



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

Foxborough Zoning Board of Appeals Minutes
April 16, 2015

Members present: Chairman Neil Forster, Vice Chairman Barney Ovrut, Member Kris Behn, Alternates Kim Mellen and David Brown, Town Planner Sharon Wason and Building Commissioner Bill Casbarra

Chairman Forster opened the meeting at 7:00 p.m. in the Media Center of the Foxboro High School, 120 South Street.

Mr. Forster welcomed new alternate member Dave Brown to the Board and also noted that Kris Behn is now a full member and Kim Mellen is now an alternate member.

7:00 p.m. Comprehensive Permit Wyman Village Decision - The Board members signed the decision for the Wyman Village Comprehensive Permit.

40B Consultant

Ms. Wason has looked into available consultants to assist the Board in the 40b process at the request of the Chairman. The best qualified are Ralph Willmer, Ezra Glenn and Ed Marchant. The town is eligible for a \$10,000 Technical Assistance Grant for the next 40b project on Fisher Street.

7:05 p.m. Continued Public Hearing - Louis Soldani requests a Special Permit from Section 5.4.2 of the Code of the Town of Foxborough Chapter 275 - Zoning Bylaws to allow the reconstruction of a nonconforming single family dwelling which exceeds the habitable floor area by 25% or more at 14 Maple Avenue. The property is located in the R15 Residential Zoning District. Mr. Soldani was present; he explained that he has spoken with the Andberg's about their concerns at the previous meeting. He would like to build a three bedroom dwelling and a garage to replace the cottage on the property presently.

He explained that the main house on the property has five apartments in it but they are too small for his use.

He will alter the plans by eliminating the deck on the left hand side and will shift the building to the right away from the neighbors. He also offered to have a two door garage instead of a three door garage.

Steve Andberg of 12 Maple Avenue still has concerns with the height of the new structure.

Mr. Behn commented that this will be a significantly larger structure than what is presently there. He also has concerns with the use of the garages.

Mr. Soldani stated that his proposal will have two floors no matter what; he will not be taking down any trees and will not be constructing a new driveway.

Mr. Ovrut stated that the garage storage is not a concern of his; he is more concerned if the proposed structure would be substantially more detrimental to the neighborhood in which situated than the current structure, as that is the issue the Board must determine for this matter pursuant to Section 5.4.2 of the Bylaws.

Mr. Casbarra stated that Mr. Soldani is allowed by right to increase the size of the present structure by 25%, he is asking for approx. 345 sq. ft. beyond the 25% allowed.

Karen Andberg of 12 Maple Avenue is concerned with having two large buildings on one lot.

A motion to approve a 30 x 40 garage with 1,200 square feet, that the middle garage door be eliminated and it be constructed 26 feet from the 12 Maple Street property line, 15 feet from the Park Avenue property line and 50 feet from the rear yard of 45 Mechanic Street and that the roof pitch not exceed 6:12 and the left side deck be eliminated with no trees to come down and revised plans to be submitted was made by Mr. Ovrut and seconded by Mr. Behn. Two members of the Board voted in favor of the motion and one member voted in opposition to the motion. Though it was stated at the hearing that the requested Special permit was approved, the Bylaws require a unanimous vote of the Board in order to approve a request for a Special Permit. Accordingly, because the Board did not unanimously vote in favor of the motion, the motion to grant the requested Special Permit failed by a vote of 2-1-0.

7:10 p.m. Glenn & Sandra Shepardson request a Variance from Section 4.0, Table 4-1 of the Code of the Town of Foxborough Chapter 275 - Zoning Bylaws to allow 136 feet of frontage where 200 feet is required and 120 feet of lot width where 134 feet is required at 41 Cedar Street. The property is located in the R40 Residential Zoning District. Mr. and Mrs. Shepardson were present. They would like to divide their lot to be able to sell them. They presently have two acres but one of the proposed lots will not have enough frontage and lot width so they are requesting a variance. They stated that two lots will not change the character of the neighborhood as the surrounding properties are smaller lots without adequate frontage.

Mr. Forster noted that the criteria for a variance are soil, shape and topography.

Mr. Shepardson stated that new homes would be better for the neighborhood as their house is currently in disrepair.

The Board members are not in favor of granting frontage waivers.

A motion to close the Public Hearing was made by Mr. Ovrut and seconded by Mr. Behn. The motion carried 3-0-0.

A motion to deny the requested Variance for frontage and lot width at 41 Cedar Street was made by Mr. Ovrut and seconded by Mr. Behn. The motion carried 3-0-0.

7:20 p.m. Mass Electric Company dba National Grid requests a Variance from Section 4.1, Table 4-2 of the Code of the Town of Foxborough Chapter 275 - Zoning Bylaws to allow the installation of an Electric Substation and related facilities at Lot 324 Washington Street also known as Assessors Map 15, Parcel 324. The property is located in the S-1 Zoning District and the Economic Development Overlay District. Atty. Marissa Pizzi was present representing the applicant, Mass Electric. With her was John Skrzypczak and Tom DiOrio. Aerial photos of the site were distributed. This site is currently owned by FXP Realty and is located across from Patriot Place. Mass Electric would like to construct an electric substation behind the Town water tower. There is a current access road that is 15 feet wide that can be used to access this substation. The property will be divided into two lots with Parcel A being 48.5 acres that is currently used for parking by the Kraft Organization and Parcel B being 2 ½ acres for use by Mass Electric for an unmanned electric substation. The access road will remain on FXP land and they are proposing moving the property line over twenty feet but the plan has not been finalized and they would be agreeable to having that as a condition of approval. Verizon will also be putting an unmanned equipment shelter on the FXP land and they need use of the access road too.

The land is located in the S1 and EDOD and is an allowed use. Lot B will not be abutting the street or public way as the land adjacent to Route 1 is owned by the state.

The substation is known as a Modular Integrated Transfer Substation (MITS) and it will be connected to the existing high voltage lines. It will be 15 feet high and 12 feet wide.

Mr. Skrzypczak spoke on the need for the substation, the current distribution lines are reaching their capacity and they need mitigation to be able to increase their capacity. This is part of the overall Union Loop upgrade and will benefit the whole town, not just the stadium land. If any future expansion is proposed they will come back to the Board.

Ken Getz and Rebecca Kozak of the Kraft Organization were present. Mr. Getz stated that the easement has not yet been finalized and the final width is yet to be determined for the access way.

Atty. Pizzi reviewed her Statement in Support of Variance for Lot B off Washington Street, Foxborough, MA. She noted that the criteria for a variance are the shape or topography of the land, the topography of this site limits the area suitable for the substation as it needs flat topography. There are unique conditions due to the pedestrian walkways being located near the site and distances need to be maintained from them. The land to the east of the site is owned by the state, which has the frontage on Route 1 so they cannot comply with the frontage requirement. The need is for the public good and the benefit of the town; the substation will increase the capacity and reliability of the electrical service in town and is the highest and best use with no adverse effects to the surrounding area. There will be no increase in traffic as there will only be routine inspections and equipment maintenance occasionally.

The MITS will be surrounded by a seven foot fence with one foot of barbed wire on the top, this is standard safety procedures.

Atty. Pizzi noted that the dimensions of Lot B may be modified to accommodate the changes to the access easement and driveway and would accept a condition addressing that, and further noted the Board's decision in Case 2001-07 for the water tower on the same lot with similar conditions.

A motion to close the Public Hearing was made by Mr. Ovrut and seconded by Mr. Behn. The motion carried 3-0-0.

Mr. Ovrut stated that because the proposed substation is an essential service, it is permitted by right in all Zoning Districts. He further stated that he believed that the criteria for a variance had been satisfied for the reasons expressed by Atty. Pizzi.

A motion to approve the requested Variance for the installation of an electrical substation and related facilities at Lot 324 Washington Street with conditions that the dimensions of Lot B may be modified to accommodate changes in the size; the boundaries of Lot B be moved no more than twenty feet in the southerly or northerly direction; the easement off the water tower access road will be a private access way; the easement cannot be used for any future frontages; the MITS may be shifted up to thirty feet on the site and will have adequate screening; the easement be granted and recorded prior to the installation of the MITS was made by Mr. Ovrut and seconded by Mr. Behn. The motion carried 3-0-0.

GENERAL BUSINESS

The minutes of March 19, 2015 were reviewed.

A motion to approve the minutes of March 19, 2014 as amended was made by Mr. Ovrut and seconded by Mr. Behn. The motion carried 4-0-1 with Mr. Brown abstaining.

A meeting has been scheduled for April 30th to hear the 40B application for the Fisher Street project. The Applicant would like to have a second meeting on June 3rd or 4th. Once the final date is known, the Board will be informed.

The meeting was adjourned at 9:10 p.m.

Respectfully Submitted,

Diana Gray

Signed on behalf of the Board

Kristofor Behn, Clerk