

The meeting opened at 7:10 p.m.

Present were: Anderson (Chair); Brown (Acting Clerk); Magenheim & Bargnesi (Associate Members).

Petition No.: 4023

Premises affected: 67 Chestnut St

Petitioner: McMahan

Chair Anderson informed the petitioner that McDonough was not able to attend the meeting and that if they agreed; the Board could hold the public hearing with only 4 members. However, the vote has to be unanimous in order to grant the requested relief. Contractor Robert Pelletier, representing his clients in their request for a variance from Article VIII, Section 4.1.2 &/or a special permit under Article VIII, Section 3.3.5 for the continued existence of an attached garage addition, agreed to a 4-member board. Pelletier explained that he obtained a building permit and commenced construction of the attached garage. When his clients asked him to obtain a permit for an addition to the main house, which is also non-conforming, it was revealed on the new plot plan that the property is a corner lot and that the garage does not conform to the minimum front yard depth requirement. Where 35' is required, there are only 15.2' and 20.1' to Chestnut Court at the corners of the garage. Specifically, Chestnut Court was not shown on the plot plan when obtaining the garage permit. The Inspector of Buildings therefore sent them to the ZBA to obtain relief for the non-conforming setback. The house was built in 1907, with a detached garage that was only recently razed. The new, attached garage is on a smaller footprint than the original garage and in substantially the same location. Chestnut Court was constructed around 1951-1954, at which time #67 Chestnut Street was rendered a corner lot and creating the non-conformity. Pelletier pointed out that due to wetlands towards the rear of the lot; the placement of a new garage is somewhat restricted. No relief is being requested for the addition/alteration to the main house since it was redesigned in order to conform to the bylaw. Brown submitted photos of the house that he had taken earlier in the day. He noted that #71 Chestnut St, direct across Chestnut Court from #67, had obtained a special permit for a rear addition in 1988 and also uses Chestnut Court to access their garage. Brown noted that the issue is the double frontage on a way as defined by the bylaw. In 1951, the minimum front yard depth requirement was 30' with 20' on the second frontage. In 1955, the bylaw was modified to require the greater front setback on the second way. The Board discussed whether the previous, detached garage was ever eligible for the smaller setback. It was not since it was never in the rear yard. Bargnesi made a motion to close the public hearing. Brown seconded the motion & the Board voted (4-0) to close the public hearing. The Board then proceeded to deliberate.

Brown made a motion to approve a special permit under Article VIII, Section 3.3.5 for the continued existence of the garage addition that does not meet the minimum front yard depth requirement to Chestnut Court on the ground that the garage be built on the footprint of the previously existing garage, that it be no closer to Chestnut Court and that the breezeway is not more substantially detrimental to the neighborhood. Magenheim seconded the motion and the Board voted (4-0) to approve the special permit with the conditions in the motion. Brown asked if this is considered a pre-existing, non-conforming structure since land was taken from the lot due to the construction of Chestnut Court and that the bylaw requirements were different regarding corner lots prior to Chestnut Court's construction. Anderson noted that the previously existing garage was lawfully in existence on the lot with a side yard setback and he would have seen it as pre-existing, non-conforming. He also stated that a variance has grounds due to the taking and citing of structures on the lot. Brown made motion to deny the variance as moot. Magenheim seconded the motion and the Board voted (4-0) to deny the variance as moot. The Board then voted (4-0) on the motion to grant the special permit with conditions. Brown will write the decision.

Anderson noted that due to a lack of a quorum, they cannot vote to approve the minutes of February 7, 2013.

There being no other business of the Board, Brown made a motion to adjourn the meeting. Magenheim seconded the motion & the Board voted (4-0) to adjourn the meeting at 7:32 p.m.