



**Minutes of Meeting
October 12th, 2022
7:30PM
Virtual (Zoom) Meeting**

Board of Appeals members in attendance: Ken Kozik, David Schena, Scott Robb, Adam Hoffman
Staff Present: Kristen Guichard, Planning Director, Kaila Sauer, Assistant Planner, Alicia Burak, Admin Assistant

Opening

Chair, Ken Kozik opened the meeting at 7:30PM. He read the guidelines for the virtual meeting. He called the roll. Ken Kozik- Aye, Scott Robb- Aye, David Schena – Aye.

I. Regular Business

1. Approve previous meeting minutes

Scott Robb motioned at 7:32PM to approve the May 3, 2022, August 2, 2022, and September 7, 2022 meeting minutes as drafted. David Schena seconded the motion. Roll Call Vote: Ken Kozik- Aye, Scott Robb-Aye, David Schena- Aye

2. Administrative Updates: None

II. New/Special Business

1. ZBA22-08 –Deliberations– 27 Tuttle Drive, Variance

Ken Kozik opened deliberations at 7:37PM.

Ken Kozik gave a brief summary of the public hearing and asked the other board members if they have come to a decision. Ken Kozik stated he does not think the circumstances apply to the structure because the orientation of the home on the lot with respect to the street is a personal decision, and the law doesn't apply to personal choices. He stated he doesn't believe the applicant presented an argument that the circumstances apply to soil, shape and topography. Scott Robb agreed with Ken Kozik. David Schena stated he doesn't see how a small sliver of porch would actually cause a major upheaval in the bylaws and believes it is ok.

David Schena motioned at 7:44PM to grant ZBA22-08. Ken Kozik seconded the motion.
Roll Call Vote: Ken Kozik- Nay, Scott Robb- Nay, David Schena- Aye.

Ken Kozik to write the decision.

2. ZBA22-10 – Public Hearing – 30 Nagog Hill Road, Variance

Ken Kozik opened the public hearing at 7:45PM

Adam Hoffman joined the meeting.

Tim Hess, architect, gave a brief overview of the application. Residents want to add a two-car garage. He stated that the lot shape is odd and given the shape there is a small area behind the house the garage could be made to fit however given the topography (slope of the lot) and soil conditions, (rock outcrop visibility) creates a hardship. They proposed a two-car garage to the left side approximately 2 feet from the front plane of the house, that crosses the side yard setback by 2.2 feet. He noted a tree in that area and would make efforts to minimize the likelihood of damage, but because of the size and position where it is located is a threat to the resident's house.

Board Comments: Ken Kozik referred to the plot plan and documents. He stated that there is no consistent lot shape in the general area and doesn't see any difference on this lot with respect to shape, noting that lot 32 is similar. He asked if the applicant thought the other houses have rock outcropping. He said yes but their lot has more. Ken noted the topography and slopes of the lots are similar but not identical. Scott Robb asked how much the structure would cut into the incline of the slope if it were to be put behind the house. Tim stated he cannot answer without knowing the elevation of the garage. Ken Kozik asked if the garage was put in the back if it would be compliant with all setbacks. Tim Hess stated yes but he wouldn't advise of a garage with a higher elevation than the house. Scott Robb asked if they have considered a one car garage. Ken and Adam noted the neighboring homes have one car garages and by adding a one car garage, would meet all bylaw requirements and the safety requirements the applicant wants. Adam and Ken mentioned their doubts on granting the application and Adam mentioned withdrawing and settling on a 1 car garage.

Residents' Comments:

Kaitlyn Baptista- attorney of abutter at 26 Nagog Hill Road, stated that the application was based off assumptions and not research. Referred to the documents that were submitted. Does not think it meets variance requirements.

Terra-West Acton, Thinks the single car garage is the solution and matches with the character of the neighborhood. Doesn't believe application fits requirements of variance.

Jill Natola- Neighbor, Attorney, no soil borings done on the property. Stated her property has rocks but no ledge. Lots are not big enough for a 2-car garage.

Ann Marie Testarmata of 26 Nagog Hill Road, referred to the letter and tree report she submitted. Stated her yard has ledge and sloped upwards as well.

ZBA members went over options with the applicant on withdrawing, continuing and appealing.

Kristen Guichard noted that if application was granted, the applicant would also have to apply for a special permit.

Applicant requested to withdraw at 8:46PM

Adam Hoffman motioned at 8:47PM to accept the withdrawal without prejudice of ZBA22-10. Scott Robb seconded the motion. Roll Call Vote: Ken Kozik- Aye, Adam, Hoffman-Aye, Scott Rob- Aye.

3. ZBA22-09 –Determination under MGL. 40A S.16– 5 Strawberry Hill Road, Variance

Ken Kozik discussed the procedure of the determination and referred to the planning memo from 9/30/22 and asked the board members if they determined the application to contain specific and material changes compared to the previous denied application.

Ken Kozik- stated the applicant submitted no new reasoning and thinks this should go to the Select Board to discuss zoning changes

Adam Hoffman- found it difficult to find uniqueness in the new application, however stated he would vote that the application is different as he believed they were asking for less parking spaces than before and that he would like it to go to a public hearing again.

Scott Robb- Agreed with Adam if there was a change in the number of parking spaces.

Kristen Guichard confirmed the original application and the new application contained the same request for 25 spaces.

Adam Hoffman motioned at 8:53PM to vote that the applicant presented specific and material changes to the application. Scott Robb seconded to motion. Ken Kozik- Nay, Adam Hoffman- Aye, Scott Robb- Aye.

Adam Hoffman motioned to close the hearing at 9:05PM, Scott Robb seconded the motion. Roll Call Vote: Ken Kozik- Aye, Adam Hoffman- Aye, Scott Robb- Aye
Meeting closed at 9:06PM

Materials Used at the Meeting:

ZBA How to Participate Remotely

10-12-Agenda
Draft 5-3-22 ZBA Minutes
Draft 8-2-22 ZBA Minutes
Draft 9-7-22 ZBA Minutes
9 Lilac Extension.

30 Nagog Hill Road Application Materials as follows:

Application
Ann Marie Testarmata Email and Documents
Building Comments
Fire Dept Comments
Health Dept Comments
Water Dept Comments
Planning Memo

27 Tuttle Drive Application Materials as follows:

Application
Accountable mail
Plot Plan
Request for waiver 30-foot setback 27 Tuttle Drive
In support of 27 Tuttle variance request
Planning Dept Memo
27 Tuttle Drive Variance
Building Dept Variance for 27 Tuttle Drive
Fire Chief response for variance for 27 Tuttle Drive
Water District Variance for 27 Tuttle Drive

5 Strawberry Hill Rd Application Materials as follows:

Revised Memo
5 Strawberry Hill Acton Deed
5 Strawberry Hill Acton Hearing Form
Abutter List
Petition sigs and comments
Proposed parking plan
Site Plan- Example of open space
ZBA Variance Application form
ZBA22-9 5 Strawberry Hill Rd Variance
Alissa Nicol Email 10.5.22
Planning Dept Memo