



## OAK BLUFFS ZONING BOARD OF APPEALS

P.O. BOX 1327, OAK BLUFFS, MA 02557-1327

508 693 – 3554 x 120

### Zoning Board of Appeals Minutes of March 18, 2021 Meeting Virtual Meeting via Zoom

Members present: Andrea Rogers, Llewellyn Rogers (Acting Chair), Doug Pease, Jonathan Holter, Grace Guck, and ZBA Administrator Robert Culbert

Others in Attendance: Chris Alley, Peter Breese, Sharon Cooke, Amy and Chris Kotsopoulos, Nate Morgan, Kathy O'Connor, Darran Reubens, Margaret White,

Chairman Rogers opened the meeting at 6:01 pm.

**Minutes** of the February 18, 2021 Zoom meeting were approved as presented on a motion by Lou Rogers, seconded by Doug Pease, and voted unanimously by Andrea Rogers, Lou Rogers, Peter Yoars, Grace Guck, Doug Pease, and Jonathan Holter.

**Next Meeting Date:** Thursday, April 15, 2021 at 6:00 pm

**Old Business:** Robert Culbert reports that the revisions for the application form are nearing completion, and will be emailing them to Board members as soon as they are done.

**New Business:** Robert Culbert reports that we got an email from Wendy Brough that the budget line item for my salary is in deficit, and to try to reduce any unnecessary hours worked. But Wendy says not to worry, the necessary money will be added to that account.

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#### **RE: Kriegstein Project**

Henry J. Kriegstein, Joan B. Kriegstein, Kriegstein Realty Trust  
20 Hubbard Lane, **Map 22 Parcel 11.1**

On Thursday, March 18, 2021 at 6:05PM, Chairman Andrea Rogers opened a duly posted and continued public hearing on the application of Map 22 Parcel 11.1 seeking:

***A Variance and Special Permit with Zoning Bylaws 4.1.3, 9.1.A or any action related thereto, to allow the construction of a nonconforming addition to a single family dwelling located on a lot in Residential Zone 3 and Coastal District.***

A quorum consisting of Chairman Andrea Rogers, Llewellyn Rogers, Jonathan Holter, and Doug Pease. was present. Administrator Robert Culbert read an emailed note from Martin "Skip" Tomassian, representing the applicant, requesting that the hearing be continued for another month, until the ZBA holds an in-person hearing.



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Lou Rogers moved and Jonathan Holter seconded a motion to continue the hearing to April 15, 2021, time to be determined. All (Andrea Rogers, Lou Rogers, Jonathan Holter, and Doug Pease) voted in favor, so the motion passed unanimously (4-0).

### **RE: Kotsopoulos Appeal**

Chris and Amy Kotsopoulos

15 Chestnut Avenue, **Map 8 Parcel 164.1**

On Thursday, March 18, 2021 at 6:07 pm, Andrea Rogers opened a duly posted and continued public hearing on the application of Map 8 Parcel 164.1 seeking:

*a Variance from the Oak Bluffs Zoning Bylaws, or any action related thereto, to allow the addition of a covered porch to a pre-existing conforming dwelling, on an undersized lot in Residential Zone 1.*

A quorum consisting of Chairman Andrea Rogers, Llewellyn Rogers, Jonathan Holter, and Doug Pease. was present.

Chris and Amy Kotsopoulos reports that he has taken our advice and has redesigned the porch to reduce the encroachments into the setbacks required in this area. They now are seeking a Variance for a redesigned covered porch where only approximately 83 sq. ft. encroach into the setback, with a 12 foot front setback. This is less than the originally proposed farmers porch across the front of the house. They feel that this proposal would not have a detrimental effect upon the neighborhood, as every other house in the area has a front porch.

There is no public comments other than the supporting letter from neighbors McGrath and DeLisle that was read last month.

Lou Rogers comments that this proposal actually has increased the encroachment into the front setback from the original plans (14 foot setback). This Board does not give Variances unless there is a hardship as defined by state law (Chapter 40A).

Jonathan Holter asks if it would be possible to revise the plans again so the porch does not encroach into the setback.

The second proposal from the Kotsopoulos' shows a 17 foot setback, with 17 square feet of the porch extending into the setback. This is the design with the smallest encroachment they are willing to consider.



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Lou Rogers points out they still are encroaching into the front setback. He adds that there are only three reasons for approving a Variance: topographic relief, soils relief, or a hardship.

Amy Kotsopoulos says they consider this to be a hardship. She points out that a recently renovated nearby house was within the setbacks, and asks why can't they get the same relief. This is a hardship for them because they are trying to improve the investment that they made in this house; a front porch is needed to do that.

Andrea Rogers asks how high the porch is off the ground, and the response is approximately three feet. She then asks if there is any way that the porch can be lowered a bit. Lou Rogers elaborates that if the porch were less than 30 inches above the ground it is not considered a structure as then this proposal would not encroach on the setbacks. The Kotsopoulos answer is that they and their architect feel that such a deck just would not look right.

Doug Pease encouraged them to go back to their Architect to see if they can revise the proposal to meet the Board's requirements. The Kotsopoulos' response is that to do so, would be expensive and they are not interested in doing that; rather their redesigned porch will stay outside of the setbacks. They do not want to come back for round three with the Board.

Jonathan Holter moved to continue the hearing to next month if the Building Inspector needs a decision from us; if he does not, then consider the appeal to be withdrawn. Andrea Rogers seconded the motion. All (Andrea Rogers, Lou Rogers, Jonathan Holter, and Doug Pease) voted in favor, so the motion passed unanimously (4-0).

### **RE: O'Connor Appeal**

Kathleen and Michael O'Connor

30 Sea Glen Road, **Map 38 Parcel 2**

On Thursday, February 18, 2021 at 6:27 pm, Andrea Rogers opened a duly posted and continued public hearing on the application of Map 38 Parcel 2 seeking:

*a Special Permit within Zoning By-Laws 3.5.5, or any action related thereto, to allow the expansion of the existing living room, kitchen, and bedroom on the first floor of a pre-existing and non-conforming dwelling, on an undersized lot in Residential Zone 3.*

A quorum consisting of Andrea Rogers, Acting Chairman Lou Rogers, Jonathan Holter, Doug Pease was present.



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Darran Reubens presented the revised plans showing the existing house, with the proposed additions on the southeastern part of the house. This design will reduce the non-conformity of the existing house. He showed the proposed floor plan and the elevations for the proposed alterations.

The Board complimented the new design with the reduced encroachments on the setbacks.

There was no new correspondence from the public.

Doug Pease and Lou Rogers stated the findings:

- The proposed additions to the kitchen, living room, and bedroom require a Special Permit under Zoning Section 3.5.5,
- the property is Zoned R-3,
- the lot is undersized with only 10,800 square feet (60,000 sq. ft. required),
- the existing house is non-conforming because of the front (31.1 feet), side (15.25 and 25.5 feet), and rear (46.5 ft.) setbacks (50 feet required),
- The front and east side setbacks for the proposed house are unchanged,
- The western side setback is increased to 22.6 feet,
- The rear setback for the proposed house becomes conforming, with a setback of 50 feet, and
- An abutters concern about the reduced setbacks of the first proposal were addressed in the revised proposal reducing the non-conformities.

Doug Pease made a motion to approve the Special Permit under Zoning Bylaw 3.5.5 because the proposed alterations to the house reduces the non-conformity, and so is not more detrimental to the neighborhood. Jonathan Holter seconds the motion. All (Andrea Rogers, Lou Rogers, Jonathan Holter, and Doug Pease) voted in favor, so the motion passed unanimously (4-0).

### **RE: Prospect Girls, LLC Appeal**

The Lodge Family Trust

14 Temihegan Avenue, **Map 4 Parcel 162**

On Thursday, February 18, 2021 at 6:55 pm, Acting Chair Lou Rogers opened a duly posted public hearing on the application of Map 4 Parcel 162 seeking:

*a Special Permit within Zoning By-Laws 4.4.4 and 3.4.2, and 9.1.A or any action related thereto, to allow the alteration and addition to a pre-existing and non-conforming dwelling, the construction of a detached garage with a detached bedroom, and the construction of a cabana*



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*and swimming pool on a lot located in the inland zone of the Coastal District in Residential Zone 1, with the owner having occupied the residence for less than five years.*

A quorum consisting of Andrea Rogers, Acting Chairman Lou Rogers, Jonathan Holter, and Doug Pease was present.

Chris Alley, Nate Morgan and Margaret White (one of the applicants) are present.

Since a fifth sitting member is not present, to approve the Special Permit a motion would need to be unanimously if the Board were to vote. Also, the Board has not yet received Town Council's interpretation about the boundaries of the Coastal District. Town Council did respond that the owner does not have to be an Applicant for the ZBA to issue a Special Permit, but the owner has to acknowledge the application. The Lodge family owns the property and has sent us a letter supporting this project.

Chris Alley mentions that the Conservation Commission continued their hearing of this project as they are waiting to hear the outcome of this hearing.

Chris Alley has corresponded with Chris Seidel, who drew the towns GIS Coastal District overlay, Michael Goldsmith (Town Council), and ZBA Administrator Robert Culbert about these boundaries. But we have not yet received an opinion from Council.

Lou Rogers points out that we will have to wait to hear from Town Council. And if this property is part of the Coastal District the ZBA will need to convene a Site Plan Review for this project.

Since the ZBA has to wait for a legal opinion, Chris Alley suggests that no new testimony be given at this hearing.

Sharon Cooke of the Conservation Commission is not representing that Board but points out they are concerned about what parts of this proposal will be approved by the ZBA, and they have some concerns about how the wetland buffer zone might be impacted.

Because we need to hear from Council, Doug Pease moves that we continue this hearing to our April 15 meeting. Jonathan Holter seconds the motion. All (Andrea Rogers, Lou Rogers, Jonathan Holter, and Doug Pease) voted in favor, so the motion passed unanimously (4-0).

**New Business.** Administrator Culbert notes that Danny Gafencu thought he had requested relief from the Island Roads District's 24 foot limit on maximum roof height for his property in Meshacket Grove. However, the ZBA did not receive that application, apparently because the filing fee was not submitted to the Town. He has since withdrawn his application as he found plans for another building that meets the Zoning restriction.



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Lou Rogers mentions that Council also confirmed that to for the ZBA to issue a Special permit requires four “Yes” votes, a unanimous decision should there only be four sitting and voting members present at the meeting. Also Associate members can only sign decisions if they are voting participants of the meeting. And the State Mullin Rule, which was adopted by the Town, allows any full or Associate member to miss one meeting and still participate and vote on any motions provided they have reviewed the minutes and an audio recording of the one meeting they missed.

At 7:15, Chair Andrea Rogers requested that the Board go into Executive Session to discuss personnel issues. The ZBA will not return to public session upon concluding the Executive Session.

*Respectfully Submitted,  
Robert Culbert  
ZBA Administrator*

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Approved \_\_\_\_\_, 2021