

Zoning Board of Appeals
Meeting minutes – 07.07.2022 – draft

Attendees: Lisa Rood, Beth Pryor, Dave May, Robert Ballard, Mike Flattery, Tony Rosati, Kyle Calabrese/Attorney, Tom Murphy/Code Enforcement Officer
Absent: Kelly Martin/Town Liaison

1. Work Session – Planning Board Room

2. Call Meeting to Order – Town Court Room
Meeting called meeting to order by Ms. Rood at 725pm
ROLL CALL
Ms. Pryor
Mr. Rosati
Mr. May
Mr. Ballard
Ms. Rood
Mr. Flattery

3. Pledge of Allegiance – lead by Ms. Rood

4. ZBA Responsibility Reading – read by Ms. Pryor

Ms. Rood read the Public Notice:

PUBLIC NOTICE
TOWN OF BOSTON
ZONING BOARD OF APPEALS

The ZBA will meet at the Town of Boston Town Hall on **Thursday, July 7, 2022 at 7:00 PM** for the Work Session in the Planning Board Room followed by the Public Hearing in the Court Room to hear the following petitions:

Petition #598 – Evan & Jessie Po-Chedley, 6304 Patchin Rd, requests a Use Variance for an accessory apartment to an existing detached building.

Petition #599 – Terrence & Kristin McCracken, 7588 Omphalius Rd, requests 284 sq ft area variance per Town of Boston Code Section 123-136B(4) for a 16x24 covered patio to a detached building.

Petition #600 – Gregory Poliseno, 7542 Back Creek Rd, requests 660 sq ft area variance per Town of Boston Code Section 123-136B(4) for a new detached accessory building.

SEQR letter read by Ms. Rood:

TO: ZBA Chairman and Board members
FROM: Sarah desJardins, Planning Consultant

RE: July 7, 2022 ZBA petitions

Chairman and Board members:

Regarding **Petition # 598** Evan & Jessie Po-Chedley, the applicants are requesting a Use Variance to allow an accessory apartment and a principal dwelling to be located on the same parcel.

In order to satisfy the first use variance criterion, the applicants must prove with competent financial evidence that they cannot realize a reasonable rate of return on the parcel on which they want to have the accessory apartment without the granting of the use variance. If the Board feels the use variance should be granted, a Negative Declaration must be issued before the use variance is approved (it is classified as an Unlisted Action under SEQR).

Regarding **Petition #599** Terrence & Kristin McCracken, the applicants are requesting a 284 sq ft area variance for a 16x24 covered patio on a detached building.

The proposed Action under SEQR is classified as a Type II Action and therefore is not subject to review under SEQR.

Regarding **Petition #600** Gregory Poliseno, the applicant is requesting a 660 sq ft area variance for a new detached accessory building.

The proposed Action under SEQR is classified as a Type II Action and therefore is not subject to review under SEQR.

Respectfully submitted,

Sarah desJardins, Planning Consultant

5. Minutes

Ms. Rood relayed who the 'person' was that spoke for petition#595. It was Ms. Seider.

Motion made by Mr. May to approve May's minutes with requested correction.

2nd by Ms. Rood

ROLL CALL

Ms. Pryor

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

APPROVED by all members

Ms. Rood made motion to open the Public hearing for Petition #598, Evan & Jessie Po-Chedley,
6304 Patchin Rd
2nd by Mr. Ballard

ROLL CALL

Ms. Pryor

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

APPROVED by all members

Ms. Rood read a letter from neighbor for the record – no issues with request. No other communications received for this application.

Mrs. Jessie Po Chedley spoke. Have existing barn that has a lot of qualities and have a son with autism as well as intellectual delay. Was told to find housing for their son since autism is on such a rise and there will be no housing when he is older. Received stimulus check and decided to put the money into the barn and transforming it into an apartment. Did not expect a great recession so was thinking of renting the barn. Did not get the proper permits and did this the wrong way and apologized to the board. Had their son in mind and if their son did not have this diagnosis, have no desire to be a landlord. Just wanted to provide for their son.

Ms. Rood asked how old their son was. RESPONSE: 9yrs old. They have time and are doing the remodel themselves.

Mr. Po Chedley mentioned: unsubstantial 400 sqft. Did not change much. Painted the barn, but on a new door. From the outside, you cannot see any changes. Enough room for one person/car.

Ms. Rood asked about converting a barn into living quarters. RESPONSE. Some things need to be done. Ms. Rood: Did you work with someone or do on your own? RESPONSE: They have an architect to make sure all is sound. All the work was done, walls, the electric etc.

Ms. Rood asked about the sewer. RESPONSE: Tied back into the home septic tank. Has stopped working since permits are needed.

Mr. Po Chedley stated most of the work was already done

Mr. Flattery – talked about the neighbor's letter – are they closest? RESPONSE: Yes

Ms. Rood – got a packet from COE – was everything filled out? Response – YES.

Ms. Rood relayed that they were expecting a packet of information of what is required for a Use Variance. Proof needed is needed from the applicant. RESPONSE: not for financial gain.

Ms. Rood – talked about all the four factors are needed for a use permit – if not all met, it has to be denied, State Law. This is based on law/code.

Ms. Pryor advised that they need to provide information that shows they would not be able to regain the money that was put into the project.

Ms. Rood asked how long at home? RESPONSE: 5 years. Ms. Rood went over further info about how proof of the investment cannot be given back. The applicant has to show that they cannot get the investment back, unless the apartment is put in. Criteria is needed. Cannot be a

self-induced hardship. Cannot change character of the neighborhood. Criteria is needed. Ms. Rood relayed that financials are required. Use variances are hard to get. Ms. Pryor agreed. This is difficult to get and need everything back to consider. This is state law that makes the requirement.

Ms. Pryor and Mr. Ballard stated that they may need to get a lawyer to help.

Ms. Po Chedly relayed that they need to pursue further.

Mr. Flattery gave the pages that were needed and gives the outline of what is needed.

Ms. Pryor talked about documents needed.

Ms. Rood advised that the paperwork is needed to be put on the agenda for August.

Board Clerk Cavarello commented about the request for documents is time sensitive to make the August agenda.

Motion to table request Petition#598 made by Ms. Pryor

2nd by Mr. Flattery

ROLL CALL

Ms. Pryor

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati – alternate – not counted

Ms. Rood

APPROVED by all members

Motion made to close the public hearing by Ms. Rood

2nd Ms. Pryor

ROLL CALL

Ms. Pryor

Mr. Flattery

Mr. May

Mr. Ballard

Ms. Rood

APPROVED by all members

Next Public hearing opened, Petition#599, read by Ms. Rood

Ms. Rood asked the applicant if they had received any letters from neighbors. RESPONSE: No

Motion by Ms. Rood

2nd by Ms. Pryor

ROLL CALL

Ms. Pryor

Mr. Flattery

Mr. May

Mr. Ballard

Ms. Rood

APPROVED by all members

Terry Mccracken spoke and talked about building a pole barn. Have the building permit. Then decided to put in a patio too. The 24x16 covered patio puts them over the code. Looking for consideration.

Mr. Flattery asked if this is the same contractor? RESPONSE: Yes. Mrs. Mccracken advised that it faces the back. Mr. Flattery commented that no one from the road would see it.

Ms. Rood asked about drainage, what is being done. RESPONSE – The previous owner did a nice job. There is a pipe that is around the perimeter in anticipation of putting up a building. Questions?

Motion to close public hearing made by Ms. Rood

2nd by Mr. Flattery

ROLL CALL

Ms. Pryor

Mr. Flattery

Mr. May

Mr. Ballard

Ms. Rood

APPROVED by all members

Motion to approve Petition#599 by Ms. Pryor

Approve x Deny _____ Reserve Decision _____

Table _____ Time Frame _____

Conditions to approval:

(1) Does it create an **undesirable change to the character of the neighborhood**?

Yes [] No [x]

(2) **Can the benefit** sought by the applicant **be achieved if the variance is not granted**?

Yes [] No [x]

(3) Is the requested variance **substantial**? Yes [] No [x]

(4) Will the variance have an **adverse effect on the physical impact or environmental conditions of the neighborhood**? Yes [] No [x]

(5) Is the alleged difficulty **self-created**? Yes [x] No []

2nd by Ms. Rood

ROLL CALL

Ms. Pryor

Mr. Flattery

Mr. May

Mr. Ballard

Ms. Rood

APPROVED by all members

Ms. Pryor directed the applicant to get in touch the Code Enforcement Officer Tom Murphy.

Motion to open public hearing for Petition#600 by Ms. Rood, petition read
2nd by Mr. Ballard

ROLL CALL

Ms. Pryor
Mr. Flattery
Mr. May
Mr. Ballard
Ms. Rood
APPROVED by all members

Applicant, Gregory Polisenio for a 30x50 pole barn. Received a letters for the record from neighbor. Was given to Ms. Rood and read for the minutes.

Ms. Rood talked about the rain runoff – 1in of rain would be 934 1/2 gallons coming off the roof. RESONSE: That's it? The property is higher up and has natural drainage. No problem to run gutters.

Ms. Pryor commented about how large the building is. RESPONSE: Trucks and tractor with loader and blower, rec vehicles, etc. fills up quick.

Ms. Rood commented about a shed in rear. RESPONSE: Yes.

Mr. BALLARD asked about the height, what are the walls? RESPONSE: 12ft

Mr. May asked if there will be power in the building. RESPONSE: Not planning on it. Cold storage. Only thought of a garage door opener but don't need the electric, can do spring door.

Mr. May asked if concrete floor? RESPONSE: No – moisture will create rust.

Mr. Flattery commented that there is no water or no heat.

Beth asked: Can you work with less? RESPONSE – don't want to. If not going to be approved, would have no choice. Truck alone with 9ft V-blade is 25ft. Fills up fast. Don't want to do this again. No one is going to see it. If he shaves 10ft, will not make a visible difference.

Ms. Rood commented that it would save the tree, if shorter. Kids would have more green space. It is a small lot.

Mr. Flattery commented on how it looks deceiving where the garage will be put, you can barely see it from the road. RESPONSE: You can barely see the building in the yard. Want to go smaller? No. Wanted to go bigger but didn't want to push it. Have a lot of stuff to store. Don't want stuff outside. Ms. Rood talked about the workbench and the attached garage.

RESPONSE – talked about the attached garage, workbench and how it is small because of how it designed.

Motion to close public hearing by Ms. Pryor.

2nd by Mr. Flattery

ROLL CALL

Ms. Pryor
Mr. Flattery
Mr. May
Mr. Ballard
Ms. Rood
APPROVED by all members

Mr. Flattery made a motion to approve the building size of 30x50x12 detached building

Approve x Deny Reserve Decision

Table Time Frame

Conditions to approval:

- (1) Does it create an **undesirable change to the character of the neighborhood**?
Yes [] No [x]
- (2) **Can the benefit** sought by the applicant **be achieved if the variance is not granted**?
Yes [] No [x]
- (3) Is the requested variance **substantial**? Yes [x] No []
- (4) Will the variance have an **adverse effect on the physical impact or environmental conditions of the neighborhood**? Yes [x] No []
- (5) Is the alleged difficulty **self-created**? Yes [x] No []

2nd by Mr. Ballard

ROLL CALL

Ms. Pryor - Yes

Mr. Flattery - Yes

Mr. May - Yes

Mr. Ballard - Yes

Ms. Rood - No

APPROVED

Ms. Pryor advised the applicant to get with COE/Tom Murphy

Motion made to close meeting by Ms. Rood

2nd by Ms. Pryor

ROLL CALL

Ms. Pryor

Mr. Flattery

Mr. May

Mr. Ballard

Ms. Rood

APPROVED by all members

Adjourned at 757PM