &/or a special permit to construct a connection between the house & garage, that would render the entire structure non-conforming. The house is located in the SRB zoning district & the garage was built in 1964. The connection will not change the location of the house or garage & nor will it change the use. The connection conforms to setbacks. Meshnick stated the hardship as the irregularly shaped lot, the placement of the garage on the lot, two septic systems (one in front & rear of house), & that the connection will not derogate from the intent or purpose of the by law. Jeton mentioned the prior decision (#3086 that allowed the deck addition). Ms. Roth added that the connection will alleviate drainage off the front of the garage with gutters helping it flow to the rear yard, away from the neighbor. The rear yard dips down into wooded lawn. Melda Brown, direct abutter at 17 Rolling Ridge Rd, spoke against the proposal. Erika Hessman, abutter across the street, spoke in opposition. The Board will view the premises on Thursday, September 3 at 6 p.m. Deliberation will follow.

Petition No.: 3851

Premises affected: 47 Rattlesnake Hill Rd

Petitioner: Entegra Development

Members: Jeton, Batchelder, Brown, Ranalli, Matey

Brian Salazar & Mike Manzo, of Entegra Development, represented their request to raze an existing non-conforming uninhabitable house to build a new LEEDS certified, conforming single family dwelling with garage on a lot that lacks area & frontage. The existing barn, which is non-conforming, may remain as is or in a new location. The lot has .9 acres. Manzo commented on the structural deficiency of the barn, but had no official report to support the claim. The lot was created in 1993. Petitioners will appear before the Preservation Commission on 8/11/09 to determine if the property is historic. Several abutters had questions related to the new house, whether a 150 yr. old oak would remain, traffic safety, possible damage from blasting, & whether the proposed design is final. Salazar addressed the concerns stating that the oak will remain, they do not anticipate blasting & the plans are conceptual. Brown asked for title history & suggested continuing the hearing until September. The Board also asked for a structural engineering report on the barn & the Preservation Commission's ruling. Brown made a motion to continue the hearing until 9/3/09. Ranalli seconded the motion & the Board voted (5-0) to continue until 9/3/09.

Petition No.: 3848

Premises affected: 6 Henderson Ave

Petitioner: Diaz

Members: Jeton, Batchelder, Brown, Baime, Ranalli

David Diaz represented himself & his wife in their request to construct an attached garage & farmer's porch. The house is located in the SRA district. The proposed attached garage will be closer to the street than the existing detached garage & the farmer's porch would encroach 6' into the setback. Diaz explained that the rear yard is sloped & wooded. They have spoken with the neighbors & none voiced opposition. Diaz presented the hardship as the desire for outdoor living space & topographical issues limiting the rear yard to 10' of level yard. The Board discussed alternatives & whether other houses on the street have front porches. Marilyn Harvey, 3 Henderson Ave, spoke in favor. The Board waived a site view. Brown made a motion to close the hearing. Baime seconded the motion & the Board voted (5-0) to close the hearing. The Board then proceeded to deliberate. Baime noted the large encroachment in to the side setback. Ranalli voiced support for the porch with hardship related to topography in the rear yard. Batchelder agreed it is an excessive proposal for the lot & sees no hardship. Brown noted that the Board has granted non-conforming garage connections & the rear yard topography restricts alternative locations. He spoke in support of a variance for the garage. Jeton informed Diaz of the option to withdraw without prejudice. Diaz asked to withdraw without prejudice their petition for the garage & farmer's porch additions. Brown made a motion to allow the withdrawal without prejudice. Batchelder seconded the motion & the Board voted (5-0) to allow the withdrawal without prejudice. Diaz will submit a letter.

Petition No.: 3846

Premises affected: 47 Glenwood Rd

Petitioner: Powers-Amesoeder

Members: Jeton, Batchelder, Matey, Baime, Ranalli

Kathleen Powers-Amesoeder represented herself & her husband in their request for a variance to construct additions to a house on a lot that lacks frontage as defined by the bylaw. Amesoeder explained that they had been granted a variance (Decision #3674) for a second story addition to the existing house, the addition of a family room & attached garage. The second story was built. When they came back for a building permit for the remainder of the project, they were told the variance had lapsed. They wish to construct the addition with attached garage. The previous decision allowed the garage to be no closer than 20' to the lot line. The current proposal requests a 16' setback. They have Conservation Commission & Board of Health approval and have spoken with their neighbors, none of whom voiced opposition. The hardship is the location of a septic system on the opposite side of the house, Fosters Pond to the rear of the house, trees in the front, as well as nesting turtles in the front. The Board discussed alternative locations for the garage to make it conform. Matey made a motion to close the public hearing. Baime seconded the motion & the Board voted (5-0) to close the hearing. The Board then proceeded to deliberate. Baime made a motion to grant the variance for the proposed additions in substantial conformance with the plot plan depicting a 16' setback for the garage. Matey & Ranalli seconded the motion. Jeton, Matey & Baime voted for the variance. Ranalli & Batchelder voted against the variance. Because a super majority is required, the variance fails. Ranalli made a motion to allow the applicant to withdraw without prejudice. Matey seconded the motion & the Board voted (5-0) to allow the applicant to withdraw without prejudice. Mrs. Powers-Amesoeder will submit a letter of withdrawal.

Petition No.: 3849

Premises affected: 412 High Plain Rd

Petitioner: Ristuccia Holdings

Members: Jeton, Batchelder, Matey, Brown, Ranalli

Mike Ristuccia represented himself in his request for a dimensional special permit for historic preservation to convert a barn into a single family residence. Ristuccia submitted letters of support from former owner, Ron Kearns, and direct abutter, Scott Hill. Walter Kimball, current owner, was also present in support. Ristuccia proposes to divide the current lot, with a single family house & the barn, into two lots so that each building will be on a separate lot. The barn lot will have 27,375 sq. ft. (22,719 uplands), but only 30' frontage, where 100' is required. Petitioner is requesting a variance for the minimum width. High Plain Road is not serviced by sewer. A septic system would be installed in the front yard. The existing house lot will conform to area & frontage. There was some discussion on the location & sharing of driveways. Petitioner has not filed with Conservation, but spoken with Director Douglas, or Board of Health. Ristuccia explained to the Board that the barn is in great disrepair and would be demolished if the owner sold the existing single family house. The Board discussed the alterations planned to convert the barn into a dwelling (i.e. windows). Several neighbors spoke in favor of the proposal. 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. The Board supports the proposal, but voiced concern over the proposed 30' frontage & narrow width. The Board noted that the proposed lot would conform to the minimum area. Batchelder made a motion to grant the variances and dimensional special permit for historic preservation. Ranalli seconded the motion & the Board voted (5-0) to grant the variances & special permit. Ranalli will write the decision.

Discussion Item - 33 High Street – Dimensional Special Permit for Historic Preservation

Mike Ristuccia explained that the house from 120 Salem Street, that was approved & moved to 33 High St., has been demolished due to financial issues. The Preservation Commission approved its demolition. Doug Ahern, 4 Maple Ave., stated that he will appear before Preservation Commission seeking permission to construct a 'replica' house, similar to the one he built on Andover St. There would be no change in the footprint from the house formerly at 120 Salem St. to the one he proposes to build at 33 High St. In order for the original Dimensional Special Permit for Historic Preservation to be in effect, an ANR plan needs to be recorded. Brown commented that the prior approval was for two specific structures, one of which no longer exists. Cindy Rayner, owner of 33 High St., stated that no ANR has been recorded. The Board felt that due to these circumstances, the owner would need to file anew.

The Board adjourned at 10:45 p.m.