

**CITY OF WALTHAM
ZONING BOARD OF APPEALS**

April 11, 2017

The Zoning Board of Appeals held a public hearing at 7 P.M., Tuesday, April 11, 2017, in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA.

In attendance were Chair Barbara Rando, and members Glenna Gelineau, Sarah Hankins, Mark Hickernell and John Michael Squillante.

Mrs. Rando: Tonight we have two new cases before us, Case 2017-09, Nathan and Kirsten Gilbert, 17 Smith Street, and that's for variances; Case 2017-10 Charles Mantenuto, 23-25 Hastings Ave, Lot on Tudor Street, f/k/a Lot No. 363 and that also was for variances.

The first action this evening is for a motion to accept the minutes of April 4th, April 7th, March 12th, March 21st and March 28th.

Do I have a motion to approve the minutes?

On motion of Mr. Squillante, seconded by Ms. Gelineau, the board voted to approve the minutes of April 4th, 7th, March 12th, March 21st and March 28th.

Will the clerk please read the petition in Case 2017-09, Smith Street?

The clerk then read the Petition of Nathan and Kirsten Gilbert in an appeal for variances and modification of 1961 ZBA Decision. The Petitioners propose to construct,

use and maintain a single story addition with a deck onto the residence. Location and Zoning District: 17 Smith Street, Residence A-2 Zoning District.

Mrs. Rando: May we hear from the petitioner or the petitioner's representative please?

Attorney Joseph M. Connors, Law Offices at 404 Main Street Waltham came forward. (Mr. Connors submitted a copy of his brief to each member of the board. He then read his brief into the record along with going over exhibits and the plan of the locus with the board.)

Mr. Connors submitted a list of the abutters who are in favor and photos of the property.

I think we have pretty much everyone except for someone on the other side of Smith Street.

Mr. Gilbert: Opposite Smith Street, yes.

Mr. Squillante: The signature you don't have, he wasn't there or he didn't want to sign?

Mr. Gilbert: They weren't home. We went to that house about four or five times, and we were told her husband has Parkinson's.

Mr. Connors: I also have a proposed architectural drawing. It's an eight page document and again, it's a simple line. I believe it's a simple addition. (Mr. Connors submitted that to the board.)

So, its over the existing footprint of the deck. It's a simple addition. Kirsten's father did the plan and they are hoping that they can proceed. Really the effect on the neighborhood is negligible at best because it's situated on the deck, number one; but number two, all of this is vacant land to the East (referring to the plan). For the most part, it's unbuildable. (Mr. Connors went over the plan again with the board.)

Mrs. Rando: Are there any questions from board members?

Mr. Squillante: You're not actually getting closer to either lot line than the existing house.

Mr. Connors: The existing deck is fourteen and a half feet from the lot line.

Mr. Squillante: So you're not actually asking for anything that normally you couldn't do by right.

Mr. Connors: Well, I'd have to move the house.

Mr. Squillante: I think that would qualify for a hardship. So you're not asking for anything extraordinary.

Mrs. Rando: When were these pictures taken?

Mr. Gilbert: I could look up the exact date (referring to his cell phone).

Mrs. Rando: I mean, this year?

Mr. Gilbert: Yes. They were taken early April.

Mrs. Rando: I made a site view this afternoon and I don't remember seeing the deck. Isn't that funny? I drove that driveway. It's not a road. When I drove down I noticed you have a family room or enclosed sunroom.

Mr. Gilbert: Yes.

Mrs. Rando: On the easterly side?

(Mr. Connors went over the plan.)

Mr. Connors: That's not enclosed. It's just a three season. It's enclosed. It had doors. Isn't there sliding doors on it?

Mr. Gilbert: No. If you're on the easterly side that's our kitchen, living room and dining room.

Mrs. Rando: The sliding doors were open this afternoon.

Mr. Gilbert: That's our main living space.

Mrs. Rando: Are there any questions? The board had no questions.

Mrs. Rando: Is there anyone in the audience that is in favor of this petition?

(Six people raised their hands in favor.)

**Is there anyone in opposition. Seeing none. Is there anyone seeking information?
Seeing none.**

You may continue with your Proposed Findings of Fact. On motion of Mr. Hickernell, seconded by Mr. Squillante, the board voted to waive the reading the Proposed Findings of Fact since they have been on file in the law department.

Mrs. Rando: You may continue to read your Proposed Decision.

On motion of Mr. Hickernell, seconded by Mr. Squillante, the board voted to waive the reading of the Proposed Decision since it has been on file in the law department.

Mr. Connors: Madam Chair, I did notice a typo on the last page in our Decision. Mr. Connors replaced the last page with the corrected one.

Mr. Connors: I amended or revised the reference in 2b, so 2a is the site plan. That remains the same. It was simply referenced to plan I just passed out .

Mrs. Rando: Any questions? Seeing none. Do I have a motion on the Proposed Findings of Fact.

On motion of Ms. Gelineau, seconded by Mr. Squillante, the board voted to adopt the Proposed Findings of Fact.

Roll Call: Mr. Squillante, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Ms. Hankins, yes and Mrs. Rando, yes.

Mrs. Rando: Do I have a motion on the Decision?

On motion of Ms. Gelineau, seconded by Mr. Squillante, the board voted to adopt the Proposed Decision and grant the variances.

Roll Call: Mr. Squillante, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Ms. Hankins, yes and Mrs. Rando, yes.

The members sitting on the next case are as follows: Mr. Hickernell, Ms. Gelineau, Ms. Hankins and Mrs. Rando.

On motion of Mrs. Rando, seconded by Mr. Hickernell, the board voted to take a two minute recess at 7:35 P.M.

The board reconvened at 7:45 P.M.

Mrs. Rando: Will the clerk please read the petition in Case No. 2017-10?

The clerk then read the petition of Charles Mantenuto, Trustee of 23-25 Hastings Ave. Trust in an application for variances to allow for the proposed construction of a single family house on a lot with 9,020 square feet, similar in shape and area to each lot in the neighborhood. Location and Zoning District: Parcel of land f/k/a Lot No. 363 on Plan of Glen Meadow Park west dated June 1952. Residence A-3 Zoning District.

Mrs. Rando: May we hear from the Petitioner or the Petitioner's representative please?

Philip B. McCourt, Jr., Esquire, 15 Church Street, Waltham came forward.

Mrs. Rando: I just wanted to tell you that we only have four members for this case and you have the right to go forward with the four members but you need to get four votes. Or, you can continue the case without opening it.

Mr. McCourt: I would prefer to do that. I think that prudence is the better part of valor, but at the moment I think everybody that is here is happy to see this happen but I would just as soon have the five members.

Mrs. Rando: All right, do I have a motion to allow Case 2017-10, Mantenuto, to continue to May 16th?

On motion of Ms Gelineau, seconded by Mr. Hickernell, the board voted to continue Case 2017-10 until May 16th.

Roll Call: Mr. Hickernell, yes; Ms. Gelineau, yes; Ms. Hankins, yes and Mrs. Rando, yes.

Mrs. Rando: One more motion is in order.

On motion of Ms. Gelineau, seconded by Mr. Hickernell, the board voted to adjourn at 7:50 P. M.

Barbara Rando, Chair
4/25/17