

CITY OF WALTHAM
ZONING BOARD OF APPEALS

October 1, 2013

The Zoning Board of Appeals held a public hearing at 7:00 P.M., Tuesday, October 1, 2013 in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA. In attendance were Acting Chairman, Michael Cotton, and members Mark Hickernell, Glenna Gelineau, Marc Rudnick, and John Sergi.

The chairman called the meeting to order at 7:00 P.M.

Mr. Cotton: We have two cases before us tonight, Case 20-13-17 and 2013-18. But first I would like to have a motion to accept the minutes of the meeting for September 24th and August 20th.

On motion of Mr. Sergi, seconded by Ms. Gelineau, the board voted to accept the minutes of August 20, 2013 and September 24, 2013.

Mr. Cotton: Will the clerk please read the petition in Case No. 2013-18?

The clerk then read the petition of Matthew Halloran, in an application for a variance to allow the construction of a detached garage, with second floor and windows for walk up storage. Location and Zoning District,: 112 Shirley Road, Residence A-4 Zoning District.

Mr. Cotton: May we hear from the petitioner or the petitioner's representative please.

Matthew Halloran, the Petitioner, 112 Shirley Road, Waltham, came forward. He submitted a copy of his brief, proposed findings of fact and proposed decision to the board.

Mr. Halloran: So, as you see before you the legal notice, my wife Dawn and I and our two children, three and five, Mathew and Ryan bought a house on 112 Shirley Road just over three years ago. A wonderful little neighborhood; small little multi level house with a big yard but no garage and not much storage. So we went over everything possible that we tried to find what we could budget and see what our options were and we decided to try to get a variance for a second floor in our garage as cost effectiveness and stuff for our storage.

Mr. Rudnick: Mr. Halloran, before you proceed, are you related to David Halloran of Pleasant Street in Arlington?

Mr. Halloran: I am not.

Mr. Rudnick: He's my business partner and I wanted to make sure there was not a conflict.

(Mr. Halloran presented pictures to the board of the entire locus and went over all the photos with the board.)

I have gone and talked to many of my neighbors. No one questioned it at all. I have signed petitions from multiple people on the street and my abutters stating that they do not object in a letter,

Mr. Cotton: Do you have that?

Mr. Halloran: Yes. (Mr. Halloran submitted the petition to the Chairman.)

Mr. Halloran: Our neighborhood is full of wonderful people and lots of children. We hosted our block party on Saturday. There was approximately thirty children under the age of

twelve, including our governor, Ms. McCarthy was there as well. So I would never do anything to impose on my neighbors. We've been there now for just over three years. We would like to stay there as long as we can. We love the neighborhood. We love the area. We have lots of friends already. Our children are enrolled at the YMCA and the Northeast School and it's a wonderful place to be.

Back to the purpose of the second floor of the garage. Our house is very small. It's a multi level house but in order to improve it its very difficult because of the multiple levels. Our basement is only half of the size of the house because you walk in at ground level off the driveway. Our utilities and basement is very small. It's pretty much maxed out. There's not much storage. There's a 4 x 16 kind of a crawl space. It's got a three and a half foot door off of the master bedroom which is the only thing that we have for storage at this time. You know, not having a garage is difficult in the winter and in a cul-de-sac because there's not many places to put the snow. So we have to get as far in as possible and including all the lawn equipment and the patio furniture, the off season stuff. It's very difficult to store anything we have for off season items from clothing to bicycles. It's very difficult. It didn't really make sense to put an addition on for storage off from the house because of the cost. It made more sense to see if we could take the second floor of the garage to where we didn't really need a heated insulated space for most of it and you know walking around the neighborhood there is older garages. Like I said we have a large garage right behind us. It doesn't bother me at all and I know it was there for a long time, so times have changed, but due to the positioning, the grade change, the elevations to where it really does not impose on anyone and with the blessing of our neighbors and everyone accepting the proposal of it. I have gone over the plans with them and we talked about it and everyone said oh gee, it's too bad that you even have to go for a variance. You know, do you need us to do anything? And just verbal commitments and signatures from most of my neighbors. I didn't spend too much time chasing them down. I should have tried harder to get even more. More people came up to me and said what can we do? This is the type of neighborhood that offers help. It doesn't ask for it. We don't want to do anything to impose on them at all and if anyone had an opinion to it, I gladly would have changed it or made sure that we appeased them because, like I said, we plan on being there for a long time. It's a wonderful place for the children and we love it.

Mr. Cotton: Are there any questions from the board?

Mr. Sergi: I guess your hardship; you're saying now the elevation and the topography and the shape of the lot, is that---

Mr. Halloran: Exactly. It's an oddly shaped lot. It's a very large lot. We cannot build an attached garage due to an easement on the left side. It is too close to the property line and it would be difficult to match the levels of the house because of the multi level house, so we had to go with a detached garage which means we're ten feet away from the house. It does set it back but it is ideal because it is an absolute level part of the back yard. It's in the largest, widest area of the yard both front to back and left to right. So it's protected by the woods. It's really private meaning its not imposing on anyone. The elevation change in the back hides so much of it from the people behind to where, looking at the future, if they were to ever sell their house, I wouldn't want somebody coming out there and say oh you have a big garage. We are not trying to build a big garage to hurt anyone's feelings. If we were to put an addition on the house which we were trying to do; a small addition, to make the kitchen and living room so we don't have to eat in the dining room every single night a little big bigger. To increase the space, the cost per square foot was outrageous for storage type utilization. The numbers just didn't add up. Every way I looked at it, trying to cut down putting an addition on it and cutting something else down for it to be a kind of a dead storage was very difficult. I tried to come with the idea of an egress with a bulkhead to the basement and just that alone, the stairs, bulkhead, doors and everything, the cost was the price difference in me being able to put the second floor in the garage versus a set of stairs into a basement and try to take up the space. So I came up with the solution that was the only thing affordable for us and I tried to do it in the most convenient way for us and without imposing on anyone else. That was my main concern. I didn't want to be the neighbor that went and did something to irritate anyone when we want to be there to help everyone else.

Mr. Sergi: Thank you. I did a site view before I came here and I talked to a nice gentleman who lives there and he was all in favor for it.

Mr. Halloran: Right before I left, my next door neighbor, Richard Donnelly, told me to hurry up and get down there. Don't be late.

Mr. Sergi: He was very favorable.

Mr. Cotton: Are there any other questions from the board? Hearing none, is there anyone in the audience that is in favor of this petition, please stand up? (Five people stood in favor. There was no one in opposition.)

Mr. Sergi: Mr. Chairman, I would like to make a motion that we waive the reading of the Proposed Findings of Fact since its been on file at the law department.

Mr. Hickernell seconded the motion and the roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. Rudnick, yes and Mr. Cotton, yes.

Mr. Sergi: In a similar fashion, I would like to make a motion that we waive the reading of the Proposed Decision since its been on file at the law department.

Mr. Hickernell seconded the motion and the roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. Rudnick, yes and Mr. Cotton, yes.

Mr. Sergi: I will make a motion that the Proposed Findings of Fact become the board's Findings of Fact. Mr. Cotton seconded the motion and the roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. Rudnick, yes and Mr. Cotton, yes.

Mr. Sergi: Also, I will make a motion that the Proposed Decision becomes the board's decision and we grant the Variance in Case 2013-17.

Mr. Cotton seconded the motion and the roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. Rudnick, yes and Mr. Cotton, yes.

Mr. Cotton: The next case, Mr. Hickernell.

The clerk then read the Petition of R&O Property Holdings Series, LLC in an application for a Special Permit to alter and enlarge the ground floor area of a nonconforming structure. The Petitioner requests permission to alter and enlarge the ground floor area of a nonconforming structure by adding a covered egress to the rear of the structure consisting of approximately 180 Square feet. Petitioner also requests permission to add a first floor uncovered deck to the property. Location and Zoning District: 43-49 Winthrop Street; Residence B Zoning District.

Mr. Cotton: May we hear from the petitioner or the petitioner's representative, please?

L. Richard LeClair, III, Esquire, 707 Main Street, Waltham, the Petitioner's representative came forward. He presented each member with a copy of his brief and proposed findings of fact and proposed decision.

Mr. LeClair: I have had the pleasure of working with the R&O Property Holdings. With me tonight is Roger LeBlanc who is the Manager of R&O Property Holdings and also is one of the owners of the property. Roger has submitted a proposal and building prints to make some improvements to a four family structure that he has owned for some time. These improvements that he's making to it is so that he can live in it. The building was built, according to the assessors, in 1880 as a four family unit. If you look at it, it has four entries across the front. And the records would indicate, the building records as it exists in the building department, there's roofing and siding permits in the forties which indicates there was a four family then as well.

If you take your site plan, and it's easiest to start with the site plan and it gives you a sense of what is going to be going on here. So if you look at the site plan, you will see in the old building there is a gap in the rear and that gap will be filled in with some living space and then behind that they will be putting on a new set of stairways that will serve the second floor units and there will be a covered stairway going down. The total additional ground space is going to be 180 feet which is below the 10% maximum of the 3.771. In addition to that he proposes to add a deck to the left hand side. I would suggest that we fall under the protection of that

provision, one because the building was built back in the 1880's and it's a nonconforming structure. The right side yard is only 3.44 when ten is required. And the front yard is 10.34 and 15 is required. The rear yard setback is far an excessive requirement and we are encroaching into that setback approximately four feet additionally and not even as far as the existing stairways that are on the house go to. So there's actually stairways that go down but they are not covered and we are proposing a covered stairway instead.

So that gives us a sense of what's occurring on the building and that plot plan is a little bit misleading because it actually, the first floor goes out a little bit further than the second floor, but that open space that you see on there will be filled in. I also have an elevation plan that shows what the property will look like after the improvement. As you can see, as a result of it, the stairways which aren't very attractive are going to be replaced with a nice covered porch. You're picking up that little additional living space; some new windows will go in. Attractive windows will go in where there was previously a door way. That grate will be slightly raised to allow access to that deck on the right side.

So I suggest that these improvements to the property are going to be both provide some health and safety with better staircase, a covered staircase. There are certainly going to be aesthetic improvements and it's certainly going to increase the livability of the inside of the inside of this property and most of its being done so that Roger, this is going to be where he's going to downsize to live on the first floor so his knees don't cause him a problem as he gets older. He probably doesn't want me to tell everybody that but I think - - -

Ms. Gelineau: Which is inevitable.

Mr. LeClair: And so, these are really personal to him and I think the standard is, would these improvements be substantially more detrimental and certainly there are going to be improvements so I think we are entitled to the Special Permit under the by law.

Mr. Cotton: Are there any questions from the board?

Mr. Rudnick: Mr. LeClair, why are you telling us about the uncovered deck?

Mr. LeClair: Because it's a nonconforming structure to add that deck to and I think you need to come to get a Special Permit. I'm just telling you that its there. It doesn't increase the ground floor area. But I think the building permit on a nonconforming structure; I just want to make sure it was covered under the permit.

Mr. Rudnick: This is based on the nonconformity, right? It doesn't violate any setback at all. It doesn't create any FAR or anything.

Mr. LeClair: Correct.

Mr. LeClair: I just wanted to, because it's a nonconforming structure, I wanted it listed on the permit.

Mr. Cotton: Is there anyone in favor of this Petition? Would you please stand up?

(5 people stood in favor. No one appeared in objection.)

Mr. Sergi: I propose that since this has been on file in the legal department, that we waive the reading of the Proposed Findings of Fact. Mr. Hickernell seconded the motion and the board voted to waive the reading of the Proposed Findings of Fact. The roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. Rudnick, yes and Mr. Cotton, yes.

Mr. Sergi: In a similar fashion, I propose that we waive the reading of the Proposed Decision since its been on file at the legal department. Mr. Hickernell seconded the motion and the board voted to waive the reading of the Proposed Decision. The roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. Rudnick, yes and Mr. Cotton, yes.

Mr. Cotton: We need another motion to accept.

Mr. Sergi: I will make a motion that the proposed Findings of Fact become the Board's Finding of Fact.

Mr. Cotton seconded the motion and the roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. Rudnick, yes and Mr. Cotton, yes.

Mr. Sergi: In a similar fashion, I propose that the Proposed Decision become the Board's decision and grant the Special Permit in this case.

Mr. Cotton seconded the motion and the roll being called: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. Rudnick, yes and Mr. Cotton, yes.

There being no further business, on motion of Mr. Sergi, seconded by Mr. Rudnick, the board voted to adjourn at 7:30 P.M.


