



## OAK BLUFFS ZONING BOARD OF APPEALS

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

508 693 – 3554 x 120

zbaadmin@oakbluffsma.gov

### Zoning Board of Appeals Minutes of May 6, 2021 Meeting Virtual Meeting via Zoom

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

Others in Attendance: Chris Alley, Jeanette Conrad, Sharon Cooke, Holly Crosbie-Foote, Sarah DiPillo, Brian and Jeanette Ellis, Barbara Holden, Joan Hughes, Brad Jenson, Susan Montero, Nate Morgan, Andrew Moore, Lis Peterman, Scott R., Carlos Rapaport, Christopher Rowan, Matt Schonberg, Jan Smith, Sara Smith, VHNA, Maggie White, Tom Zinno, Sara, 1-513- 910-2075, Christopher, 1-508-898-8443, Lindsay,

Chairman Rogers opened the meeting at 6:01 pm.

**Next Meeting Date:** Thursday, May 20, 2021 at 6:00 pm

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

The Lodge Family Trust

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

On Thursday, May 6, 2021 at 6:11 pm, Acting Chair Lou Rogers opened a duly posted and continued 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 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, Grace Guck, and Doug Pease was present.

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

Lou Rogers announced that we have received an opinion from Town Council James Lampke clarifying the boundary of the Coastal District for this property; the inland boundary of the coastal district is the 10 foot contour, which means that all the proposed structures are outside of the Coastal District.

Maggie White read her letter to the ZBA concerning the Prospect Girls, LLC intentions when purchasing this property. She has restored over 60 homes on the Vineyard, and



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appreciated the grandeur of the Lodge family property at 14 Temihegan Avenue. Her intention is to restore this house, originally built in 1905, to the way people live in 2021. It will increase in size from the current 5,000 square foot home and the proposal will expand that to a total of 7,444 square feet, with seven bedrooms and seven bathrooms and a new large family kitchen. It will remain a single-family dwelling. And the Conservation Commission has approved this project including restoring wetlands on the lower part of this property.

Chris Alley points out that the Legal Notice includes reference to Section 9.1.A of the Oak Bluffs Zoning Bylaws (the Coastal District), but Town Council's ruling says that this section is not part of this Special Permit request. The two sections in this application are for the alteration of a pre-existing non-conforming structure and for a detached bedroom. The Board of Health has approved the design of a new 8 bedroom septic system for this house.

### Alteration of a pre-existing non-conforming structure

The lot conforms to all the Zoning Requirements relating to lot size and frontage along Temihegan Avenue. The existing and proposed buildings meet all setback requirements, but the height of the existing house exceeds the 32 foot maximum by about 4.1 feet. The ridgeline will not change in this proposal but the rooves of the proposed dormers will be built above the height limit. This is why the Special permit is being sought.

### Detached bedroom

A garage on the northeast side of the property - with an exercise room and a detached bedroom on the second floor - is proposed. This proposed structure also meets all setback requirements. The detached bedroom requires a Special Permit, which has to do with the use of the second floor but not the construction of the building.

Andrea Rogers points out that the property needs to be owner occupied for five years to get a detached bedroom without a Special Permit (Zoning Bylaw Section 3.4.2.2 ), and the applicant does not even own the property yet.

Doug Pease asks about the height of the proposed garage/detached bedroom. Chris Alley responds that the roofline will be 30 feet above grade, which is less than the maximum of 32 feet.

Lou Rogers asks if there is a visual comparison of the heights of the garage and the house, as he is concerned about how much the abutters views of the water will be reduced, especially for the lots across Temihegan Avenue. He would also like to see the dimensions of the detached bedroom so we can determine the size of the living space (400 square feet maximum). We need to know where the kneewalls are to calculate this. Nate Morgan responded that those dimensions will need to be determined.

Doug Pease asked about the number of bedrooms and the Board of Health approved septic system. Chris Alley responds that the BOH determined that there were 8 bedrooms



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in the house, and so they approved the septic system for those 8 bedrooms, which includes the detached bedroom.

Andrea Rogers asked whether the historical commission has looked at these renovations since the house is more than 100 years old. Chris Alley talked to the historic district and they said they did not need to review it since there are only interior renovations and no demolition is involved. The ZBA asked for that determination in writing.

Andrea Rogers summarized the ZBA concerns as the five year requirement of owner occupancy which is lacking, and the impact of the garage/detached bedroom on the views of the abutters. This is an issue as under 3.5.5 the ZBA must make a determine that this project is not more detrimental to the neighborhood. She requests that the heights of the garage building be staked so the abutters can see how much it will block their views. Chris Alley responds that that is not an issue because the building could be built now with a building permit; the only issue would be how the interior second floor space would be finished. Lou Rogers reiterated that the ZBA needs to have poles on site showing how high that roofline will be.

Lou Rogers then opened the meeting for public comment.

Carlos Rapaport asks that all records indicate that this is a 7 bedroom house, but these plans call for 8 bedrooms. He also wants to know how he can proceed to get a deed restriction to prevent this from becoming a commercial rental. Lou Rogers points out that this property is zoned residential, not commercial. They need permits to change that.

Brian Ellis lives right across the street and he bought it to enjoy the spectacular water views. He believes that this proposal is much more than bringing up the house to the standards of 2021. It will certainly block the view of the Sound, which would be detrimental to the neighborhood.

Tom Zinno owns the property on the corner of Dover and Park Streets and it is a family neighborhood. A nearby house has a one story garage and detached bedroom, so he suggests that could be done here without blocking anyone's views. He does not object to the renovations of the main house, as they are keeping the character of the existing house.

Lucy Crosbie points out that the Board of health told her that the applicants could have submitted plans for any size septic system, that the applicant chose to design a septic system for 8 bedrooms. She would also like to see more of the dimensions of the proposed house written into the plans. For one example, how much of the lot will the house and garage occupy? She is concerned about the views from neighboring properties as well as what the house looks like from the water. It is going to look massive with its three stories of decks, and will really stand out as large. Lou Rogers responded that the ZBA is not generally concerned about the interior space unless it is a detached bedroom or



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a shack. The Board of Health is responsible for the number of bedrooms and septic systems.

Holly Crosbie-Foote points out that the Conservation Commission only dealt with the pool, cabana, and the wetlands restoration; they did not look at either the house or the garage building. This addition of the dormers and porches makes the currently non-conforming structure even more non-conforming, turning it into a four story house. She feels that the additions and alterations are not clearly laid out in the plans and those details need to be tightened up, and that the added balconies and dormers really change the appearance of a house built in 1906, so it should be reviewed by the Historic District. She feels that the changes to this house will make it more likely to become a party house or a wedding venue instead of a single family home.

Andrea Rogers read two letters from Harriet Dewey; she is concerned about the noise this house might create, and how that will adversely affect the family environment of the area. She supports all the issues raised by Holly Crosbie-Foote and Cheri and Bill LePage, and hopes that the ZBA will consider protecting our fragile island and the wetlands wildlife in the area.

Jonathan Holter read the letter from Cheri and Bill LePage. They state that due to the size and scope of this project it is likely that the property will be used in a manner inconsistent with the other single family residences in the area. We believe that this project will have a significant adverse effect upon the neighborhood and the enjoyment of our property. She points out that Zoning Bylaw Section 3.4.2 requires that the premises be owner occupied for five years before the addition of a detached bedroom; that condition has not been met. The next section of Zoning allows exceptions to this requirement provided the rental unit will not be more detrimental to the neighborhood. They are also concerned that a house of this size would lead to additional noise, vehicles, foot traffic, and the need for more parking places, all or which would have adverse impacts to the adjacent coastal areas. In conclusion, she requests that the ZBA deny this Special Permit. Chris Alley responds by pointing out that an accessory dwelling unit is not part of this proposal.

Deborah Lodge family, a current owner of the property, is in favor of this application. The lodge family has lived in the house for 55 years and believes that the house deserves to be protected and maintained. The renovations proposed by the Prospect Girls LLC are intended to protect and maintain the historic nature of the house while bringing it up to 2021 standards.

Richard and Jane McNulty live directly across the road from this project, and they are concerned about the increased traffic and parking problems generated by this proposal, as the design only allows for a small circular driveway and parking area. Even the current house generates overflow parking along Troy Street and even on some neighboring front lawns. He also believes that the future owners should have to wait five years to apply for the detached bedroom, just as he had to.



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Susan Montero believes that the 5 year occupancy requirements for the detached bedroom should be enforced. Such exemptions must be based on finding that the detached bedroom will not be more detrimental to the neighborhood. This large proposal will adversely affect the noise, traffic and parking in this area.

Norma Lodge Minor and Brian Minor support this project, feeling that it is consistent with the other large majestic and historic houses in the area. The prospect girls are committed to renovating this historic residence, preserving the original craftsmanship while bringing it up to current standards.

Chesley Ann Wiseman is concerned about the environmental impacts this project will have on the neighborhood and surrounding highly sensitive coastal marshlands. Her concerns are the swimming pool and its overflow, stormwater runoff, and the increased noise from the new porches on the house.

Joan Hughes, Chair of the Conservation Commission, says they thoroughly addressed the issues of the pool, but their main concern was the former wetlands below the house, which were filled in in the early 1900s. This fill cut off what was a large tidal marsh between Crystal Lake almost to the Harbor. This proposal will replicate these historic wetlands and thereby helping to contain and control the large volume of floodwaters from the Sound. Also, the pool will be a salt water pool, and will not be chlorinated.

There being no further comments from the public, Lou Rogers closed the public comments.

Lou Rogers would like to see some stakes and height poles for the garage and the interior dimensions of the proposed detached bedroom. He adds that it sounds like the applicants will do a good job renovating the house, but a letter from the Historic Committee is needed stating that they have no purview in this case. The size of the garage is also an issue, as it takes away from the view of the water. A smaller single story garage would be helpful, as it could be further downhill thereby reducing the impacts to the views of the water. Andrea Rogers would like to see a parking plan that shows how the increased number of cars will be parked and handled without impacting the neighborhood. Doug Pease agrees with the need for a single story garage and a parking plan, and is okay with the dormers in the main house because they do not obstruct anyone's views.

Because of these issues, Doug Pease makes a motion to continue the hearing so the applicants have a chance to address the above concerns. A discussion followed about the garage and detached bedroom structure, with the applicants pointing out that it could be built as we see in these plans without any actions by the ZBA because it meets Zoning; the ZBA counters with the need to consider the abutters opinions about preserving their views.



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Maggie White says that if they were to remove the detached bedroom from this proposal, would the ZBA be able to vote this evening? If so, they would also reconsider the design of the garage.

Nate Morgan made a drawing showing a parking plan for the house that shows parking places for 14 cars; nobody will be parking on the road or on neighbors yards.

Lou Rogers can see voting on the dormers and other alterations to the main house and continuing the discussion about the detached bedroom to our next meeting. Andrea Rogers says it would be sad if the applicants completely ignored the abutters concerns and went ahead to build the garage, though she recognizes their right to do so.

Doug Pease and Jonathan Holter withdraw their previous motion and second to continue this hearing, and the ZBA votes unanimously to withdraw that motion.

Lou Rogers makes the following findings: The existing 43,996 square foot lot in Residential Zone one is conforming (10,000 feet required), the existing residence conforms with all setbacks with the smallest setback at 21 feet (20 feet required), approximately half the lot is less than ten feet above mean sea level, the average height of the house is non-conforming at 36 feet (32 foot maximum), the proposed alterations will not increase the height of the house and will remain conforming to all setback requirements, the applicant is not the owner and does not reside on the property, three members (Lou Rogers, Jonathan Holter, and Grace Guck) visited the site, and the house renovations will not be more detrimental to the neighborhood.

Jonathan Holter moves that we grant the Special Permit under Section 3.5.5 for the expansion and renovation of the pre-existing and non-conforming house. Doug Pease seconds the motion. All (Andrea Rogers, Lou Rogers, Jonathan Holter, Grace Guck, and Doug Pease) vote in favor, so the motion passed unanimously (5-0).

Maggie White says they would like to withdraw their application for the detached bedroom from the garage. The ZBA will need to get that withdrawal in writing, and will need revised plans showing that change. Chris Alley will submit that information to us tomorrow.

Doug Pease makes a motion to adjourn the meeting at 8:40pm. Jonathan Holter seconds the motion, and all (Andrea Rogers, Lou Rogers, Jonathan Holter, Grace Guck, and Doug Pease) vote in favor, so the motion passed unanimously (5-0).

*Respectfully Submitted,*  
*Robert Culbert*  
*ZBA Administrator*

Approved May 20, 2021