



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
May 19, 2022**

Members present: Members Barney Ovrut, David Brown, Kim Mellen and Associate Member Lorraine Brue were present in person, Associate Member Kurt Yeghian was present via Zoom video.

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.

7:00 Anthony Alex Silva 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 eight feet where fifteen feet is required. The property is located at 6 McNamara Way in the R-40 Residential and Agricultural District. It is not located in any restrictive overlay district. Mr. Silva was present representing himself. He moved into his home eight years ago and since that time has expanded his family to include four boys, ages 8 years to 10 months. He is now looking for more space in his home and would like to add a garage addition. He is restricted to where the addition can be placed on his lot due to wetlands and the location of the septic system. What he originally believed was his property line was incorrect as he discovered when he had the land surveyed.

The proposed garage addition would be as near as eight feet to the side property line where fifteen feet is required. There is a line of trees between his home and the neighboring home but they are located past the property line; that was the confusion on where the property line was located, he assumed it was at the tree line. The neighbor on the other side of the tree line is in support of the proposed garage.

Mr. Ovrut noted the plan he provided with his application does not show the wetlands on the property. Office staff looked up the property on Mass Mapper (a state GIS program for looking up wetlands among other features) to see the approximate location of the wetlands.

Mr. Silva explained that they would like to convert the current garage to additional living space and construct a new two car 24' x 36' attached garage on the side of the house where the present garage is located. They will not be adding any additional bedrooms to the home, the house presently has four bedrooms. The loft space above the proposed garage will be used for additional storage.

Abutter Chris Vandette of 4 McNamara Way the neighbor on the other side of the tree line spoke in favor of the petition.

Architect Charles Hiller of AJA Architects who drew up the plans for the garage explained that the garage space is 30' x 24', the additional 6' is needed for a new bathroom.

The Board members asked if the garage could be rotated so it would not be so close to the property line. Mr. Hiller stated that would push the addition forward as the septic and propane for the house are located in the rear of the house.

Mr. Ovrut asked if the wetlands have been delineated for the home. Mr. Hiller stated that they could not put the addition on the other side of the house without going before the Conservation Commission.

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

The Board immediately moved into deliberations. They feel more information is needed as to where the wetlands are on the property to determine the soil conditions in the area; this is one of the criteria for a Variance.

The Board recommended the applicant have the wetland lines added to the plans as there is not enough information to make a decision at this time. They would also like the applicant to see if the garage could be rotated.

A motion to continue deliberations to June 30, 2022 was made by Ms. Mellen and seconded by Mr. Brown. The motion carried 3-0-0.

7:10 Massachusetts Electric Company seeks a Variance under Section 4.1.1., Table 4-2, of the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, to allow the construction and/or installation of substation-related equipment and facilities to be located as much as 17 feet within the 50-foot minimum rear yard setback The property is located at 63 Elm Street in the Limited Industrial (LI) District. It is not located in any restrictive overlay district. Attorney Joshua Lee Smith of Bowditch & Dewey, Orlando Martinez and Mike Waller of Mass Electric appeared via Zoom and Bob Moran of Mass Electric appeared in person. Atty. Smith explained that this project is to upgrade the current sixty five year old electric substation on Elm Street. The current substation is located close to the road and contains outdated equipment that needs to be upgraded. They would like to install the new equipment on the rear of the property away from the public view.

This property is located in the LI district, there is a solar installation on one side of the property and an industrial site on the other; the town DPW building is located across the street. The nearest residential property is located approximately 200 feet away and separated from the site by woodlands.

The current site does not have any landscaping, the applicant proposes adding trees and other vegetation to the front of the property.

The LI district requires a 50 foot setback in the rear, there is equipment located within this setback currently. The property is 22,000 square feet which Atty. Smith feels is small for an industrial lot and the applicants are trying to limit the work in such a small footprint.

This will be an unmanned substation containing high voltage equipment, stringent safety standards for installation will be followed. There are no wetlands on the site but they will be required to go to the Planning Board for Site Plan Approval as well as the Board of Selectmen for a Special Permit.

Engineer Orlando Martinez explained that there will be substation and line work associated with this process. The timeframe would be to do some initial work this summer with the bulk of the work being done in October.

Atty. Smith stated that the size and shape of the lot are restrictive in that the new equipment cannot be located anywhere else on the property as there are monitoring wells on the site as well as environmentally sensitive soils.

Mike Waller of Mass Electric stated that the height of the equipment will be similar to what is there at 26.5 feet high.

Atty. Smith stated that there are no alternative sites available to locate this equipment on as they do not own any other property in town. The existing equipment needs to stay in operation while the new equipment is installed to keep the grid energized.

Mr. Ovrut noted that DPW Director Chris Gallagher was asked for comments and he stated that he has no issues with this project being completed.

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. The substantial hardship would be that there is no other way to upgrade the equipment on the site since the current equipment needs to stay active and working while the new equipment is being installed.

A motion to approve the requested Variance at 63 Elm Street with conditions that the construction be as shown on the submitted plans, no portion of the equipment be located less than 33 feet from the property's rear lot line; a special use permit for earth removal shall be obtained from the Board of Selectmen; a Site Plan Review and approval be sought from the Planning Board was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

7:20 Jake Development seeks a Special Permit pursuant to Section 5.4.2. of the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning to allow a pre-existing non-confirming two-family residential structure to re-constructed such that the habitable floor area of the new two-family residential structure will exceed that of the existing structure by 25% or more and any other special permit(s), variance(s) or finding(s) as may be required with respect to the foregoing. The subject property is located at 411 South Street in the R-40 Residential and Agricultural District. It is not located in any restrictive overlay district. Atty. Frank Spillane was present representing the applicant, Don Treannie, who was also present. Mr. Treannie currently is under agreement to purchase the property.

Atty. Spillane explained that the site contains a current two family dwelling that they would like to replace with a larger two family dwelling that would have 25% more floor area. The property is located in the R40 zoning district which does not allow two family dwellings, but this would be a pre-existing non-confirming use as the existing dwelling being used as a two family dates back to the 1920's which pre-dates zoning. Atty. Spillane included a letter from then Building Commissioner Nick Riccio confirming the pre-existing non-confirming use in 2019.

The new dwelling would be located 27 feet from South Street but would be conforming to all other setback requirements. The existing dwelling contains 1,887 square feet of habitable floor area and the proposed dwelling would contain 3,512 square feet of habitable floor area, an increase of approximately 87%.

The existing structure would be demolished, it is not structurally sound to be rehabbed. The new structure would be similar to other projects Mr. Treannie has constructed in town. Atty. Spillane did note that the impervious surface of the lot would be reduced as they will be removing some of the paved surfaces, it will decrease from 7,117 sq. ft. to 5058 sq. ft. a 29% reduction.

The new structures will be sold separately with a three bedroom unit on each side.

The septic system will need to be upgraded as the current system does not comply with Title 5 requirements, it will be one shared system for both residences.

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.

A motion to grant the requested Special Permit for 411 South Street with conditions that the proposed dwelling be a two-family structure containing 3,512 square feet of habitable floor area, designed and constructed according to the submitted plan; the location of the proposed dwelling be as shown on the submitted plan; the proposed dwelling comply with all required setbacks was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

GENERAL BUSINESS

Minutes April 21, 2022

The Board reviewed the minutes of April 21, 2022.

A motion to approve the minutes of April 21, 2022 was made by Ms. Mellen and seconded by Mr. Brown. The motion carried 5-0-0.

Ms. Ovrut stated that the reappointments of the Board members is in process before the Board of Selectmen and members should be getting their notices soon.

Mr. Ovrut wanted to discuss the summer meeting schedule as there are two large projects that will be coming before the Board. The June meeting will be held on June 30th instead of June 16th due to Board member availability. The August meeting will be moved from August 25th instead of August 18th and the September meeting will be moved from September 15th to September 29th. No changes are needed for the July meeting.

The meeting was adjourned at 8:30 p.m.

Respectfully Submitted,

Diana Gray

Signed on behalf of the Board

Barnett Ovrut, Chairman