

WATERTOWN PLANNING BOARD

DATE: September 15, 2010 PLACE: Lower Hearing Room TIME: 7:00 PM COMMENCED: 7:00 PM

PURPOSE OF MEETING: Regular Monthly Meeting
Public Hearing

PRESENT: John Hawes, Chairman; Jack Zollo; Jeff Brown; Fergal Brennock;
Staff: Steve Magoon, Director, Danielle Evans, Senior Planner, Ingrid Marchesano, Clerk

ADMINISTRATIVE BUSINESS

Jack Zollo motioned to approve Minutes of 7/14/2010 meeting.

Jeff Brown seconded the motion.

VOTE: 4-0 In favor

CASE PENDING

- **50 Winter Street;** D.Michael Anctil - Special Permit Finding

Michael Anctil, this is a request for Special Permit to enclose an existing porch located 3' from the side lot line where 12' setback is required.

Steve Magoon, the 3,775 s,f, nonconforming lot located in T zone consists of 2 condo units. The property abuts land owned by the City of Cambridge and Saltonstall Park. The structure was renovated in 2002 and sold as 2 condo units in 2003. Staff finds that the proposed nonconforming use is not substantially more detrimental then the existing nonconforming structure and staff recommends approval.

Jack Zollo motioned to recommend to the Board of Appeals approval of the Special Permit Finding under Section 4.06(a) based upon the finding that it meets the criteria set out in the Zoning Ordinance subject to conditions set forth in the staff report.

Jeff Brown seconded the motion.

VOTE: 4-0 In favor

- **121 Grant Avenue;** Anne M. Smith – Special Permit Finding

Anne Smith, this is a request to add a full shed rear dormer. Special Permit Finding is needed because of the nonconforming 16.8' rear yard setback where 20 feet is required.

Steve Magoon, the structure is on a 5,861 s.f. corner lot, located in S-6 zone. The petitioner wishes to expand the second floor by adding a dormer. The proposed addition is not substantially more detrimental then the existing nonconforming structure. The integrity of the cape code style house will be preserved, the rake trim of the roof line will be maintained. Staff recommends that the Special Permit Finding be granted.

Jeff Brown motioned to recommend to the Board of Appeals approval of the Special Permit Finding under Section 4.06(a) based upon the finding that it meets the criteria set out in the Zoning Ordinance subject to conditions set forth in the staff report.

Jack Zollo seconded the motion.

VOTE: 4-0 In favor

- **198 Summer Street;** John & Laura McKenzie – Appealing the Determination of the Zoning Enforcement Officer

Jack Zollo recues himself for this petition.

John Hawes, the petitioner is aware that there is a possibility that the petition will be continued until the next meeting of the Planning Board.

Steve Winnick, Atty, the petitioners are challenging the violation order from Zoning Enforcement Officer Nancy Scott. Planning Board is an advisory Board, Zoning Board of Appeals can modify the decision. The use of the property is protected under the Dover Amendment which allows educational uses. The 4-H club created by the petitioners, is a non-profit corporation who's goal is educational, to teach children how to take care of animals. Sworn affidavit has been submitted by Laura McKenzie and it contains detailed facts regarding the property and 4-H club. Laura's aunt, Phyllis Massa, is the property owner. Many supporters of the program are here tonight. The 7,025 s.f. site has a 2-family house and a 5-car garage located in the rear. The cages housing the rabbits are in the detached garage, the chicken coop is next to it. The animals are not running loose, the rabbits were moved to the basement of the house during the hot summer months. The 4-H club started as a hobby, providing selective breeding. Laura then decided to share the program with local schools and students. The 4-H club is incorporated, consisting of 13 members, students are 9-18 years old. As an educational program, it is exempt from any zoning. The Dover does not make distinction between owning and leasing the property. The petitioner has lived in this house since 1989 and written lease can be provided. The unlawful accessory use determination is incorrect but we are ready to compromise.

Steve Magoon, a determination needs to be made if the Dover Amendment is applicable to this case. Atty Winnick stated that the ZEO determination is wrong. We would like the Town Attorney review the case. We agree that the 4-H program is beneficial to urban area children but this is not about that. The issue is if the Dover is applicable in this case. The Board of Health received a complaint about the number of chickens and rabbits on this property. The next step in the process is for BOH to ask the ZEO if such a use is allowed under zoning. The ZEO determined that there is a violation. We ask the Board to continue the petition.

John Hawes, the petitioner does not own the property, they rented from their aunt. We are not here to address dispute between abutters. Planning Board supports the ZEO determination. You cannot have two principle uses on one property. The 4-H club has to be the lessee, would this be considered primary or accessory use? How does this differ from having multiple pets?

Steve Winnick, the petitioner originally had 50 rabbits, now there are 15 rabbits and 10 chickens. We would like to reach a compromise, a reasonable balance has to be found. I have submitted copies of similar cases.

Jeff Brown, does the Dover amendment mean that there could be other such clubs in Town?

Fergal Brennock, we need to address the zoning issues, such as density, etc. The cases submitted by Steve Winnick are located on much larger properties/lots. The case presented tonight is in urban environment where homes are much closer.

Jeff Brown motioned to continue the petition to next month meeting to allow more time for review.
Fergal Brennock seconded the motion. VOTE: 3-0

PUBLIC MEETING

Amendment to Zoning Ordinance – to allow certain uses to be permitted by right, in order to meet the requirement of becoming a Green Community

Steve Magoon, we had the first reading before the Town Council and after the recommendation of the Planning Board tonight, it will go to the Town Council for final vote. In order to comply with the Green Community requirements, we have incorporated some changes. Eunice Kim, intern, worked on the amendment during the summer. When in compliance, we will be eligible for grant funding through the State. The Sections to be amended are as follows:

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- A. Amend Section 2.00: Definitions, by adding definitions for the following terms: "Renewable or alternative energy" and "Renewable or alternative energy research, development or manufacturing facilities."
- B. Amend Section 2.18, by revising the definition of multi-family dwelling.
- C. Amend Section 5.00, Interpretation, by adding the designations "SR" for Site Plan Review and "SP/SR" for Special Permit with Site Plan Review, and by deleting 5.00 (f).
- D. Amend Section 5.01, Table of Use Regulations, by deleting the existing table and replacing it with a revised table that incorporates 5.00 (f) and adds the use "Renewable or alternative energy research, development and manufacturing facility."
- E. Amend Section 5.03, Notes to Table of Use Regulations, by adding a note about conversions of existing dwellings that was removed from the Table of Uses.
- F. Amend Section 5.07, Affordable Housing Requirements, by renaming the "Affordable Housing Trust Fund" to the "Affordable Housing Fund," lettering the subsections, and deleting references to specific zoning districts.
- G. Amend Section 7.03(d)(1) and 7.06, Signs and Illumination, by adding the Pleasant Street Corridor District (PSCD).
- H. Amend Section 9.03, Site Plan Review of Certain Residential and Non-Residential Developments, by revising the site plan review process and criteria.

Dennis Duff, 33 Spruce Street, Site Plan review and Special Permit were mentioned, but not Variance. Lot of requirements were changed from a Variance to Special Permit, making it easier to obtain. Every project should have landscape plan showing number of plants, location, etc.

Steve Magoon, Special Permit and Variance will not be changed by this amendment. It is always more difficult to obtain a variance. The Zoning Enforcement officer determines what relief is needed, if the use is illegal or grandfathered. All large projects require detailed landscape plan.

Rena Baskin, 15 Franklin Street, landscaping is a very important issue in the Town. Does the Board ever deny any special permits?

Steve Magoon, some things are allowed by right, some not at all. Special Permit Review process will apply for some projects. Special Permit gives the assumption that the use is appropriate but it needs to be discussed further. Variance is asking for approval for something that is not allowed, usually dimensional relief, not use.

John Hawes, Special permit finding is an extension of nonconforming use.

Jack Zollo motioned to recommend to the Town Council approval of the proposed amendments to the Zoning Ordinance to allow for the Town to become Green Community.

Fergal Brennock seconded the motion.

VOTE: 4-0 In Favor

OTHER

Chairman John Hawes adjourned the meeting at 8:45 PM.

MEETING ADJOURNED: 8:45 PM

MINUTES APPROVED: _____

For more detailed Minutes see tapes dated 9/15/2010 available in the DCD&P office.