

# OCTOBER 24, 2023 MEETING MINUTES

Received by Town Clerk

February 5, 2024, 10:03am

**Time:** 7:03PM – 8:16PM  
**Location:** Swampscott Senior Center and Virtual via Microsoft Teams  
**Members Present:** Heather Roman (Chair), Dan Doherty (Vice Chair), Andy Rose, Marc Kornitsky, Brad Croft, Paula Pearce, Susan Sinrich  
**Members Absent:**  
**Others Present:** Marissa Meaney (Land Use Coordinator)

MOTION: M. Kornitsky to approve September 19, 2023 minutes. D. Doherty seconds; unanimously approved.

## ZONING RELIEF PETITIONS

### PETITION 23-15: 48 NORFOLK AVE

Petition by KEITH THOMPSON c/o KEN SHUTZER, ESQ. Requests a Dimensional Special Permit and a Section 6 Special Permit for a Nonconforming Structure to construct addition of one-story sunroom to a preexisting, nonconforming structure on a nonconforming lot. (Parcel ID: 3-139)

- Attorney Shutzer walked the Board through the petition
- Chairwoman Roman questioned the distance from the deck to the detached garage
  - It was determined that the regulation under Section 2.3.3.1. of the Zoning Bylaw does not apply as the deck is uncovered
  - Vice Chair Doherty suggested establishing the condition that the deck remain uncovered
- The 7-foot vertical extension along the sideline falls under the Bellalta case as does the building coverage percentage

MOTION: M. Kornitsky to find that the deck does not violate Section 2.3.3.1 of the Zoning Bylaw, and additionally find that the extension of the nonconformity is no more detrimental than what was previously existing. Approval is granted in accordance with the plans submitted. D. Doherty seconds; unanimously approved.

### PETITION 23-16: 69 CHERRY ST

Petition by ALEX EARLY c/o DEREK THOMAS. Requests a Section 6 Special Permit for a Nonconforming Structure to demolish and reconstruct preexisting, nonconforming detached garage within existing footprint and setbacks. (Parcel ID: 6-191)

- Derek Thomas of Incremental Developers walked the Board through the petition and plans
- Homeowners spoke to the neighbors, provided them with copies of the plans, and there were no objections
- The current detached garage does not have any dormers, so addition of such dormers would result in a change in massing
- The Board may find that the addition of dormers increases the nonconformity but does not make it substantially more detrimental

MOTION: M. Kornitsky to find that the work increases the nonconformity but said increase is not substantially more detrimental than what was previously existing, therefore the Board grants a Section 6 Special Permit. P. Pearce seconds; unanimously approved.

### **PETITION 23-17: 12 EUREKA AVE**

Petition by KEVIN MARTIN. Requests a Section 6 Special Permit for a Nonconforming Structure to demolish and reconstruct preexisting, nonconforming detached garage within existing footprint and setbacks. (Parcel ID: 7-47)

- Kevin Martin walked the Board through the petition and plans
- Neighbors Helwig and Knudsen appeared before the Board, in favor of the petition
- Board stated that by adding a breezeway between the two structures, the garage changes status from a nonconforming accessory structure to a nonconforming principal structure
- D. Doherty expressed concerns that these would be two principal structures on one lot, and would not vote favorably, as it would be in derogation of the bylaw
- M. Kornitsky stated that unification of the structures would increase the size of the nonconformity
- A. Rose argued that the petitioner could simply join the garage to the house, which would in turn just create a larger, more obtrusive principal structure
- H. Roman expressed concerns with moving a principal structure into the setbacks
- M. Kornitsky went through the analysis provided by caselaw *Bellalata vs. Town of Brookline*, which explains the protections offered to nonconformities. A. Rose agreed with the analysis.
- M. Kornitsky stated that the relief could be conditioned upon the restriction of any additional building, but D. Doherty argued that it would be bad precedent
- M. Kornitsky and A. Rose in agreement that the nonconformity is not substantially more detrimental because the homeowner could simply attach the garage to the house, which would be worse
- H. Roman agrees that the changes would be more nonconforming, but not more detrimental, especially given the support of neighbors

MOTION: M. Kornitsky to find that the proposed work will increase the nonconformity as the accessory structure becomes the part of the principal and the setback requirements therefore increase. However, as the change is not substantially more detrimental than what is previously existing, a Section 6 Special Permit may be granted, under the condition that there is no further increase in building footprint. A. Rose seconds. Vote was 4-1 in favor, D. Doherty voted against.

### **PETITION 23-05: 0 LODGE ROAD**

Petition by IG INVESTMENTS LLC c/o KEN SHUTZER, ESQ. Requests a Site Plan Special Permit, a Dimensional Special Permit, and a Dimensional Variance for the construction of a single-family home on a vacant lot. (Parcel ID: 24-73)

- Attorney Shutzer appeared before the Board, stating that no additional were found by the Town that would aid the petitioner's request
- Would like to move forward in seeking a decision of denial from the Board
- The Board did not feel comfortable making a decision that night, given the last-minute nature of the request

MOTION: P. Pearce to continue petition to December 5. A. Rose seconds; unanimously approved.