

ZONING BOARD OF APPEALS

MINUTES

Wednesday, July 14, 2021

Chair Dewey opened the meeting at 7:00 PM with following narrative:

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>
2. Real-time access to the Zoning Board of Appeals meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Zoning Board of Appeals by utilizing the Zoom link or telephone number and Meeting ID provided below:

Join Zoom Meeting Option	Telephone Number Option
https://zoom.us/j/91771585843	888-475-4499 U.S. Toll Free
Meeting ID: 91771585843	Meeting I.D. 917 7158 5843

3. Applicants, their representatives and individuals required or entitled to appear before the Zoning Board of appeals may appear remotely and are not permitted to be physically present at the meeting, and may participate through accessing the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to anna.brigham@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

Copies of the applications are available for review by calling (508) 862 4682 or emailing anna.brigham@town.barnstable.ma.us.

Chair Jake Dewey took roll call of members present:

Member	Present via Zoom	Absent
Alves E.	x	
Bodensiek H.	x	
Dewey J.	x	
Hansen M.	x	
Hirsch D.	x	
Pinard P.	x	
Walantis T.	x	
Webb, Aaron		x

7 members present for quorum with 1 absence.

Taping of meeting

No one is taping meeting.

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Minutes from May 12, 2021., April 28, 2021 to be approved. Chair Dewey asked if there were any comments. Member Hirsch moved that they accept as presented. Member Alves seconded motion. A roll call was taken.

Member	Minutes 5/12/2021	Absent
Alves E.	In favor	
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.	In favor	
Hirsch D.	In favor	
Pinard P.	In favor	
Walantis T.	In favor	
Webb, Aaron		x

With 7 members present – motion to approve minutes was accepted by 7 members, one member was absent.

OLD BUSINESS

None

NEW BUSINESS

Chair Dewey read into the record the following:

Appeal No. 2021-032 Schultz RE-NOTICED. John and Michelle Schultz have petitioned for a Variance from Section 240-14.E – Bulk Regulations. The Petitioners propose to construct a 14 foot by 22 foot 1-car garage 14 feet from the front setback (road) where 30 feet is required. The subject property is located at 12 Fulling Mill Lane, Marstons Mills, MA as shown on Assessor’s Map 078 as Parcel 006. It is located in the Residence F (RF) Zoning District.

Chair Dewey recognized Traver Meyer of Meyer and Son Builders Inc. representing John and Michelle Schultz. Mr. Traver: “In front of each member was the application with necessary documents for this appeal. Mr. Meyer noted that there were several factors that factored in for the garage to land on this section of the property. 1) Septic system components are on the northeast side of property (which are not rated for vehicular traffic); 2) a driveway cost and costs with yearly maintenance or a driveway which would lead to back property to comply with an as-of-right location would be a significant financial budget to the project; 3) the topography of the site suggests that the garage be placed at the north side of the lot where the elevation matches the entrance elevation at Fulling Mill; 4) where the front door is and where you enter the seashell driveway. The current elevation at this location is 56 +/- for reference. Both of the above condition to this site and the structure per the zoning ordinance pose unnecessary hardship in Mr. Meyer’s opinion will impact the project that is specific to the site in order to navigate the intent of the by-law. We feel the cost burden of the hardship previously discussed makes the project not feasible therefore a variance is being requested from 240.14E of the Building Zoning Ordinance to construct and site this 14 x 22 garage in the noted location per the site plan. We feel the

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application and request are in keeping with the Zoning Ordinance, does not create more detriment to the public good and in addition to that; lastly, it meets all criteria necessary for a favorable variance vote. In your packet you will see there are supporting letters from all direct abutters.”

Chair Dewey turned this segment over to the board for questions. No questions posed from board.

Chair Dewey noted that hearing none he would open up to Public Comment. No one was stepping forward for public comment. Ms. Schultz on her and her husband’s behalf thanked the board for their considerations.

Chair Dewey closed public comment at this point and turned discussion back to the board for deliberation.

Member Atlantis questioned as to whether a letter was received in favor of this appeal? **Chair Dewey** noted that four letters were received in favor of this appeal. **Chair Dewey** read names of writers of letters into record: Kevin Berry of 55 River Road, Terry and Kenny Perry of 65 River Road, and Demeter from 71 River Road and Robert/Carole Harper of Falling Mill Lane. Mr. Meyer indicated that all are direct abutters to all sides of the appellant’s property. Most specifically Carole/Robert Harper at 14 Fulling Mill Lane. They are the direct abutter to the north and the garage is closest to. **Member Hirsch** noted that in his estimation this would be the only place you could put the garage without putting a major road. It makes a lot of sense to him. **Member Pinard:** If you put it around back you would have to go over the septic system which.....you would have to replace the whole system and that’s pretty expensive. **Member Walantis:** this is the path of least resistance and it’s in keeping. **Member Alves:** I would agree.

Chair Dewey read findings: Owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located. The Board found the topography of the lot, the shape of the lot, and access causes difficulty for construction.

1. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioners. If the Variance was not granted, it would cause financial hardship to the Petitioners if the septic system has to be relocated and replaced.
2. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance. The Board found there is support from the abutters and that the request would not be a detriment to the neighborhood.

The Board voted to accept the findings as follows:

Member	Appeal 2021-032	Findings
Bodensiek H.	In favor	
Dewey J.	In favor	
Hirsch D.	In favor	
Pinard P.	In favor	
Walantis T.	In favor	

Nays - None

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1. Conditions:

Variance No. 2021-032 is granted to John and Michelle Schultz to allow a 1-car garage to be constructed 14 feet from the front yard setback where 30 feet is required at 12 Fulling Mill Lane, Marstons Mills, MA.

2. The site development shall be constructed in substantial conformance with the plan entitled “Site Plan 12 Fulling Mill Lane, Barnstable (Marstons Mills) MA” dated April 14, 2021 by Demarest Land Surveying.

3. The above-described structure shall represent full build-out of the lot. No further additions or accessory structures shall be permitted without approval from the Board.

4. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit. The rights authorized by this variance must be exercised within one year, unless extended.

Member	Appeal 2021-032	Conditions
Bodensiek H.	In favor	
Dewey J.	In favor	
Hirsch D.	In favor	
Pinard P.	In favor	
Walantis T.	In favor	

No Nays.

CORRESPONDENCE

None

MATTERS NOT REASONABLY ANTICIPATED BY THE CHAIR

None

DISCUSSION

Chair Dewey is seeking input from the Board on remote vs in-person meetings.

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Member	Poll on remote/vs in person	Absent
Alves E.	Agrees with everything Member Hirsch said – this may be only way to participate by remote.	
Bodensiek H.	Will go with remote vote	
Dewey J.	Summarized by saying that the board will stay Zoom for now but will review it on a monthly basis and see how things change. I personally wld like to see us get back to in person because there is more effective communication between both the applicants and we as a board.	
Hansen M.	Feels board is more effective in person and wld like to have a day certain that this be revisited and not be an awkward thing coming up but with respect to everyone else I would be fine staying Zoom.	
Hirsch D.	Because of Delta Variant and Covid getting under control – wld prefer to stay in remote mode.	
Pinard P.	Will go along with majority – remote. Perhaps review decision in a month or two. Right if there are a lot of public attendees – they might prefer to go emote because of the Covid situation.	
Walantis T.	Feels we should stay remote and go along with other members and their reasons as much as he would like to go back to live.	
Webb Aaron		X

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UPCOMING HEARINGS

July 28th, August 11th, August 25th.

ADJOURNMENT

Member Hanson moved to adjourn. Member Pinard seconded.

Roll call vote to adjourn:

Member	Present via Zoom	Absent
Alves E.	In favor	
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.	In favor	
Hirsch D.	In favor	
Pinard P.	In favor	
Walantis T.	In favor	
Webb, Aaron		x

7 in favor to adjourn and one absent.

Respectfully Submitted

Elizabeth B. Silva
Temporary Scribe