

Zoning Board of Appeals
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David Pereira - Chairman
John Scanlon - Vice Chairman
Richard Panofsky - Clerk
Richard Barrett
Antonio Oliveira
Raymond Olivier, Assoc. Mbr.
Stephen Silva, Assoc. Mbr.

ZONING BOARD OF APPEALS MEETING
Meeting Minutes – March 18, 2021

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Call to order at 6:01 PM by David Pereira, Chairman.

In attendance: Chairman David Pereira; John Scanlon, Vice Chairman; Richard Panofsky, Clerk; member Antonio Oliveira; associate members Raymond Olivier and Steve Silva.

The meeting was held remotely, via Zoom.

The agenda was reordered to use time before the public hearing.

Chair Pereira declared Associate Members Raymond Olivier and Steven Silva will both vote. By roll-call vote, D. Pereira, J. Scanlon, and R. Panofsky, then present, assented.

GENERAL BUSINESS

1. DGH Realty — File #717 — Vote on findings. J. Scanlon moved to approve the draft as distributed, R. Panofsky seconded; the motion carried unanimously on a roll call vote: J. Scanlon, aye; D. Pereira, aye; R. Panofsky, aye; A. Oliveira, aye; R. Olivier, Aye, S. Silva, aye.

MINUTES

On a motion by J. Scanlon and seconded by R. Olivier, the minutes of February 18, 2021, were approved unanimously as written and distributed by email, on a roll call vote: J. Scanlon, aye; D. Pereira, aye; R. Panofsky, aye; A. Oliveira, aye; R. Olivier, Aye, S. Silva, aye.

PUBLIC HEARINGS AND MEETINGS

Chair D. Pereira recused himself from the proceedings because one appellant is a relative. He left the meeting, and turned the chair over to J. Scanlon.

File# 819 – Buckley and Pereira – 140 Bay State Road – Variance (setback). The request is to be allowed to build a garage less than 25 feet from a property line. At 6:15, R. Panofsky moved to open the public hearing; A. Oliveira seconded; the motion passed

unanimously on a roll-call vote: J. Scanlon, aye; R. Panofsky, aye; A. Oliveira, aye; R. Olivier, Aye, S. Silva, aye.

Rachel Smith, of E. Otis Dyer, 368 Fairview Avenue, Rehoboth, MA 02769, presented the case. Originally the properties at 138 and 140 Bay State Road were a single property, with a school building and a large barn. It was divided into two properties with the barn at 140 and the building at 138; both became houses. The property line between 140 and 138 was slanted westward to permit the required minimum frontage for the 138 lot. The 140 dwelling is a two-family house, recently purchased by the present owners. A variance is requested to build the garage 11.6 feet from that slanted line rather than the 25 feet minimum. A location to the west end of the house is impossible because a pump-up septic system line operates there; the septic system is at the only position on the property that passed perc tests. Hydrological conditions prohibit driving around the house to the rear, and the east end is already just 25 feet from that property line. The design would reconfigure the entrance to one of the two units. The new construction will fit architecturally with the look of the house/former barn. The new building will still sit considerably further back than 25 feet from the edge of Bay State Road.

Jake Holloman, owner of 138 Bay State Road, joined the meeting to say he had no objections to the variance. It is located in a position that will have no impact on his home and view.

Kim Pereira and Anthony Buckley, owners of the two-family house at 140 Bay State Road, joined the meeting. Considerable discussion ensued as to different locations of the building that might not require any variance. The small jutting-out structure must be retained, as it contains the doorway to the upstairs unit and the stairway to access it. Placing the garage in front of the south-facing wall of the house is undesirable in blocking the front-view from all its windows, and a quick calculation suggested there would still not be room to place a stand-alone building there that is the standard 24 feet for a two-car garage, 15 feet from the front property line, and 22 feet from the house (the length of how tall the garage building would be).

A. Oliviera moved to close the public hearing; S. Silva seconded; the motion carried unanimously by roll-call vote: J. Scanlon, aye; R. Panofsky, aye; A. Oliveira, aye; R. Olivier, Aye, S. Silva, aye. Discussion ensued whether the request meets the three requirements for a variance of conditions relating directly to soil condition; topography and shape of the land or location of structures; and no substantial detriment to the public good. The condition of soil condition constraints is met by the wetland constraints, including the septic system. There is no substantial detriment to the public good, given the unique positioning of the slanted property line. On balance, the property's shape and topography and building location also prohibit any compliant location for a garage. A. Oliviera moved to accept the variance based on meeting the three criteria; R. Olivier seconded; the motion passed unanimously on a roll-call vote: J. Scanlon, aye; R. Panofsky, aye; A. Oliveira, aye; R. Olivier, Aye, S. Silva, aye.

NEXT MEETING

The next meeting of the Board is scheduled for Thursday, April 15, 2021, 6 PM, to be

held remotely, via Zoom.

ADJOURNMENT

On a motion by J. Silva and seconded by R. Panofsky, the Board voted to adjourn at 7:10 by roll call vote: J. Scanlon, aye; R. Panofsky, aye; Oliviera, aye; R. Olivier, Aye, S. Silva, aye.

Respectfully submitted by Richard Panofsky, Clerk



David Pereira, Chairman

John Scanlon, Vice-Chairman