

**MEMBERS PRESENT:** Richard Carey, Howard Haberman, Fred Katen, Edward Mead, Joseph Tuozzola, Sr.

**ALTERNATES PRESENT:** David Hulme

**STAFF PRESENT:** David Sulkis, City Planner; Rose Elliott, Clerk

The meeting was called to order at 7:10 p.m.

## **A. CONSIDERATION OF AGENDA ITEMS**

1. **45 Trumbull Avenue cor. Elm Street** (Zone R-7.5) George W. Adams, III, attorney, for John H. Streicker, owner - request to vary Sec. 3.1.4.1 rear yard setback from 25' to 7'2" to construct 3 story addition. CAM required. Map 36, Block 417, Parcel 2.

**Attorney George Adams**, Harlow, Adams and Friedman, 300 Bic Drive, stated the house was built in either 1880 or 1890. The house currently sits over the left side of the setback line. They are proposing to renovate the house and bump out a portion of the addition in the rear on the left. This is considered the rear yard because they are on a corner. Hardships are the fact it is a corner lot and the house has been there since the late 1800's. The proposed is a three story addition including a one car garage. Moving the addition to the left side of the property will preserve the right side and will maintain the architectural integrity of the house. The addition will be within 7.2' of the side property line while a pre-existing portion is already within 6.2'. It will be neighbor-friendly as it will not destroy the side yard that provides views of the water to the neighbors.

**Ray Oliver**, architect, 3 Lafayette Street, said the existing house is set close to the property line. The idea is to keep to the original architecture as much as possible. The garage addition will be one story at the rear of the property. By building the garage as part of the house, the yard can be preserved along with the water views for the neighbors.

FAVOR:

**Cindy Arndt**, 37 Elm Street, said she has reviewed the plans and knows the Streickers' and their architect have gone out of their way to develop a plan to keep the integrity of the house and minimally impact the neighborhood and hopes the Board will approve it.

The hearing was closed.

DISCUSSION:

**Chrmn. Katen** stated the addition will be setback 1' further than the existing house and the garage will extend to the same setback line. He didn't feel it would be a problem.

**Mr. Mead** said usually the neighbors complain about development that blocks their views. This application however, is taking the water views of the neighbors into consideration and preserving them.

**Mr. Haberman** made a motion to approve with Mr. Tuozzola seconding. The reasons for approval are the house predates zoning, is a corner lot and the placement of the house on the lot. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

2. **31 Maddox Avenue** (Zone R-5) P. Joseph Marsala, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 4' to construct 2 story addition with 18" overhang. CAM received. Map 27, Block 450, Parcel 14.

**Withdrawn.**

3. **77 Hawley Avenue cor. Usher Street** (Zone R-5) Katie Murphy, owner – request to vary Sec. 3.1.4.1 front yard setback of 9.4'+/- where 10.72' front yard setback is required to construct open front porch. CAM received. Map 71, Block 760, Parcel 5.

**Katie Murphy**, 77 Hawley Avenue, owner, Daryl Stokes, 1470 New Haven Avenue, contractor, would like to construct a front porch. There currently is no shelter when you enter the home. At one time there was a small roof, approximately 3', off the front of the house, creating shelter. It was taken down because it was falling off. They would like to build 4' out from the house, which requires a variance.

**Chrmn. Katen** asked what the hardship was to which Ms. Murphy stated what was there previously was a roof, projecting about 3' out from the house, around three sides of the house. The roof was rotting and falling down and was a danger. It was removed. Rather than replace the roof on all 3 sides of the house, she just wants to replace the one on the front of the house and make a small porch, 4' wide.

**Mr. Mead** asked how much further will the new roof project out.

**Ms. Murphy** answered a little less than a foot.

**Mr. Mead** asked if the old roof was within the setback line to which Mr. Stokes answered they were not certain.

**Ms. Murphy** said the house was built in the 1920's.

**Mr. Tuozzola** asked if the posts for the porch were to be on a slab.

**Mr. Stokes** answered an 8" deck would be constructed on top of footings.

**Mr. Mead** asked if the gutters were included in the measurements for the setback.

**Mr. Stokes** said yes.

**Mr. Carey** noted it looked like the house was placed toward the front of the lot and that was part of the hardship to which Mr. Stokes agreed.

FAVOR:

**Greg Domingue**, 79 Hawley Avenue, stated he is next on the agenda for the same variance for an identical porch. He is in favor.

The hearing was closed.

## DISCUSSION:

**Mr. Carey** said this neighborhood is composed of many houses exactly like this one. This variance will not have any adverse affect on the neighborhood and felt it should be approved.

**Mr. Tuozzola** asked how far the porch would project from the adjoining houses.

**Mr. Sulkis** said the next application has a site plan that shows the uniformity; currently all the houses line up.

**Mr. Mead** said the home was built in the early 1920's, prior to zoning. The homeowner stated that there was a 3' roof there previously. The 4' projection would only be on the front of the house, not the other two sides.

**Chrmn. Katen** added that the gutters are included in the measurement.

**Mr. Carey** made a motion to approve with Mr. Mead seconding. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

4. **79 Hawley Avenue** (Zone R-5) Greg Domingue, owner – request to vary Sec. 3.1.4.1 front yard setback of 9.4'+/- where 10.72' front yard setback is required to construct open front porch. CAM received. Map 71, Block 760, Parcel 6.

**Greg Domingue**, 79 Hawley Avenue, owner, Daryl Stokes, 1470 New Haven Avenue, contractor, stated they also had a roof on the front of their house that was taken down. This porch will be identical to 77 Hawley Avenue, except with two peaks. The house is pushed forward on the lot and doesn't leave much of a front yard. He added he has two small children and he will be installing some type of gate on the deck for their safety.

There being no one to speak in favor or opposition, the hearing was closed.

## DISCUSSION:

**Chrmn. Katen** said all comments heard for Item #3 would apply to Item #4. He asked if the gutters were included in the variance to which Mr. Domingue answered yes.

**Mr. Carey** made a motion to approve with Mr. Mead seconding. The approval is due to the placement of the house on the lot and safety concerns. There will be no adverse affect to any of the other homes in the neighborhood. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

5. **65 Point Beach Drive** (Zone R-7.5) Michael J. Pinto, owner – request to vary Sec. 3.1.4.1 side yard setback for 3 air conditioner units with a 2' setback where 4' side yard is required. CAM received. Map 30, Block 642, Parcel 5.

**Michael Pinto**, 65 Point Beach Drive, said he appreciates the need to follow the rules of the Zoning Office and Building Dept. This variance request was not the case of a homeowner doing whatever he wanted to do and if caught, he would ask for forgiveness rather than permission. He stated he has gotten all the necessary

approvals and based on advice from his architect and engineer and their interpretation of the regulations, these units did not come into consideration of the setbacks. He was surprised when it came time to go for his Certificate of Occupancy and he was told he needed to obtain a variance for the air conditioning units. The house is built and a variance was previously granted for the front yard setback. He took the previously existing house, which was non-conforming on three sides and made it conforming on those three sides. The approved variance was for the front yard setback. His hardship is the lot is narrow, pre-existing and non-conforming. The neighbor impacted by these air conditioning units the most is fine with them.

**Mr. Haberman** asked the distance from his house to his neighbor's house to which Mr. Pinto answered it is his 5' side and their 10' side; so there is about 15'-16' between the houses.

**Mr. Mead** stated it looked like the photo submitted to the Board, showed the air conditioning units were underneath the overhang of the roof. He asked if the units were on the original plans to which Mr. Pinto said no.

There being no one to speak in favor or opposition the hearing was closed.

#### DISCUSSION:

**Chrmn. Katen** stated it is a given that if you are going to build a brand new house you will have air conditioning in it.

**Mr. Sulkis** said it is a requirement of the regulations to show everything on the site plan and these units were not spelled out on the original plan.

**Mr. Haberman** made a motion to approve with Mr. Carey seconding. The hardship is the narrowness of the lot. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

6. **69 Hayes Drive** (Zone R-10) Gail Baird, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 5' to erect 2 story addition with 1 story front porch. CAM required. Map 19, Block 203A, Parcel 14.

**Gail Baird**, 69 Hayes Drive, said the house was built in 1950 and currently sits over the setback line. She would like to keep the addition in-line with the home. The hardship is the existing house is already non-conforming and in order to keep the esthetics of the house and harmony with the neighborhood, she needs to request this variance. She submitted a letter from her neighbor at 63 Hayes Drive who has no objection to the variance request.

**Mr. Haberman** confirmed the hardship was the placement of the house on the lot and she would be keeping with the same line of the house, which is already non-conforming.

**Ms. Baird** said that was correct.

There being no one to speak in favor or opposition the hearing was closed.

## DISCUSSION:

**Chrmn. Katen** agreed with Mr. Haberman that they were just squaring off the house.

**Mr. Tuozzola** said they didn't ask what the overall height was to which Mr. Sulkis answered the application was for a setback issue not a height issue.

**Mr. Tuozzola** made a motion to approve with Mr. Haberman seconding. The reason for approval is the proposed addition will occupy an unused area of the lot and would be squaring off the house. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

7. **28 Tumblebrook Drive** (Zone R-12.5) Frances J. Maher, owner – request to vary Sec. 4.1.4 to allow construction of open porch and steps (as projections) with a 21' front yard setback where 26' front yard for projections is required; vary Sec. 4.1.8 uniform front yard setback of 30'+/-. Map 109, Block 806, Parcel 65.

**Frances Maher**, 28 Tumblebrook Drive, stated there are ten houses on the street and three of them have front porches. She would like to have one too. The existing front stairs come out 6' and she would like to increase that to 8' wide by 14' long for the porch.

**Mr. Haberman** asked what the dimensions of the property were to which Mr. Sulkis answered it appeared to be 147'x94'.

**Mr. Haberman** added it looks like the house sits up close to the front property line, so no matter what you did in the front, you would need a variance.

There being no one to speak in favor or opposition the hearing was closed.

## DISCUSSION:

**Chrmn. Katen** reiterated the lot is big but the house is set forward on the lot. The variance is for 4'. The hardship is as stated.

**Mr. Haberman** made a motion to approve with Mr. Carey seconding. The hardship is the location of the house on the lot. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

8. **61 Shelter Cove Road** (Zone R-12.5) Stephen Studer, attorney, for Paul & Jean Tupper, owners – request to vary Sec. 4.1.8 uniformity of setback to allow open front porch setback of 34'+/- where the uniform setback is 41'+/-. CAM received. Map 45, Block 511, Parcel 43C.

**Attorney Stephen Studer**, Berchem, Moses & Devlin, 75 Broad Street, passed out photos to the Board. He said the Tupper's are converting their ranch style house to a cape cod style house and would like to add a 7' wide open front porch with roof over, 34.5' from the front property line. The adjacent properties are approximately 41.5' from the front property line, which is why they are here for a variance tonight.

You are allowed to project 4'. This would not be functional so they are asking for 7', which is more practical. Esthetically, it will add to the attractiveness of the home. It will be open and will not detract from the uniformity of the neighborhood. The hardship is the location of the building and the inherent conflict within the Regulations of Sec. 3.1.4.1 and Sec. 4.1.8. He submitted a petition of 15 neighbors in support of the application. The proposed front porch will be in harmony with the neighborhood.

**Mr. Mead** asked if the gutters were included in the measurement to which Atty. Studer answered in the affirmative.

There being no one to speak in favor or opposition the hearing was closed.

#### DISCUSSION:

**Mr. Tuozzola** commented that all the properties on that street have extremely deep frontage.

**Mr. Haberman** said he has less concern for open porches because you can see right through them. He agreed the houses on the street do sit back quite a bit and there are other porches that exist in the neighborhood. The neighbors think it is good for the neighborhood.

**Mr. Tuozzola** made a motion to approve with Mr. Haberman seconding. The hardship is the deep frontage. The variance being asked for is not extreme. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

9. **274 Maplewood Avenue** (Zone R-10) Alexander Tabak, owner – request to vary Sec. 11.2 to construct a detached accessory building (garage) which is 87.5% of the size of the principal building (residence) where 50% maximum size is allowed. Map 20, Block 224, Parcel 36B.

**Alexander Tabak**, 274 Maplewood Avenue, said he would like to put up a two car garage where a one car garage is allowed. The size will accommodate two vehicles plus lawn and yard equipment.

**Chrmn. Katen** confirmed the house is 32'x24' and the proposed garage will be 24'x28' to which Mr. Tabak said that was correct.

**Mr. Carey** asked when the house was built.

**Mr. Tabak** answered it was built in 1952.

**Mr. Tuozzola** asked the dimensions of the lot to which Mr. Tabak answered it was 150' deep by 80' wide.

**Mr. Haberman** asked what is behind the house.

**Mr. Tabak** answered there are two lots with deep yards, about 300' deep.

**Mr. Mead** asked how far the house would be from the garage.

**Mr. Tabak** said about 50'.

**Mr. Mead** asked what would be on the second floor.

**Mr. Tabak** answered it would be a storage loft.

**Chrmn. Katen** asked if there would be water.

**Mr. Tabak** answered no.

There being no one to speak in favor or opposition the hearing was closed.

DISCUSSION:

**Chrmn. Katen** said the lot is huge with a small house on it. He didn't see a problem with it.

**Mr. Mead** made a motion to approve with Mr. Carey seconding. The reason for approval is the applicant would have to add on to the house in order to get the garage. The lot is big and the garage would be in the rear and would pose no problem to the neighbors. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

10. **60 Ocean Avenue cor. Glenwood Avenue** (Zone R-7.5) Walter Piechota, appellant, for Felicia C. Shashinka, owner – request to vary Sec. 3.1.4.1 front yard setback from Glenwood Avenue (only) from 20' to 6' to allow overhang and gutter projections. CAM required. Map 9, Block 126, Parcel 14.

**Walter Piechota**, 101 Point Lookout, said a variance was previously granted for this property but he was told the variance did not include the overhangs. The hardship is they have two front yards.

**Mr. Mead** asked when the previous variance was granted to which Mr. Piechota answered November 2006.

**Mr. Mead** asked if the overhang was included in the building plans.

**Mr. Piechota** said yes. He said he was told by Linda Stock that he only got 1' on the 5' side and a variance was needed. It was never discovered before that time. This is not something that was added. He didn't realize it was needed.

**Mr. Mead** confirmed this is the same side of the house that the previously granted variance was for.

**Mr. Piechota** answered that was correct. Ms. Shashinka was granted a variance on three sides, but they need a variance of 1' for the overhang on two sides (the west and north sides) of what was already granted. He added the only overhang that is finished is the gable over the garage.

There being no one to speak in favor or opposition the hearing was closed.

DISCUSSION:

**Chrmn. Katen** said to Mr. Sulkis this should not happen; it was approved by the Board.

**Mr. Mead** made a motion to approve with Mr. Tuozzola seconding. The reason for approval is the homeowner was approved for a variance in November of last year and at that time the Board thought the overhangs were included. They were not. Due to the Board's or Planning and Zoning's error, they should approve the variance. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

## **B. TABLED BUSINESS**

## **C. OLD BUSINESS**

1. **79 Orland Street** - discussion of modification of variance granted May 23, 2006.

**Angelo Macci**, 79 Orland Street, said he submitted an application to Mr. Crabtree. Mr. Crabtree felt it was necessary to bring it before the Board which is why he is here tonight. It meets all the requirements.

**Chrmn. Katen** confirmed this was all about an overhang issue to which Mr. Macci said that was no longer the case because he changed everything. It will no longer be a modular home, but a stick built so he can more easily construct a home. He will be staying within the variance setback that was already approved, 20' with the overhang already included. It will be 19.2'.

**Mr. Sulkis** stated the changing of the plans and the history of this property before the Zoning Board of Appeals, made Mr. Crabtree uncomfortable with issuing the permit. The new plans show the mass of the house shifts. It doesn't affect the variances at all. Instead of the deck being in the back, it will now be in the front. All setbacks will equal what was originally granted. An addition will also be added to the back of the house but the addition does not need a variance. Everything is within the setback lines.

**Mr. Mead** said as long as everything fits within the previously approved variance, there should be no problem.

**Mr. Sulkis** reiterated he did not see a problem with issuing a permit but because Mr. Crabtree had the history with the application and felt uncomfortable without the Board reviewing it first, it was brought before the Board this evening.

**Mr. Carey** made a motion to approve the issuance of a permit with Mr. Haberman seconding. The motion carried unanimously.

## **D. NEW BUSINESS**

## **E. STAFF UPDATE**

**Mr. Sulkis** said he spoke with Linda and she is doing better and she is home. She has had some setbacks and it has been a rough road but it appears she is on the mend.

**Mr. Mead** asked Mr. Sulkis when an applicant receives a variance for a side yard setback, do they lose the 20% projection into required yards to which Mr. Sulkis said he thought they did but he would have to check with legal to be sure.

**Chrmn. Katen** said along with handicap ramps, he no longer wanted to see any more air conditioner units coming before the Board.

**Mr. Sulkis** said in the Point Beach Drive application heard tonight, the original site plan did not show any air conditioner units.

**Mr. Mead** asked if there was any word on the Silver Street file to which Mr. Sulkis said he had not heard anything.



**Mr. Tuozzola** said there is a Getty gas station on Cherry Street that continually puts out a gasoline sign that is not supposed to be there. Linda has cited them previously and they take the sign in for awhile after being cited and then put it back out.

**Mr. Sulkis** said they would look into it but added that almost every property, one block over, on the Boston Post Road is in violation. He stated he had put in the budget for another Zoning Enforcement Officer, but did not get it.

**F. ACCEPTANCE OF MINUTES FROM AUGUST 14, 2007 MEETING.**

The minutes were approved unanimously.

**G. ACCEPTANCE OF APPLICATIONS FOR OCTOBER 9, 2007.**

The meeting was adjourned at 8:25 p.m.

Attest:

Rose M. Elliott  
Clerk - ZBA