



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
April 25, 2018**

Members present: Chairman Barney Ovrut, Member David Brown, Associates, Kim Mellen and Kurt Yeghian

Chairman Ovrut opened the meeting at 7:00 p.m. in the Gala Meeting Room of the Foxboro Town Hall, 40 South Street.

Mr. Behn wasn't able to come to the meeting tonight, but Mr. Ovrut wanted to express his appreciation to Mr. Behn for his years on the Board as he is resigning this year due to his work commitments.

Mr. Ovrut also welcomed the new Building Commissioner Nick Riccio to his first ZBA meeting.

Patrick Lynch seeks a Special Permit pursuant to the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, Section 5.4.2., and/or a Variance from Section 4.1.1., to allow a home addition with a front yard setback of 32.6 feet where 35 feet is required. The property is located at 9 Merrigan Way in the R-40 Residential and Agricultural District and is not located in any restrictive overlay district. Mr. Brown recused himself from the hearing as he lives on Merrigan Way. Patrick and Joanne Lynch were present and represented themselves. Mr. Lynch explained that they would like to add on to their home; the addition will contain a garage, a bedroom and an office. They have outgrown their home but would like to stay in the neighborhood. The addition will also include a farmer's porch on the front of 44' x 6'. The porch will be constructed in context to the existing house and will have Trex decking for the flooring and composite columns. The existing deck and garage will be torn down to make room for the new addition. The house currently has a front yard setback of 33.69 feet, which is non-conforming; the new porch will increase the nonconformity to 32.6 feet.

Mr. Lynch has asked for a Special Permit and/or Variance in regards to the front yard setback requirement. The Board discussed the Variance, and determined that it is not necessary as the current structure is already non-conforming, therefore a Special Permit will suffice.

There were no abutters present.

A motion to close the Public Hearing was made by Ms. Mellen and seconded by Mr. Yeghian. The motion carried 3-0-0.

A motion that a Variance is not required for the addition at 9 Merrigan Way was made by Ms. Mellen and seconded by Mr. Yeghian. The motion carried 3-0-0.

The Board then moved into deliberations. The increase in the non-conformity is approximately one foot, which would not be detrimental to the neighborhood. It also will not affect the character of the neighborhood or homes within it; this satisfies the Special Permit criteria.

A motion to approve the Special Permit for a home addition at 9 Merrigan Way with conditions that the addition and porch be constructed as shown on the plans, the size of the porch be 44' x 6' as shown on the plans and the materials used match in context to the existing home was made by Ms. Mellen and seconded by Mr. Yeghian. The motion carried 3-0-0.

Mr. Brown rejoined the Board.

Marie St. Joy seeks a Special Permit pursuant to the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, Section 3.1.6., Table 3-1 Table of Uses, Use Group L.14, and Section 3.2.2., to allow a Family Day Care as a home occupation. The property is located at 154 East Street in the R-40 Residential and Agricultural District and is not located in any restrictive overlay district. Miche and Marie St. Joy were present and represented themselves. Mrs. St. Joy would like to establish a home family daycare business in her home. She has worked in daycares and for the Department of Children and Families and currently has two foster children in addition to her two biological children. Mrs. St. Joy would be the lead teacher and she would like to have a total of 6 children in her care. Her husband and mother (who also works in daycare) would be the back-up teachers. The foster children are in the process of being adopted so they will not be in the home soon. Her biological children are seven and three, the three year old would count as one of the six children allowed, so she would be looking to provide care for five additional children.

The state will be coming to perform an inspection on the property on May 25th in order for her to get her license from the state, the daycare workers also get certifications from the state. The license needs to be renewed every two years and additional training of the workers is also a requirement.

The daycare portion would be in three rooms of their home, approximately 520 square feet, this will not exceed 40% of the footprint of the home (which is 1908 sq. ft.). They will be adding a new entrance to the back of the house as the entrance to the daycare. They have a long driveway that can fit up to eight cars and are in the process of fencing in the back yard.

The daycare would be open from 6:00 a.m. to 6:00 p.m. Monday – Friday; with an occasional Saturday or Sunday. They would like to have a small sign.

There are no town requirements for inspection of daycares and no requirements from the Board of Health. They will not be cooking meals for the children, they will only be providing pre-packaged snacks.

There were no abutters present.

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

The Board immediately moved into deliberations. The Board feels this petition for a Family Daycare as a Home Occupation will benefit the town residents who are in need of childcare and will not have any traffic or safety issues; any adverse effects will not outweigh its beneficial impact to the town and neighborhood.

A motion to grant the Special Permit for a Family Day Care at 154 East Street with conditions that the home occupation be subject to licensing and conditions are required by the State of Massachusetts Department of Early Education and Care; the hours of operation be Monday – Friday from 6:00 a.m. to 6:00 p.m. with the occasional Saturday and Sunday as necessary; no more than six children may be in the residence at any single time; the home occupation will comply with all standards of the Zoning Bylaws and one sign no larger than three square feet in area, not to exceed six feet in height and set back at least ten feet from the

property line that is not illuminated was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

Hughes Entertainment Inc. dba LaserCraze seeks a Special Permit pursuant to the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, Section 3.1.6., Table 3-1 Table of Uses, Use Group J.3., to allow the operation of a lasertag recreational entertainment facility, and a determination that the incidental use of approximately twenty-five amusement games does not constitute such proposed use as an Arcade within the meaning of such chapter. The property is located at 30 Commercial Street in the Highway Business District and is not located in any restrictive overlay district. Greg Hughes, owner/operator of LaserCraze was present. Mr. Hughes explained that he would like to open a location in the Job Lot Plaza at the former Chic to Chic consignment shop. He has been in business for ten years and currently has three locations. His business is a laser tag family entertainment center which includes laser tag, inflatable bounce houses, a snack bar and amusement games. Mr. Hughes showed the Board a virtual tour of a similar facility from his website. The amusement games give points for prizes for the kids to redeem in a small gift area. They can accommodate up to 42 people in the laser tag area and between 150 – 200 people in the entire facility. They would have approximately 40 employees. The hours are Tuesday – Thursday 12:00 p.m. – 9:00 p.m., Friday 12:00 p.m. – 11:00 p.m., Saturday 10:00 a.m. – 11:00 p.m. and Sunday 10:00 a.m. – 8:00 p.m. They may be open on Monday during school vacation weeks but not during the summer school vacation. The snack bar will serve pizza and soda only, they can accommodate up to 30 patrons at the snack bar.

They are proposing to have 20-25 amusement games in a 625 sq. ft. area which account for 23-24% of their revenue. The entire space is 21,940 sq. ft. The employees can park in the back of the building if parking ever becomes a concern.

Mr. Ovrut read a letter from WP Foxborough Associates General Counsel Tracy Baran into the record in support of the petition. WP Foxborough Associates owns the plaza and have entered into a lease with Mr. Hughes for his LaserCraze operation.

The Board has concerns with this being an Arcade operation, which are not allowed in the HB Zoning District. Mr. Hughes feels that this is a Family Entertainment Center, not an arcade.

Atty. Tracy Baran stated that in her opinion it is also more of a family use, whereas traditional arcades were hangouts for teenagers that would not be the case here.

George Papadogiannis of Dunkin Donuts in the plaza spoke in support of the petition, he feels it will bring more traffic into the plaza, after 5:00 p.m., it's usually pretty slow.

Jeremy Waltzer of Hobby Quarters in the plaza also spoke in support, he feels that the demographics will be good for his business.

A motion to close the Public Hearing was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

The Board immediately moved into deliberations. Mr. Ovrut reviewed the definition of Arcade from the Bylaws which state: Arcade: An indoor recreation facility containing amusement or recreational games such as video or electronic games that contains more than three (3) arcade machines.

Mr. Ovrut is agreeable to the Low Density Recreational Use but the definition of Arcade is more than three machines and they are asking for 20-25. Mr. Brown asked if it could be considered a subordinate use of the entire facility. Ms. Mellen asked if this is something that Town Meeting should decide on.

Atty. Baran asked to speak and noted that there are probably many locations nearby that have three or more games in them such as bars, bowling alleys, etc. She feels that the laser tag is the primary use and it is more of an athletic recreational use.

Mr. Yeghian likes the concept and feels that Mr. Hughes has the experience to run such a business.

The Board discussed whether the definition should be changed by Town Meeting. They also questioned if there was a difference between an electronic game and an arcade machine.

Mr. Hughes asked for a continuance so that he can get a list of the proposed games to bring to the Board to help determine if they would be considered arcade games or not.

A motion to continue the Public Hearing to May 17, 2018 at 7:00 p.m. was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

Zachary Johnson seeks a Special Permit pursuant to the Code of Foxborough, Chapter 275, Section 3.1.6., Table 3-1. Table of Uses, Use Group L.5 to allow the construction of a residential garage in excess of 625 square feet. The request is to construct a 38' x 26' detached 1.5 story garage on the property at 69 Borrows Road. The property is located in the R-40 Residential and Agricultural District and is not located in any restrictive overlay districts. Mr. Johnson was present and represented himself. He would like to construct a 38' x 26' detached garage on his property. He stated that his family needs the space for storage of vehicles, bikes, sporting equipment and household items. The garage will be of a similar style as his house to keep the aesthetic appeal. He applied for a larger detached garage in 2017, since that time he has reduced the size and spoken to the neighbors. He is not proposing any water service and will only have single phase electrical service.

The garage will be 1 ½ stories tall and will only have storage area on the upper story. The lower level will have three bays. He currently has a three bay garage under his current home, this will bring the total to six. The bays of the detached garage will be facing the house, the right side of the garage will face the street.

There were no abutters present.

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

The Board immediately moved into deliberations. The property is unique as there is a paper street located there, the applicant has three lots under common ownership so they can be treated as a single lot in excess of 60,000 sq. ft. There is also a row of arborvitaes on the property which will help block the view of the garage from the street.

A motion to approve the Special Permit for a detached residential garage in excess of 625 square feet at 69 Borrows Road with conditions that the proposed garage shall be a 1 ½ story structure not to exceed 38' x 26' with a footprint of 988 square feet; a certified plot plan stamped by a professional land surveyor be submitted no later than May 17, 2018 showing the location of the garage and approved by the Building Commissioner; the garage shall be constructed of exterior materials that are comparable in design and color as the exterior materials of the existing home; the garage will be used for vehicles and the storage of personal property only, no commercial, business or residential use is allowed; running water is prohibited; electrical use is restricted to single-phase electric; no outside lighting is allowed; storage of combustibles within or outside of the garage is prohibited was made by Mr. Brown and seconded by Mr. Yeghian. The motion carried 3-0-0.

GENERAL BUSINESS

Minutes – January 8, 2018

The Board reviewed the minutes of January 8, 2018.

A motion to approve the minutes of January 8, 2018 as amended was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 4-0-0.

Board Re-Organization

With the resignation of Member Kris Behn, there is an opportunity for one of the Associate Members to step up to full Member status. After discussion, Ms. Mellen will take on the Member status. This creates an opening for a new Associate Member; Lorriane Brue has expressed an interest in joining the Board, she has been working with Mr. Ovrut and Mr. Yeghian as part of the Economic Development Committee on the Route 1 zoning and is interested in learning more about zoning. A meeting with the Selectmen is needed to have Ms. Brue appointed to the Board.

Town Meeting Articles

Mr. Ovrut reviewed the Zoning Articles that are being brought forth at the May 14, 2018 Town Meeting.

The meeting was adjourned at 9:30 p.m.

Respectfully Submitted,

Diana Gray

Signed on behalf of the Board

Kim Mellen, Clerk