

ZONING BOARD OF REVIEW MINUTES
Tuesday, March 26, 2019 Meeting 7:00 pm
Town Council Chambers, Town Hall

Present: Richard Land, Chair; Chris Mulhearn, Vice-Chair, Ashley Cullion, Melody Alger, Barry Golden (Alternate) and David Collier (Alternate).

Absent: Jody Sceery

Staff: Lea Anthony Hitchen, Assistant Town Planner and Michael Ursillo, Town Solicitor.

Mr. Land, Chair of the Board, called the meeting to order at 7:10 PM and introduced the members and staff present. He then read the Board's procedures into the record. Each person addressing the Board will first state his or her name and address for the record. The applicant and his or her legal representative will present the case and witnesses may be called to testify. Such testimony must be relevant to the application. Expert witnesses will be sworn in and there will be no prejudgment as to the expertise of any witness. Pictures, diagrams and other documents given to the Board as evidence will be appropriately marked as exhibits and will be retained by the Board for the record. Upon completion of the applicant's presentation all other persons wishing to offer evidence in favor of the application may then do so one at a time. Following that all persons wishing to offer evidence against the application may then do so one at a time. It is asked that comments are confined to the zoning matter being heard and that repetitive remarks are avoided. Cross examination or rebuttal may be allowed if the Board feels it would be appropriate and useful. All questions from the floor will be directed through the Chair only. After all relevant facts have been heard the Chair will call for a motion; the Board will then discuss the motion and the Chair will call for a vote. During the discussion among voting Board members, the Board will not accept any new and further testimony unless it is specifically requested by a Board member. The Board will make every attempt this evening to render a decision. The written decision will be recorded in the Town Clerk's Office as soon as possible following the approval of the minutes of the meeting.

Zoning Board of Review Hearings – 7:00 PM

1. **Elizabeth Bancroft & Dan Pettersson** for property located at 162 Peirce Street; Map 75 A.P. 1 Lot 190 (Zoned Residential, R-30). The Applicant seeks a dimensional variance from Table 2 of Chapter 260 of the Town Code; Zoning Ordinance, Dimensional Regulations by Zone and Section 8 (f) of the same chapter pertaining to the siting of accessory structures. The applicant seeks to replace the existing 12'x19.4' detached garage with a new 14'x22' detached garage which will not comply with the 30' front setback dimension.

Mr. Richard Pastore of RP Engineering was on hand to represent the application. Also present were the property owners, Elizabeth Bancroft and Dan Pettersson.

Mr. Pastore indicated the staff report is very succinct and accurate. The existing c.1950 19 ½' x 12' hollow masonry block garage was constructed on a field stone retaining wall that has since washed out in several areas and has caused a significant undermining to the garage slab and there is associated damage to the garage walls. He noted the garage is not worth saving and the intent is to demolish it. Due to the existing garage being intentionally demolished, it loses its nonconforming status. Once the ground work has been structurally restored the intent is to construct a new garage, to be 14'x22' in size, slightly larger than the existing 12'x19.4' garage which currently functions as a large shed than as a usable garage. The new garage will meet the side setback requirement of five feet but will not meet the 30' front setback requirement; it will be 6.3' to 10.8' from the front property line.

Mr. Pastore noted the proposal also requires HDC review and approval which is currently in process.

Chairman Land opened the hearing for public comments. None noted.

With no further comments Mr. Land asked for a motion.

Motion by Ms. Cullion to approve the application as presented and finds the proposal to meet the standards as supported by the Staff report. Seconded by Mr. Mulhearn.

Ms. Cullion commented that the request is an improvement to the property and is a reasonable request.

Mr. Land stated that in order to be granted a dimensional variance, the following must be met:

The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and not the general characteristics of the surrounding area.

The hardship is not the result of any prior action by the applicant and does not result primarily from the desire for greater financial gain.

Granting the request will not alter the general character of the surrounding area or impair the purpose or intent of the Zoning Ordinance or Comprehensive Plan.

The relief to be granted is the least relief necessary.

The hardship suffered by the owner if the variance is not granted shall amount to more than a mere inconvenience.

Mr. Land noted based upon the topography and existing structure the Applicant addressed all of the standards in the application.

VOTE: 5 – 0 – 0.

- 2. Charles K. and Nancy L. Shallcross** for property located at 118 Blueberry Drive; Map 73 A.P. 9 Lot 307 (Zoned Residential, R-30). The Applicant seeks a dimensional variance from Table 2 of Chapter 260 of the Town Code; Zoning Ordinance, Dimensional Regulations by Zone and Section 8 (f) of the same chapter pertaining to the siting

of accessory structures. The applicant seeks to erect a 14'x22' shed seven (7) feet from the south side property line.

Mr. Charles K. Shallcross and Mrs. Nancy Shallcross, applicants and owners of the property, represented the application. Mr. Shallcross asserted there were several factors regarding the new shed's proposed location, being the following: 1. Proximity to the house; 2. Avoid an area of significant water runoff during moderate to heavy rains; 3. Allow sufficient space between the stone wall (5') for maintaining the back of the shed; 4. Aesthetic appeal as viewed from the subject property, surrounding properties and street; and 5. The subject property's side property line abuts the neighbor's rear property line therefore the shed will be a significant distance from the nearest house.

Mr. Shallcross asserted the new shed will complement the house and share the exterior features as the home. He just went through a significant expense of home renovations and in his humble opinion the property is very attractive. The shed will match the house in architectural roof pitch and siding.

Ms. Cullion asked the applicant to further explain the environmental constraints of the property. Mr. Shallcross explained all drainage from the north and east drain through his backyard diagonally. Additionally the property to the north is about 6 feet higher than his property and the Oakwood Drive area also drain onto his property which is about 10'-15' higher. He informed the Board that several years ago he mitigated the backyard standing water issue by installing French drains and reconfigured the terrain for the water to flow out onto Blueberry Drive.

Mr. Shallcross commented the staff report questions the reason for not locating the shed in the southeast (back corner) of the property – the reason being is that although there is no running water the abutter is higher than him which causes water to still drain onto his property and that area is “soft” most of the time. He added that the reason for the 7' request instead of 10' is because the shed would encroach upon the “river” that runs through his yard.

With no further questions from the Board, Chairman Land opened the hearing for public comments.

Mr. Thomas Elderkin of 217 Hemlock Drive felt the proposed shed is significant in size and will hinder his backyard view.

Ms. Alger wanted clarification on his objection – the objection is not necessarily to the setback but the shed altogether is in Mr. Elderkin’s line of sight. Mr. Elderkin said yes but he also felt the setback is a little too close to the property line. He added the size of the shed is very daunting.

Chairman Land asked if there had been any prior conversation amongst the parties. Mr. Elderkin said no.

Chairman Land explained the Board is generally flexible with these types of requests but more often than not the Board will have concerns when there are objections from an abutter. He encouraged a neighborly discussion in order to find a compromise and possibly avoid a denial.

Mr. Golden questioned the height of the proposed shed. Mr. Shallcross said he was not sure but confirmed the height will be less than 14’.

Mr. Shallcross requested a continuance in order to further discuss the project with Mr. Elderkin.

Motion by Mr. Mulhearn to continue the application to April 23, 2019.
Seconded by Ms. Alger.

VOTE: 5 – 0.

3. **NuGen Capital Management, LLC** for property owned by **Briggs Drive Associates** and located at 10 Briggs Drive; Map 36 A.P. 16 Lot 36 (Zoned M/LIO, Manufacturing/Light Industrial Office). The Applicant seeks a Special Use Permit under Article XX of Chapter 260 of the Town Code; Zoning Ordinance, Solar Energy Systems and Facilities. This article provides protocols for the construction and operation of Solar Energy Systems. The Applicant is requesting to

install a major roof-top solar energy system (6 MW) which also requires Major Land Development approval from the Planning Board.

The Applicant has requested a continuance to the April 23, 2019 ZBR meeting.

Motion by Mr. Mulhearn to continue the application to April 23, 2019.
Seconded by Ms. Cullion.

VOTE: 5 – 0.

Zoning Board of Review Business

1. Minutes: Review/action on the minutes of the February 26, 2019 meeting.

Motion to approve the February 26, 2019 minutes as written by Mr. Mulhearn. Seconded by Ms. Cullion. Vote: 6 – 0.

Motion to adjourn by Mr. Mulhearn. Seconded by Ms. Cullion. Approved 6–0.

Zoning Board of Review meeting adjourned at 7:40 pm.

Minutes respectfully submitted by:

Lea Anthony Hitchen,
Assistant Town Planner

For more information, please refer to the recording available in the Planning Department.