



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
February 17, 2022**

Members present: Members Barney Ovrut, David Brown and Kim Mellen and Associate Member Kurt Yeghian were present in person

This meeting was held in person with the Zoom video platform also available; it was also being broadcast on Foxboro Cable Access.

Chairman Barney Ovrut opened the meeting at 7:00 p.m.

Mr. Ovrut welcomed the new Building Commissioner Scott Shippey, he was appointed recently and is attending the meeting this evening via Zoom.

7:00 Theresa Federico seeks a Variance under Section 4.1.1., Table 4-1, of the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, to allow the construction of an attached garage to a single-family home that would result in such home having a side yard setback of five feet where fifteen feet is required. The property is located at 8 Margaret Road in the R-15 Residential District. It is not located in any restrictive overlay district. Mrs. Federico was present in person and represented herself. She explained that she would like to have an attached garage where her driveway is now at her residence, it would have a side setback of five feet where fifteen feet is required. She is an on-call nurse who has problems getting out of the driveway in snowstorms. She explained that she has owned her home for four years, the garage cannot be placed on the other side of the house due to the location of the septic system and retaining wall. The garage could not be placed on the back of the home as there is a large tree in the backyard that would need to be taken down.

Mr. Brown asked if the house ever had a garage. Mrs. Federico stated that the living space on the right side of the house was once a garage that a previous owner converted into an in-law apartment; they also added on to the back of the house behind the previous garage to have a bedroom and bathroom so that area cannot be turned back into a garage. She would like to add a one car garage with an interior doorway from the house to the garage. She feels it would be for safety when she gets called into work. She noted that the abutters on the side where the garage would be located rent the home.

A motion to close the Public Hearing was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

The Board moved immediately into deliberations.

Mr. Ovrut noted that similar previous decisions were sent out to the Board members for consideration. The property does have an unusual shape.

The Board discussed the compelling need for a Variance. The Board members do not feel that the applicant can overcome the hardship of compelling need.

A motion to not approve the request for a Variance to allow the construction of an attached garage in the side yard setback at 8 Margaret Road was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

7:10 John Thearon Helton and Beverly Kristenson Helton seek a Variance pursuant to Section 4.3.1. of the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning to allow access to a lot not through or across the lot's legal frontage and any other special permit(s), variance(s) or finding(s) as may be required with respect to the foregoing. The property is located at 310 Cocasset Street in the R-40 Residential and Agricultural District and is not in any restrictive overlay district. Atty. Frank Spillane was present representing the applicants who were also present, all in person.

Atty. Spillane explained that this property is located at 310 Cocasset Street next to Stockbridge Road and across from the Burrell School. They have 115 feet of frontage on Cocasset Street with no frontage on Stockbridge. The house is a pre-existing non-conforming structure that dates back to the early 1920's; the lot is 12,000 sq. ft. where 40,000 sq. ft. is required, the frontage is 115 feet where 200 feet is required, the front yard setback is 27 feet where 35 feet is required. They are here this evening to request a Variance to allow access to the lot not through or across the lots legal frontage.

Mrs. Helton purchased the house in 1987 with her first husband, Bryan Jaeger, at that time the driveway was on Cocasset Street but was found to be over the lot line of the home next door. A subdivision went in on the other side of the house in the early 1990's which became Stockbridge Road. At the time the subdivision was being developed, the Jaegers acquired 3,390 sq. ft. of land and 40 feet of frontage on Cocasset Street increasing the dimensions of their property. They also acquired the right to use the new roadway, Stockbridge Road, via an easement over the property line to access their lot. There is also a drainage easement located on the left side of their property.

The Jaegers added an addition to the house and relocated the driveway to Stockbridge Road at that time, they also added a new walkway to the new driveway and removed the old driveway and walkway that was on Cocasset Street. Their mailbox was moved to the Stockbridge side of the house and new fencing was installed across the front of the property. To the right of their house, the property belongs to the house at 1 Stockbridge Road and there is also a separate parcel for the drainage easement so they cannot have contiguous property lines to Stockbridge Road. The house and the right to use Stockbridge Road has since been transferred to Mr. and Mrs. Helton. A new driveway easement was last filed in November 2021 to correct an error on the previous easement. They discovered this error when they were thinking of putting in a garage and they would like to get this issue resolved before they pursue any other projects.

Atty. Spillane reviewed the criteria for a Variance, in his opinion literal enforcement of the bylaw would be a substantial hardship as it would require relocation of the driveway and walkway and also the removal of the existing landscape and the installation of new landscaping. There is also a safety hardship in Atty. Spillane's opinion as there would be no room for a turnaround in the new driveway and would require the Helton's vehicles to pull out onto Cocasset Street, there is an elementary school across the street which puts extra traffic in the area twice a day.

The lot is an undersized lot located near a curve on Cocasset Street and near the intersection of Community Way which has more traffic due to a new development in that area. Atty. Spillane also stated that granting a Variance would not be substantially more detriment to the public good or substantially derogate from the Bylaws intent.

In the future they would like to pursue a garage, they have spoken with the neighbors and no one had any objections to them getting a garage or the current location of the driveway.

Building Commissioner Scott Shippey, appearing via Zoom, stated that safety wise the driveway being located on Stockbridge allows for better access as it is safer to enter and exist Cocasset Street via Stockbridge than pulling out directly onto Cocasset Street which is a busy road.

A motion to close the Public Hearing was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

The Board immediately moved into deliberations. The Board agrees with the points brought up to support the Variance including the fact that the driveway off of Stockbridge has been in use by the applicants since 1999, the location of the drainage easement restricts the location of a driveway, requiring the relocation of the driveway would be a substantial financial hardship and also present safety issues and also there is no opposition from the neighbors.

A motion to grant the requested Variance to allow access to a lot not through or across the lot's legal frontage at 310 Cocasset Street was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

GENERAL BUSINESS

Mr. Ovrut stated that the Board of Selectmen will be putting the Sign Bylaw request for billboards along Route 95 and 495 on the Town Meeting Warrant.

The Board reviewed the minutes from December 2021 and January 2022.

A motion to approve the minutes of December 16, 2021 and January 20, 2022 as amended was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 4-0-0.

The meeting was adjourned at 8:05 p.m.

Respectfully Submitted,

Diana Gray

Signed on behalf of the Board

Kim Mellen, Clerk