

Holliston Zoning Board of Appeals Meeting Minutes of August 28, 2019

Present: Chairman John Love, Mark Bush and Associate Member, Elizabeth Dembitzer. Jay Peabody was absent.

Call to Order: The Chairman called the meeting to order at 7:30 p.m. in the Selectmen's Meeting Room (#105) of Town Hall.

Approval of Minutes:

On a motion by Mr. Bush, seconded by Ms. Dembitzer, the minutes of July 24, 2019 were approved as written.

Hanging Vine Properties, LLC, 263 South Street

Walter Branson, Owner of Hanging Vine Properties, LLC requested an extension on his Special Permit which was issued on October 5, 2017 in correspondence dated August 22, 2019. After some discussion of timeframes and process, Mr. Bush made a motion, seconded by Ms. Dembitzer, to extend the Special Permit was for 2 years to October 5, 2021 as requested.

Special Permit Public and Dimensional Variance Public Hearing

Meaghan Hammer – 21 Pearl Street

The Chairman opened the public hearings at 7:40 p.m. and waived reading the hearing notice into the record as no one present objected. Meaghan Hammer, Trustee of JMH Trust (applicant/owner) and Brian Cheever were present to discuss the petition to rectify discrepancies between the Special Permit decision issued by the ZBA in April 25, 2018 and the as-built conditions submitted to the Building Inspector in July (See "Certified Plot Plan in Holliston, MA prepared for Brian Cheever" dated June 13, 2019 revised through July 18, 2019, prepared by JD Marquedant & Assoc.). As outlined in Building Inspector Chris Canney's e-mail to Town Planner, Karen Sherman dated July 23rd, two conditions of the Special Permit (#2 and #3) limited the new structure to sit substantially within the footprint of the fire-ravaged structure with an additional 95 s.f. of footprint area (190 s.f. of additional living area) and limited the structure's encroachment into the front and side yard setbacks to no closer than 12.5' from the front line and 10' from the right side lot line. As-built conditions indicate that placement of a bulkhead encroaches further into the required setback to within 7.5' of the side lot line, now requiring a variance under the provisions of Section 3.2 of the Zoning By-Laws. The as-built also indicates an entry landing and roof overhang that were not included on the proposed plot plan that impact the Special Permit because the front yard encroachment is now to within 8.6' of the street line. The Building Inspector indicates in his correspondence that 1) The prior structure was 7.3' from the front lot line, 2) A 3' exterior landing and stairs is required by the Building Code and 3) The approved architectural rendering shows an entry and entry roof.

Given no questions by the members, the Chairman opened the discussion to the audience. The following individuals spoke: Erin Gibbons of Bowditch & Dewey, LLP representing John and Nina Deloge of 957 Washington Street and Anna Bohlin of Robert Paul Properties representing the prospective buyers.

Ms. Gibbons expressed three concerns: accuracy of the plan of record, fire damage resulted in removal of previous vegetative screening and desire for replacement of fence on the southern side lot line. She suggested that the value of trees lost was \$9,000. Mr. Cheever represented that

Approved: October 21, 2019

**Holliston Zoning Board of Appeals
Meeting Minutes of August 28, 2019**

Mr. Deloge had agreed to the fence removal and he stated he would provide monies for tree replacement in order to screen the bulkhead. Ms. Bohlin stated that she was unaware of the identified issues with the abutter at #957 regarding the “unsightly red bulkhead”. Mr. Bush suggested re-painting the bulkhead.

On a motion by Mr. Bush, seconded by Ms. Dembitzer, the public hearing was closed.

II. DELIBERATION:

Special Permit – 21 Pearl Street

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner. In accordance with the provisions of Sections I-C (3.5.1)(3) and (3.2) of the Town of Holliston Zoning By-Laws and MGL c. 40A, the Board finds the following: The reconstructed 2-story, 4-bedroom single-family dwelling allowed for by Special Permit dated April 25, 2018 varies from that allowed by 56 s.f. in footprint with less overall mass and is closer to the front lot line than contemplated in the previous deliberations. The facts in the Building Inspector’s correspondence outline the specific issues with regard to the massing and front entry. The modifications that occurred during construction are not more detrimental than the prior non-conforming structure to the neighborhood.

Zoning Board Vote

The Board’s vote to approve the Petitioner’s Special Permit application for relief under Section I-C (3.5.1)(3) and (3.2), Pre-Existing, Non-Conforming Uses, Structures and Lots for property described and located at 21 Pearl Street was as follows on a motion by, Mr. Bush, seconded by Ms. Dembitzer:

Mr. Love	Aye
Mr. Bush	Aye
Ms. Dembitzer	Aye

Conditions of Approval

1. This Special Permit is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s.11 and shall lapse in two (2) year unless exercised per MGL, c. 40A, s. 9. The copy of the decision to be filed must contain a certification the Town Clerk that twenty (20) days have elapsed since after the decision was filed and that no appeal has been filed or if such an appeal has been filed, that it has been dismissed or denied.
2. The structure shall be no closer than 8’ to the front lot line.

Dimensional Variance – 21 Pearl Street

Findings of Fact

The Board reviewed the application materials and testimony provided by the Petitioner. In accordance with the provisions of Sections I-C (3.5.1)(3) and (3.2) of the Town of Holliston Zoning By-Laws and MGL c. 40A, the Board finds the following: Literal enforcement of the provisions of the by-law would involve substantial hardship to the Petitioner owing to circumstances relating to placement of the structure on the non-conforming, narrow lot.

Approved: October 21, 2019

**Holliston Zoning Board of Appeals
Meeting Minutes of August 28, 2019**

Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the by-law.

Zoning Board Vote

The Board's vote to approve the Petitioner's Dimensional Variance application for relief under Section I-C (3.5.1)(3) and (3.2), Pre-Existing, Non-Conforming Uses, Structures and Lots for property described and located at 21 Pearl Street was as follows on a motion by Mr. Bush, seconded by Mrs. Dembitzer:

Mr. Love	Aye
Mr. Bush	Aye
Ms. Dembitzer	Aye

Conditions of Approval

1. This Dimensional Variance is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s.11 and shall lapse in one (1) year unless exercised per MGL, c. 40A, s. 10. The copy of the decision to be filed must contain a certification the Town Clerk that twenty (20) days have elapsed since after the decision was filed and that no appeal has been filed or if such an appeal has been filed, that it has been dismissed or denied.
2. The structure shall be no closer than 7.5' to the south side lot line.
3. The bulkhead area is to be visually screened from neighboring property with plantings or a fence on the south side of the structure.

Adjournment: The meeting adjourned at 8:45 p.m. on a motion made and duly seconded with all in favor. The next meeting was scheduled for October 21, 2019.

Respectfully submitted,

Ann Adams
Clerk

Approved: October 21, 2019