



Town of Barnstable
Zoning Board of Appeals
Minutes
March 23, 2011

A regularly scheduled and duly posted Public Hearing for the Town of Barnstable Zoning Board of Appeals was held on Wednesday March 23, 2011 at 7:00 PM at the Town of Barnstable, Town Hall, 367 Main Street, Hyannis, MA. A quorum was met. Also present were Jo Anne Miller Buntich – Director, Growth Management, Elizabeth Jenkins – Principal Planner and Carol Puckett – Administrative Assistant

Laura Shufelt - Chair	Present
William Newton - Clerk	Present
Michael Hersey	Absent
Craig Larson	Present
Alex Rodolakis	Absent
Brian Florence	Absent
George Zevitas	Present
Scott Harvey	Absent

Laura Shufelt opens the hearing at 7:10 PM. She reads the Bram appeal into the record:

7:00 PM Appeal No. 2011-006 - New

Andrew E. Bram, Trustee of Jafa Realty Trust

Andrew E. Bram, Trustee of Jafa Realty Trust has applied for a Variance to Section 240-11.E Residence B District Bulk Regulations – Minimum Front Yard Setback. The applicant is proposing to expand an existing deck, construct a 22 X 19 square foot garage and a 10 X 16 square foot addition connected to the primary dwelling. The applicant requests relief from the required 20 foot front yard setback to allow the deck to be a minimum of 13.3 feet and the garage to be a minimum of 15.1 feet from the street line. The property is located at 23 Warren Avenue, Hyannis, MA as shown on Assessor's Map 306 as parcel 173-008. It is in the Residence B zoning district.

Members assigned: George Zevitas, Craig Larson, William Newton, Laura Shufelt

Laura Shufelt explains to the applicant's representative, Michael Gaspard, that there are only four members present and that an option is to continue this, add a member who can review the tape under the Mullin rule or go forward with a unanimous vote of the present four member board.

Mr. Gaspard, who is also the builder, agrees to go forward.

Laura Shufelt indicates that the setbacks aren't changing but that there was a discrepancy in the advertisement and that the garage proposed is slightly larger.

Mr. Gaspard gives a summary of the relief being requested, where the property is, and how the applicants want to build a garage and a small addition for a mudroom.

Laura Shufelt comments that in the site plan, the fence and easement are within the road's right of way. Mr. Gaspard indicates the easement was an agreement between the two parties involved. Laura thinks that this issue needs to be resolved. Laura asks if/how the basement is finished. Mr. Gaspard isn't sure and doesn't think the space has bedrooms but is possibly a family room and storage. Laura comments that there seems to be a discrepancy between the certified plot plan from the foundation and the new site plan as to the setbacks of the existing house. Laura comments that the new certified site plan would indicate that it would make the existing structure nonconforming. Laura asks about the 15 feet between the end of the road layout and the garage is tight. Mr. Gaspard indicates that he could talk to his clients about possibly pulling it back 6 inches.

William Newton asks Mr. Gaspard how this meets the three prong test for a variance. Mr. Gaspard indicates there is no other place to access the garage for an older couple who also believe that the house is built too close but cannot move the house backwards as it would be a financial hardship. Craig Larson clarifies that the shape factor could be because the house is constructed on an old rail bed.

George Zevitas asks about the fence on the property.

JoAnne Buntich – Director of Growth Management, clarifies that the fence needs to come off the town property. She also notes that Mr. Gaspard was also noticed as an abutter.

Laura Shufelt asks if there is anyone here from the public who would like to speak either in favor or in opposition. No one speaks.

William Newton does findings:

Appeal 2011-006 is that of Andrew E. Bram, Trustee of Jafa Realty Trust who has applied for a Variance to Section 240-11.E Residence B District Bulk Regulations – Minimum Front Yard Setback. Mr. Gaspard is representing Mr. Bram and is seeking a variance to allow a proposed garage which is 25 X 24 square feet and the addition which is 10 X 16 square feet connected to the primary dwelling. The property is located at 23 Warren Avenue in Hyannis and is now, as far as the deck, 13.3 feet away from the front lot line and the garage is 15.1 feet from the street line. Secondly, with respect to the analysis, we understand that the narrow lot and location of the access provides the applicant with limited options for expansion of the structure, especially for the garage in terms of lot shape and limits the ability to provide anything else and that the front is the only option. The hardship is the lot shape and, if forced to put a garage in there, would require serious alterations. Third, this is not detrimental to the public good and does not nullify or substantially derogate from the intent of the zoning ordinance.

Vote:

AYE: George Zevitas, William Newton, Craig Larson

NAY: Laura Shufelt

William Newton makes motion to grant with the following conditions:

- 1. This variance is granted to Andrew Bram, Trustee of Jafa Realty Trust for the construction of a two-car garage and deck that will infringe on the required front yard by 9.9 feet and 6.7 feet respectively.**

2. *The addition shall be constructed as per the more recent plans submitted March 23, 2011, entitled "Site Plan (per the more recent submitted today) of 23 Warren Avenue Hyannis prepared for Andrew Bram" drawn and stamped by Down Cape Engineering, Inc and dated February 23, 2011, and with corresponding elevations and floor plans. There shall be no second story on the addition.*
3. *The 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 building permits. The rights authorized by this variance must be exercised within one year, unless extended.*

Seconded by Craig Larson.

They want to discuss conditions but Laura Shufelt believes that this seems to create an intensification of that corner and is not enough room to put a car in front of the garage and would park in the street. She doesn't believe that a condition retarding parking would be enforceable. She believes that the area where they encroach is really tight and she can't see how they can fit this in and make it workable. The house should've been moved back further in the lot.

Craig Larson asks about a one car garage instead. Mr. Gaspard suggests making the garage smaller.

JoAnne Buntich thinks it would need to be a different application. Laura Shufelt still thinks it is too intense for the neighborhood. William Newton asks if there is a way to pull the motion off the table.

They discuss.

William Newton withdraws his motion.

Mr. Gaspard asks to withdraw without prejudice.

William Newton seconds

*Vote:
All in favor*

WITHDRAWN WITHOUT PREJUDICE

Chairman's Discussion

Laura Shufelt talks about updating the local comprehensive permit application and regulations. Elizabeth Jenkins explains and asks the board for a vote to allow staff to prepare a draft of the application and regulations

Vote:

All in favor.

Elizabeth Jenkins then indicates that she has a handout regarding the regulations for District of Critical Planning (DCPC) and wants to make the board aware of them. Craig Larson asks about a discrepancy on the map. JoAnne Buntich explains that the regulations, as shown, are regulations for the entire district as well as for each of the four neighborhoods. JoAnne will get the board members an updated map without the BA zone.

Motion is made by Laura Shufelt and seconded by Craig Larson to adjourn.

Vote:

All in favor.