

ZONING BOARD OF APPEALS MEETING
PLACE: HEARING ROOM 2, MARSHFIELD TOWN HALL
MARCH 12, 2013, 7:00 PM
MEETING MINUTES

Members Present:

Michael P. Harrington, Chairman
Arthur F. Vercollone
Jon. C. Russell
Paul Younker
Kevin McMahan, Associate
Elizabeth Stevenson, Associate

Chairman Harrington called the meeting to order at 7:00. He requested to table the minutes until after the discussions and decisions were made.

Closed Hearings / Decisions:

From February 19, 2013: #13-09, Amarat Patel Trustee, 1921 Ocean Street Realty Trust, 1919 – 1921 Ocean St.: Variance (Section 10.11) to allow for an apartment on the second floor above Jackansons Store at, Assessor's Map parcel H07-04-2, B1 zone.

The Chairman opened it up for discussion. Mr. McMahan stated he felt there was no basis for allowing the request. Ms. Stevenson concurred. Mr. Russell stated that the Board had asked for proof that there were apartments/residential dwellings on the second floor previously, and they could barely show anything up there previously; and even going back into the town's archives with the Building Inspector found no proof. Chairman Harrington stated that even if the Board would consider an office kitchenette and ½ bath as living space, it would still be a big stretch to get from one apartment to five apartments.

Mr. McMahan stated that the applicant could not prove a pre-existing right and Town Meeting just voted against this type of mixed-use residential units. He feels the ZBA would be overstepping if they approved this. The project does not satisfy the requirements for a variance. Chairman Harrington stated he agrees; in order to get a variance, the Board must find all five conditions cited in the bylaw to be present. They are not present in this case: there is nothing unique about this property, this does not deprive the owner's use of the property, and if approved, it would grant a special privilege that is inconsistent with limitations put on other properties

Chairman Harrington moved to grant the variance; seconded by Mr. Vercollone.

VOTE: 0 – 5 – 0 (motion failed).

M. Harrington, A. Vercollone, J. Russell, K. McMahan, and E. Stevenson voting

ZONING BOARD OF APPEALS MEETING
PLACE: HEARING ROOM 2, MARSHFIELD TOWN HALL
MARCH 12, 2013, 7:00 PM
MEETING MINUTES

From January 22, 2013: #13-08, John & Rosemary Haviland, 10 South St.: Variance (Section 10.11) to reconstruct a second structure on the same lot as an existing structure N07-01-11, R-3 zone

Chairman Harrington stated that the Building inspector's timeline provided at the last meeting put the construction within the allowable time for the Permit Extension Act to be applicable. Mr. McMahon stated the evidence was scant, but the building inspector provided testimony and by relying on the building inspector's word, it falls in the allowable time.

A brief discussion ensued over the timeline and the extension of the Permit Extension Act. Chairman Harrington stated that if the Board was accepting the timeline, then the previous variance is still valid and therefore, so is the building permit. So he recommends that the Board deny this request for a variance, because the other variance is still valid.

Chairman Harrington made a motion to grant the variance; seconded by Mr. Vercollone:

VOTE: 0 – 5 – 0 (motion failed)

M. Harrington, A. Vercollone, J. Russell, P. Younker and K. McMahon voting.

From February 26, 2013: #13-16, Mathew Parent, 807 Summer St.: Special Permit – non-conforming structure (Section 10.12) to construct a two-story addition, consisting of a 18.5' x 21.5' first floor and a 18.5' x 20' lower level, Assessor's Map E18-04-18, R-1 zone.

Chairman Harrington stated the Board wanted to see the full site plan that showed the addition and the applicant came into the office the following day with the plan. Chairman Harrington was in the office and the applicant was very testy, as he restated, as he did at the meeting, that he left copies with his application, and was very upset that this was a delay that he did not feel he caused. Chairman Harrington stated he told the applicant it was unfortunate, but they needed to see the plan to make an informed decision.

Mr. McMahon verified with the Board that this won't increase the non-conformity of the current property. Mr. Vercollone stated the non-conformity comes from the front setback, and this is being built in the rear of the dwelling.

Mr. Vercollone made a motion to grant, seconded by Mr. McMahon:

VOTE: 5 – 0 – 0.

ZONING BOARD OF APPEALS MEETING
PLACE: HEARING ROOM 2, MARSHFIELD TOWN HALL
MARCH 12, 2013, 7:00 PM
MEETING MINUTES

A. Vercollone, K. McMahon, J. Russell, E. Stevenson, P. Younker voting

From February 26, 2013: #13-18, Roht Marine, LLC., 2205 Main St.: Site Plan Approval (Section 12.02) and a Special Permit (Section 10.10), to construct a roof between existing buildings and over an existing deck and to expand the current garage 340 S.F. to add restrooms and a locker area, Assessor's Map parcel E20-01-03, R-1 zone.

Chairman Harrington asked if anyone had any questions or comments on this application. There were none. Chairman Harrington stated that they probably could have voted on this one at the end of the meeting, but they were so busy trying to get all the other decisions completed. Mr. Vercollone stated he would like to see a condition prohibiting tables and chairs under the roof and the ramp for the restrooms the applicant spoke about and he would like to see the exterior materials.

Chairman Harrington moved to grant site plan approval with conditions discussed, seconded by Mr. Vercollone:

VOTE: 5 – 0 – 0

M. Harrington, A. Vercollone, J. Russell, P. Younker, and K. McMahon voting.

Chairman Harrington moved to grant the Special Permit, as requested; seconded by Mr. Vercollone:

VOTE: 5 – 0 – 0

M. Harrington, A. Vercollone, J. Russell, P. Younker, and K. McMahon voting.

Approval of the Minutes:

Mr. Vercollone moved to accept the minutes of February 19, 2013, seconded by Mr. McMahon:

VOTE: unanimous

Mr. Vercollone moved to accept the minutes of February 26, 2013, seconded by Mr. McMahon:

VOTE: unanimous

Discussion: Attorney Guard asked the Board for a letter re: the Permit Extension Act as it pertains to 613 Careswell St. The Board reviewed the FAQs provided by the state. Mr. McMahon stated he did not feel comfortable with the Board issuing essentially a legal opinion. According to the Act, if it was active in the time frame of the Act, then it is still active. The owner or potential owner needs to have their own legal counsel, not the ZBA. The Board concurred. Staff will inform Attorney Guard.

ZONING BOARD OF APPEALS MEETING
PLACE: HEARING ROOM 2, MARSHFIELD TOWN HALL
MARCH 12, 2013, 7:00 PM
MEETING MINUTES

Correspondence: A letter of support went from the Chairman to the Selectmen about the Economic Development Self-Assessment that the Selectmen want Marshfield to participate in.

Next meeting will be on March 26, at 7:30 pm.

Chairman Harrington moved to adjourn the meeting.

Respectfully submitted,


Brenda Eckstrom, Zoning Aide

I attest the foregoing minutes were approved by the
Zoning Board of Appeals at their _____ meeting by a _____ vote.

Signed:  date: 5-14-13