

**CITY OF WALTHAM
ZONING BOARD OF APPEALS**

August 28, 2018

The Zoning Board of Appeals held a public hearing at 7 P.M., Tuesday, August 28, 2018, in the Auditorium 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 Edward McCarthy.

Mrs. Rando: Tonight we have three new cases before us: Case No. 2018-23, Robert and Priscilla Thayer, 29 Van Vechten Street and that's to amend a prior variance; Case No. 2018-24, Roland Butler, 46 Wetherbee Road and that's for variances; Case No. 2018-25, Gary and Bernadette Scalse, 124 Farnum Road and that's also for variances.

The first action this evening is for a motion to accept the minutes of August 21, 2018.

On motion of Ms. Hankins, seconded by Mr. Hickernell, the board voted to approve the minutes of August 21, 2018.

Mrs. Rando: Would the clerk please read the Petition in Case 2018-23, Thayer on Van Vechten Street.

The clerk then read the Petition of Robert and Priscilla Thayer who seek to amend a prior variance issued in 1966 to remove a condition that construction of an authorized single family dwelling commence within one year. The prior variance authorized two

dwelling, one was built within one year and the Petitioners would now like to construct the second within the same footprint as previously authorized. Location and Zoning District, 29 Van Vechten Street (Lot B) Residence A-4 Zoning District.

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

Deborah A. Sawin, Esquire, 564 Main Street, Waltham, the Petitioners' representative, came forward. Ms. Sawin submitted copies of her brief and exhibits to each member. Ms. Sawin also submitted a list of all the abutters who are in favor.

Ms Sawin then read her brief into the record and went over the abutter's plan and exhibits with the board.

Mrs. Rando: Any questions from board members? (There were no questions.)

Mrs. Rando: So we're here basically because it should have been built within one year?

Ms. Sawin: It doesn't say that. We are here because the building department felt that they couldn't just issue the permit. They didn't feel comfortable doing that.

So they looked for language in the decision. There is no completion date in the decision. And they said, well, the decision says you have to start within a year. And I said, well they did start within a year. It doesn't say everything has to start within a year and finish. And they said, well, we'd feel better if you went to the Board of Appeals. So here we

are.

Ms. Hankins: What was started within one year?

Ms. Sawin: The lots were divided and construction on one of the properties commenced. So two out of the three things that were granted under the original variance were started.

Mr. Hickernell: The proposed decision does have a two year competition date.

Ms. Sawin: That is correct.

Mrs. Rando: Is there anyone in opposition to this?

Brian Campbell, 25 Huntington Street: I have a question of where the driveway is going to be located? We have a parking problem on this street already. As of right now, there's like seventy cars parked on the street. Mr. Campbell, went over the diagram showing the parking with the board.

In the morning, sometimes the school busses travel down this road (referring to the plan) because there's so much cars parked on both sides of the street. In the winter, it's even worse because of the snow taking a couple of feet from each side and sometimes it's a single lane road in the winter as well. So if the driveway was put here, (referring to the plan) it will exacerbate the problem already.

In general, I don't have a problem with a house being there. It's just there's a

parking problem on the road.

Ms. Sawin: The driveway will be on VanVechten. It will not come out on Huntington and two spaces will be required on site.

Mrs. Rando: Is there anyone in favor?

Seven people raised there hand in favor.

Is there anyone seeking information? Seeing none. You may continue with your proposed Findings of Fact.

On motion of Mr. Hickernell, seconded by Mr. McCarthy, the board voted to waive the reading of the proposed Findings of Fact since they have been on file in the Law Department.

Mrs. Rando: You may continue with your Proposed Decision.

On motion of Mr. Hickernell, seconded by Mr. McCarthy, the board voted to waive the reading of the proposed Decision since it has been on file in the Law Department.

Mrs. Rando: All right, I am ready to entertain a motion on the Findings of Fact.

On motion of Mr. McCarthy, seconded by Ms. Gelineau, the board voted to adopt the Proposed Findings of Fact as the board's Findings of Fact.

Roll call: Mr. McCarthy, 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 Mr. McCarthy, seconded by Ms. Gelineau, the board voted that the Proposed Decision be the decision of the Board.

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

Mrs. Rando: It is granted. Good luck.

Mrs. Rando: Would the clerk please read the Petition in Case No. 2018-24, Roland Butler.

The clerk then read the Petition of Roland Butler who seeks to construction a two story addition. Location and Zoning District: 46 Wetherbee Road, Residence A-3 Zoning District.

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

Bret Francis, Esquire, Scafidi and Juliano, 10 Hammer Street, Waltham came forward and presented each member with a copy of his brief.

Mr. Francis then read his brief into the record.

Mrs. Rando: Are there any questions?

Mrs. Rando: Are you saying that if he had been here within the year you wouldn't have had to come back tonight?

Mr. Francis: That's right. I had a discussion with Mr. Forte, the Building Inspector and he indicated that if it had been within the year the change making it a greater distance from the house than the principal then that would apply to coming back here.

Mrs. Rando: How long after the year was it?

Mr. Francis: Mr. Butler went to the law department and spoke to Ms. Doucette. Apparently five weeks after the deadline.

Mrs. Rando: Are there any questions?

Mr. Hickernell: So, to summarize, this is the last relief being sought last year.

Mr. Francis: Correct.

Mrs. Rando: Except it's gotten larger. Is it six feet now?

Mr. Francis: Six and a half feet vs. five and a half.

Mrs. Rando: That's the only change?

Mr. Francis: That's the only change.

Ms. Gelineau: And what happened that made you miss it?

Mr. Francis: Contractor's is how I've been told.

Mr. Butler: It wasn't necessarily contractors. It was timing of the contractor starting the project. And then given a specific of the matching of a veneer of my house the brick became an issue. Then by the time I got that resolved he started other projects.

Mr. Francis: It's resolved now.

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

(Three people raised their hand 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. McCarthy, the board voted to waive the reading of the proposed Findings of Fact since they have been on file in the Law Department.

Mrs. Rando: You may proceed with your Proposed Decision.

On motion of Mr. Hickernell, seconded by Mr. McCarthy, the board voted to waive the reading of the proposed Decision since it has been on file in the Law Department.

Mrs. Rando: All right, I am ready to entertain a motion on the Findings of Fact.

On motion of Mr. McCarthy, seconded by Ms. Gelineau, the board voted to adopt the Proposed Findings of Fact as the board's Findings of Fact.

Roll call: Mr. McCarthy, 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 Mr. McCarthy, seconded by Ms. Gelineau, the board voted that the Proposed Decision become the decision of the Board.

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

Mrs. Rando: It is granted. Good luck.

Mrs. Rando: Would the clerk please read the Petition of Gary & Bernadette Scalese, 124 Farnum Road?

The clerk then read the petition of Gary & Bernadette Scalese in an application for

variances. Petitioner seeks to construct an addition of a seconded floor dormer at the rear of the structure. Location and Zoning district: 124 Farnum Road, Residence A-4 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. Mr. McCourt introduced Mrs. Scalse and her son Brian to the board. He then read his brief into the record.

Mrs. Rando: I made a site view this afternoon. I was wondering if you could tell me what the contraption is in the back of the house is and it seems to be right on the lot line.

Bernadette Scalise, 124 Farnum Road: I'm assuming that it's the canoe and we have a small dog fence and we rest the canoe upside down on top of that to dry.

Mrs. Rando: Is that on the lot line?

Mrs. Scalise: No. It should be back against the house. Is that what you are talking about the lot line in the back of the house?

Mrs. Rando: Yes, in the back of the house.

Mrs. Scalise: That's the only thing that should be there. (Mr. McCourt went over the plan with the board.) There's a bulkhead right next to it and then there's a dog fence and we put out the canoe because we use it during the summer upside down on top of the

dog fence. So that might of been what you saw.

It look like it was attached to the house.

Mrs. Scalise: No, there's nothing that is attached to the house.

Mrs. Rando: Is the playhouse brown?

Mrs. Scalise: Yes.

Mrs. Rando: Well if you put this addition you better check to make sure that that dog crate is not there.

Mrs. Scalise: Oh, absolutely. We actually no longer have the dog.

Are there any questions from the board? There were none.

Mrs. Rando: Is there anyone in the audience in favor? (Two people raised their hand in favor.) Anyone seeking information? Seeing no one. Anyone in opposition? Seeing no one. You may continue with your proposed Findings of Fact.

On motion of Mr. Hickernell, seconded by Mr. McCarthy, the board voted to waive the reading of the Proposed Findings of Fact since it has been on file in the Law Department.

Mrs. Rando: A motion to waive the reading of the Decision?

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

Mrs. Rando: I am ready to entertain a motion on the Proposed Findings of Fact.

On motion of Mr. McCarthy, seconded by Ms. Gelineau, the board voted to adopt the Proposed Findings of Fact as the Board's Findings of Fact.

Roll call: Mr. McCarthy, 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 Mr. McCarthy, seconded by Ms. Gelineau, the board voted that the Proposed Decision be the Board's Decision.

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

Mrs. Rando: One more motion is in order.

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

Barbara Rando, Chair
9/11/18