

July 24, 2023 Minutes

Members Present:

Doreen Prouty, Chair
Rich Maggi, Vice-Chair
Gary Geiger, Clerk
Aldo Mancini, Alternate
Vinny Ronghi, Alternate

Also Present:

Stefanie Kesecker

1. Wheeler: Case # 2011 44 North West Street

Members sitting: Doreen Prouty, Rich Maggi, Gary Geiger

Chairperson Prouty opened the hearing by introducing the members of the Board and explaining the procedure to be followed.

Christopher Davis of 331 Barry Street was present for this agenda item. Mr. Davis explained his mother-in-law is handicapped due to a stroke and he is proposing to build an addition on the right side of the home to accommodate her. This addition will allow himself and his family to move in and take care of her. Mr. Davis stated the proposed addition encroached upon the required setback by 2ft. Mr. Davis stated he had been before the Planning Board in April of 2023 and had an ANR approved for a land swap with this neighbor. He stated his neighbor, was unable to complete the land swap due to his mortgage company not allowing it without prohibitive expense. Mr. Davis stated he had went to the Building Inspector for this design and was referred to the ZBA to obtain a variance. Member Maggi asked if the proposed plan could just be shortened to fit the setback requirements. Mr. Davis stated no. He wants to put a wheelchair ramp in the garage to keep his mother-in-law out of the elements when getting her into and out of the home. He stated after the Planning Board had approved the ANR, he spoke to his lawyer and then ordered the tresses. Alternate member Ronghi asked about the dimensions of the project. Mr. Davis stated it is 24x16. Alternate member Ronghi asked it was a linear line extended out 40 ft. from the existing house. Mr. Davis stated correct. Mr. Davis stated the front of the garage is in the setback parameter, and it's only the corner of the back of the garage, that runs about a 1ft. into the setback, due to the unusual way the property line is located.

Chairperson Prouty then explained what is needed to grant a variance:

1. "that owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it lies"
2. "that a literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant"

3. “that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance”

Chairperson Prouty then asked the petitioner if this case met the conditions of item #1 Mr. Davis stated the land dips down and in order to build the handicapped ramp his proposed plan was the only way to accommodate this. Chairperson Prouty spoke about item #2 for financial hardship and she stated the hardship cannot be created by the petitioner, and has to be caused by item #1. (She stated item #3 he had meant as this was a residential area and his plan would keep it residential.) She then informed the petitioner that his proposed plan must meet all three requirements.

Alternate member Ronghi asked Chairperson Prouty if a variance could be granted contingent upon the land swap. Member Geiger stated if the land swap had been granted, that the Planning Board already approved, a variance would not be necessary. Member Maggi questioned if the room could be shortened to move the garage over.

Chairperson Prouty opened the meeting to the public.

John Convertino of 38 North West Street and stated that Nancy Wheeler was his neighbor of 13 years and he does not want her to move. He stated he would like to gift them the property they needed. He stated he discussed this with his attorney, but his mortgage with Fannie Mae was highly cost prohibitive to him and worth more than the land itself. He stated he could not afford the attorney fees to redo his mortgage. He stated the addition proposed would no way encroach on his home. He stated he was willing give his neighbor 15 ft., but the financial hardship to do this, was unaffordable to him as a single home owner.

Member Maggi asked if he could simply shift the project some to fit the setbacks. Mr. Davis stated no the topography does not allow him as it drops back.

Chairperson Prouty closed the public hearing.

Chairperson Prouty called for a vote: Geiger-no, Maggi-no, Prouty-no.

Chairperson Prouty informed the petitioner he had 20 days from when the decision is stamped in at the Clerks’ Office to appeal the decision.

2. Autumn Mist Farms, LLC: Case #2010 1157 North Westfield Street

Chairperson Prouty stated this was a continuation of the public hearing from July 10, 2023 and an onsite visit had been completed on Monday, July 17, 2023. Alternate Member Mancini stated they measured 20 ft. from the street to the property line. He stated a large truck could fit through this area and that the configuration of the property is odd. Member Geiger stated he agrees with alternate Member Mancini that the layout of the parcel is odd. He went on to say he does not see how this project would affect the neighboring area. He stated a tractor trailer could fit behind the property and the

proposed addition is far back from the road. Mr. Geiger stated the roof is not strong enough to build up. He stated the petitioner meets all 3 requirements. Member Maggi asked the petitioner, when he measured from the pins to the property line was it 12-1/2 ft.. Mr. Turnbull stated closer to the building side yes, and the property line is at an angle so it gets shorter as you approach the front of the property. Alternate Member Ronghi stated on the application it is zoned Business-A and the requirements for side yard is 0 not 10'. Chairperson Prouty stated, yes until you look article 22, appendix B entitled, *Table of Dimension Regulations*, "requires a corner lot to have a minimum setback of 10 ft." Alternate Member Ronghi asked if it specifically stated side yard." Chairperson Prouty said it stated "setback". Alternate Member Ronghi stated it could be that the Town did not address the unilateral 10', could it not mean that under Business-A, where it requires a greater than 10' setback, could the interpretation be made that since it is a corner lot that the relief is given to them. He went on to say that it doesn't specify that the 10' is unilateral. He stated he does see a definitive interpretation. Chairperson Prouty stated the *Table of Dimension Regulations* states 10ft. and that always means a minimum. Alternate Member Ronghi stated there was an asterisk below this that stated "per site plan approval by the Planning Board." Chairperson Prouty stated that the Building Inspector guidelines state that anything under 2,000 sq. ft. does not require a site plan. Chairperson Prouty stated the strip of land in question is owned by the Town. She stated she had spoken to the Planning Director Pam Kerr concerning this and informed the petitioner he had put the millings up to the curb cuts. Mr. Turnbull stated Engineering was notified when he did the milling.

Chairperson Prouty then open the meeting to the public.

Derrick Turnbull, 300 North West Street, owner and petitioner for Autumn Mist Farms LLC. stated the topography of this land is not straight or square, and all the other lots are. He stated there is a gas utility on one side and an electric utility on the other, and he cannot shift the project in any way other than the proposed addition. He stated that there is not much room inside and two cooks have already quit because they have stated it's like working in a phone booth and that it is a hardship to him as it is hard to find employees. He stated his builder informed him the walls and the roof are not strong enough to build above him, and it would also be cost prohibitive. He stated a buildup was not possible without a complete tear down and rebuild, hurting both himself and his employees financially. He stated by not getting the addition done it is hurting his business now. Mr. Turnbull asked if Chairperson Prouty knew how much the Town owned off the road. He went on to say he knows it's about 20ft. and questioned why they own so much off the roadway. Chairperson Prouty stated she was told that is because of the previous configuration of the old roadway. Mr. Turnbull stated even if the Town were to put in sidewalks in the future, there would still be 15 ft. left. Mr. Turnbull stated there is adequate room for a tractor trailer to get behind the business, but they do not have deliveries. Mr. Turnbull stated he is not adding seating or more customers. Chairperson Prouty informed Mr. Turnbull that the Building Inspector had reviewed the proposed plan and had stated a variance was needed.

Mr. Turnbull stated part of his property used to be a Town road that is still there and this as well as the way the property is laid out is different from his neighbors.

Member Maggi suggested going to the Mayor's office to see if the Town would sell a portion of the property to him.

Chairperson Prouty closed the public hearing.

Chairperson Prouty called for a vote: Geiger-yes, Maggi-yes, Prouty-no.

Chairperson Prouty informed the petitioner he had 20 days from when the decision is stamped in at the Clerks' Office to appeal the decision.

3. Approval of Minutes-July 10, 2023: Geiger-yes, Maggi-yes, Prouty-yes, Mancini-yes, Ronghi-abstained.
4. Another other matter that may legally come before the Zoning Board of Appeals

There was nothing under this agenda item.

Motion was made by Member Maggi and seconded by Member Geiger to adjourn the meeting. Geiger-yes, Maggi-yes, Prouty-yes, Mancini-yes, Ronghi-yes.

Meeting adjourned at 8:05pm.