

**Zoning Board of Appeals
Minutes of Meeting 5/16/2019
Oak Bluffs Council on Aging Building**

Members present: Andrea Rogers, Llewellyn Rogers, Doug Pease, and Jonathan Holter

Members Absent: Peter Yoars

Also present: Colleen Morris, Zoning Clerk

Chairman Rogers opened the meeting at 6:00 pm.

***Minutes** from April – Approved

***Next Meeting Date:** June 20, 2019 at 6 pm

***Ford Question-**The Board voted unanimously to allow the applicant, Ford Appeal: 90 Munroe Avenue, M 3 P 194 to be able to apply for a ZBA hearing prior to the 2-year waiting requirement. The applicant was a denied a Special Permit in December 2017.

RE: Stanley Brown Appeal

Dhaniany Almeida

138 Edgartown-Vineyard Haven Road, **Map 50 Parcel 34**

*On May 16th, 2019 at 6:05 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 50 Parcel 34 seeking:

an Appeal to review the Building Inspector's lack of enforcement within Zoning Bylaws 3.2.4, 3.2.5, 10.2.2.3, M.G.L. C. 40A ss 8, 15 or any action related thereto, mandating the Building Inspector to issue a cease and desist order regarding the operation of a home-based business-light industrial construction and hardscape business on a property located in Residential Zone 3 and the Island Roads District without a permit.

A quorum consisting of Chairman Andrea Rogers, Llewellyn Rogers, Jonathan Holter, and Doug Pease was present. Dan Larkosh represented the applicant. The application was continued from last month. Mr. Almeida did not receive a Special Permit for a HBB. On May 15, 2019 Mr. Almeida received a letter from the building official ordering him to cease and desist all operations by June 17, 2019. Mr. Larkosh explained that Mr. Almeida withdrew his application because the BOS were not in favor of the HBB. Mr. Larkosh described the current conditions of the property. Chairman Rogers opened the floor to public comment. An abutter, Mr. Tehwey spoke about the tree issues in the buffer zone and on their property. He claimed that Mr. Almeida cleared trees on his lot into the buffer zone and erected a fence. They have contacted Mr. Almeida but have not heard from him. Chairman Rogers closed the floor to public comment. Chairman Rogers stated that the building official had officially acted by sending Mr. Almeida a letter. Mr. Larkosh stated that he waited six months for the action to occur and requested that the board should act.

Member L. Rogers made a motion with within Zoning Bylaws 3.2.4, 3.2.5, 10.2.2.3, M.G.L. C. 40A ss 8, 15 or any action related thereto, mandating the Building Inspector to issue a cease and desist order regarding the operation of a home-based business-light industrial construction and hardscape business on a property located in Residential Zone 3 and the Island Roads District without a permit and Member Pease seconded it. The board voted 4 to 0 mandating that the building official issue a cease and desist order.

RE: Bronson Project

William Bronson and Samantha Eng
122 Tellette Street, **Map 22 Parcel 80.1**

*On May 16th, 2019 at 6:15 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 22 Parcel 80.1 seeking:

a Special Permit with Zoning Bylaws 3.4.3, or any action related thereto, to allow the conversion of basement to a guest apartment in a single; family dwelling prior to the five-year owner occupation requirement.

A quorum consisting of Chairman Andrea Rogers, Llewellyn Rogers, Jonathan Holter, and Doug Pease was present. William Bronson and Samantha Eng represented the applicant. Mr. Bronson presented plans to convert a basement area to a one-bedroom guest apartment. The applicants purchased the dwelling in 2018 and is asking for a four-year waiver of the residency requirement.

The existing (15,000 sf) lot located Residential Zone 1 is conforming. The existing two-bedroom single family dwelling is conforming with all setbacks. The applicant spoke with the building official reading a second egress to the basement apartment. The proposed basement (897 sf) area would be used in part for their own personal use (utilities and washer/dryer) and the other half would be sectioned off as a studio apartment (712 sf). The site plans showed the second parking space for the guest apartment. The applicant presented an affidavit regarding their current and continued occupancy of the dwelling. The applicant asked for relief because of the financial burden and they wanted to provide year-round housing for a teacher or hospital worker. They have lived the housing shuffle for many years.

Chairman Rogers opened the floor to public comment. No correspondence was received into the record. Chairman Rogers closed the floor to public comment.

Member Pease made a finding that the existing (15,000 sf) lot located in Residential Zone 1 is conforming. (Req.: 10,000 sf). The board agreed unanimously.

Member Pease made a finding that the existing single family dwelling is conforming with all setbacks. (Req.: 20 ft.) The board agreed unanimously.

Member Rogers made a finding that that the proposed guest apartment (712 sf) is conforming in size and has sufficient parking. (Max.: 750 sf) The board agreed unanimously.

Member Rogers made a finding that the owners who purchased the property in 2018 have not met the five-year owner occupation. (Req.: 5 years) The board agreed unanimously.

Member Rogers made a finding that the proposed guest apartment was not substantially more detrimental to the neighborhood. The board agreed unanimously.

Member Pease made a motion to approve a Special Permit with Zoning Bylaws 3.4.3, to grant relief from 3.4.2.2 and allow the conversion of a basement guest apartment in a single family dwelling prior to the five-year owner occupation requirement and Member Holter seconded it. The board voted 4 to 0 to approve a Special Permit within Zoning Bylaws 3.4.3.

RE: Snyder Project

Michael and Cathleen Snyder
38 Temahigan Avenue, **Map 4 Parcel 156**

*On May 16th, 2019 at 6:30 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 4 Parcel 156 seeking:

*a Special Permit with Zoning Bylaws 3.5.5, or any action related thereto,
to allow the construction of a three-season porch and addition
to a nonconforming single family dwelling located in Residential Zone 1.*

A quorum consisting of Chairman Andrea Rogers, Llewellyn Rogers, Jonathan Holter, and Doug Pease was present. Michael Nania representing the applicant, needed more time to amend the plans and sent a letter requesting a continuance.

The board and applicant agreed to continue the hearing to Thursday, June 20th, 2019 at 6:30 p.m.

RE: 16 Atlantic Avenue Realty TR Project

16 Atlantic Avenue Realty Trust
16 Atlantic Avenue, **Map 2 Parcel 61.2**

*On May 16th, 2019 at 6:35 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 3 Parcel 61.2 seeking:

*a Special Permit with Zoning Bylaws 4.4.4, or any action related thereto,
to allow the construction of an accessory structure-detached bedroom/workshop
on a lot located in Residential Zone 2.*

A quorum consisting of Chairman Andrea Rogers, Llewellyn Rogers, Jonathan Holter, and Doug Pease was present. Halcott Grant represented the applicant. Member Holter disclosed that his offices represented the applicant when they purchased the property.

Mr. Grant presented plans to build an accessory structure to a single family dwelling on a conforming lot (21,656 sf) located in Residential Zone 2. The existing five-bedroom single family dwelling is conforming. The proposed accessory structure includes a detached bedroom and bathroom (255 sf), workshop space (486 sf), covered porch (128 sf), deck (32 sf) and basement (792 sf) and is conforming with all setbacks. There is no access to the basement from the first floor workshop space or detached bedroom. Both spaces will have heat. The proposal as a guest apartment was denied by the Planning Board based on the language of the bylaw. So the proposal was changed to a detached bedroom with a workshop. Chairman Rogers stated that there should be no access to the basement from inside the first floor area.

Chairman Rogers opened the floor to public comment. No correspondence was received into the record. Chairman Rogers closed the floor to public comment.

Member L. Rogers made a finding that existing (21, 6565 sf) lot located in Residential Zone 2 was conforming. (Req.: 20,000 sf) The board agreed unanimously.

Member L. Rogers made a finding that the existing single family dwelling is conforming with all setbacks. The board agreed unanimously.

Member L. Rogers made a finding that the proposed accessory structure –detached bedroom and workshop space was conforming with all setbacks. The board agreed unanimously.

Member L. Rogers made a finding that the proposed accessory structure-detached bedroom and workshop space was not substantially more detrimental to the neighborhood. The board agreed unanimously.

Member L. Rogers made a motion to approve a Special Permit within Zoning Bylaws 4.4.4 to allow the construction of an accessory structure-detached bedroom and workshop space with conditions and Member Pease seconded it. The board voted 4 to 0 to approve the Special Permit. Condition: No access to the basement area from inside the first floor.

RE: Rivers Project

Marc R. Rivers

6 Inca Road, **Map 12 Parcel 127.21**

*On May 16th, 2019 at 6:45 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 4 Parcel 156 seeking:

***a Special Permit with Zoning Bylaws 3.4.3, or any action related thereto,
to allow the construction of an accessory structure – guest apartment and single family dwelling
prior to five continuous years of owner occupation on a lot located in Residential Zone 1.***

A quorum consisting of Chairman Andrea Rogers, Llewellyn Rogers, Jonathan Holter, and Doug Pease was present. Marc Rivers represented the applicant. He presented plans for the construction of a one-story, one-bedroom guest apartment and a two-story, three-bedroom single family dwelling prior to the five-year owner occupation requirement on a vacant lot located in Residential Zone 1. The existing (13004 sf) lot is conforming. A four-bedroom septic system has been approved. Mr. Rivers purchased three abutting conforming lots in 2018. He recognizes the housing crisis on the island and planned to build affordable housing for his family members. Chairman Rogers stated that the lot was vacant and explained that bylaw requires an existing single family dwelling to exist before a guest apartment could be considered. He asked if he could redesign the plans to make it into one dwelling. Chairman Rogers stated that the building official would have to approve those changes and that the board could not approve two dwellings on a vacant lot. Mr. Rivers wanted to consider his options to build a dwelling that is conforming. He asked if he could withdraw his application without prejudice. The board agreed unanimously.

The board and applicant agreed to withdraw the application without prejudice.

RE: Brooks Project

Laurie H. Brooks

343 Barnes Road, **Map 27 Parcel 9**

*On May 16th, 2019 at 7:05 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 27 Parcel 9 seeking:

a Special Permit with Zoning Bylaws 3.5.5, 9.1.A, or any action related thereto, to allow renovations and construction of additions to a pre-existing nonconforming single family dwelling located in Residential Zone 3, Flood Plain Overlay District -VE Zone and the Shore Zone of the Coastal District.

A quorum consisting of Chairman Andrea Rogers, Llewellyn Rogers, Jonathan Holter, and Doug Pease was present. George Sourati represented the applicant. Mr. Sourati presented plans for a partial demolition of an existing mudroom, porch and deck and for the reconstruction of a mudroom and screened porch addition to a single family dwelling located in the Residential Zone 3, the Flood Plain and Coastal District.

The existing (41500 sf) lot is nonconforming and is partially located in the Shore Zone of the Coastal District and partially located in the VE Zone of the Flood Plain Overlay District. The entire dwelling is in the Shore Zone and is nonconforming with side setbacks (14 and 42 ft.). The project has been approved by ConCom. The project includes renovations to the basement area, the construction of a small addition (35 sf) to move the staircase, and a mudroom/screened porch addition (104 sf). Member Rogers was concerned about the screened porch addition being too close to the property line. Mr. Rogers suggested that the ground height of the screened porch should not exceed 30 inches.

Chairman Rogers opened the floor to public comment. No correspondence was received into the record. Chairman Rogers closed the floor to public comment.

-Member Holter made a finding that the existing (41500 sf) lot located in Residential Zone 3, partially within the Shore Zone of the Coastal District and VE Zone of the Flood Plain was nonconforming. (Req.: 60,000 sf)

-Member Holter made a finding that the existing single family dwelling was nonconforming with side setbacks(14, 42 feet). (Req.: 50 feet)

- Member Holter made a finding that the proposed additions-mudroom with screened porch (104 sf) and basement addition (35 sf) was nonconforming with side (14 feet) setbacks. (Req.: 50 ft.)

- Member Holter made a finding that the proposed additions were not substantially more detrimental to the neighborhood and did not overburden the lot.

Vote:

Member Holter made a motion to approve a Special Permit within Zoning Bylaws 3.5.5 to allow the construction of a mudroom with screened porch (104 sf) and basement addition (35 sf) and Member Rogers seconded it. The board voted 4 to 0 to approve the Special Permit with conditions. Conditions: The porch elevation from the ground cannot exceed 30 inches.

Member Holter made a motion to approve a Special Permit within Zoning Bylaws 9.1.A.6.a.i to allow the construction of a mudroom with screened porch (104 sf) and basement addition (35 sf) and Member Pease seconded it. The board voted 4 to 0 to approve the Special Permit with conditions. Conditions: The porch elevation from the ground cannot exceed 30 inches.

RE: Ritter Project

William Ritter

10 Spruce Avenue, **Map 8 Parcel 153**

*On May 16th, 2019 at 7:30 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 8 Parcel 153 seeking:

a Special Permit with Zoning Bylaws 3.5.5, or any action related thereto, to allow demolition and reconstruction of a pre-existing nonconforming single family dwelling located on a nonconforming lot in Residential Zone 1 and Copeland District.

A quorum consisting of Chairman Andrea Rogers, Llewellyn Rogers, Jonathan Holter, and Doug Pease was present. George Sourati represented the applicant. Mr Sourati presented plans for a full demolition of a one-story single family dwelling and reconstruction of a two-story single family dwelling with basement. The existing (5936 sf) lot located in Residential Zone 1 and Copeland District is nonconforming. The existing single family dwelling is nonconforming with front (6.7 ft.) and side (1.4 ft.) setbacks. The proposed single family dwelling is nonconforming with front (7 ft.) and side (1 ft.) setbacks. The proposed single family dwelling includes a (1066 sf) footprint, a (1066sf) second floor, deck (114.66 sf), deck (120.11 sf), and deck (70.21 sf). The proposed ridge height is 31 feet. The existing(< 100 sf.) shed will be relocated with setbacks of five feet. The applicant will be going to Copeland Review for architectural review in a few weeks. If the project significantly changes, then the project will come back to the ZBA.

Chairman Rogers opened the floor to public comment. An abutter, Mr. McGrath spoke in favor of the project. An abutter, Mr. Launer wrote a letter in favor of the project. An abutter, Mr. Jackson wrote a letter in favor of the project. Chairman Rogers close the floor to public comment.

Member Rogers made a finding that the existing (5936 sf) lot located in Residential Zone 1 and Copeland District is nonconforming. The board agreed unanimously.

Member Rogers made a finding that the existing one-story single family dwelling is nonconforming with front (6.7 ft.) and side (1.4 ft.) setbacks. The board agreed unanimously.

Member Rogers made a finding that the proposed two-story single family dwelling with basement and decks is nonconforming with front (7 ft.) and (1ft.) side setbacks. The board agreed unanimously.

Member Holter made a finding that the proposed single family dwelling is not substantially more detrimental to the neighborhood and does not overburden the lot. The board agreed unanimously.

Member Holter made a motion to approve a Special Permit within Zoning Bylaws 3.5.5 to allow the demolition and reconstruction of a two-story single family dwelling with basement and decks and Member Pease seconded it. The board voted 4 to 0 to approve the Special Permit.

Meeting adjourned at 8:00 p.m.

Respectfully Submitted,

Colleen Morris, Clerk/ZBA