

Town of Shirley
ZONING BOARD OF APPEALS
7 Keady Way, Shirley, MA 01464

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MEETING MINUTES

Public Hearing

Monday - June 1, 2020 7:00 PM
Town offices, 2nd floor Conference Room
Via channel 99, conference call and Zoom

Members Present: Chairman Chip Guercio, Member Lee Mirkovic, Member Brian Hildebrant, Associate Member Dave Swain.

Attending virtually: Member Kevin Kelly and Vice Chairman James Yocum

Chair Guercio called the meeting of the Zoning Board of Appeals to order at 7:44 PM
He stated that the meeting was being televised on channel 99 as well as virtually

1. 15 Munson Ave. Renewal of a Special Permit in relation to Protective Zoning Bylaw 4.6.3, Parcel ID: 21 A 18

Chair Guercio began by reading a copy of the legal notice, an overview of the application and other items in the file as well other Board comments and the decision from 2015.

Chair Guercio asked the applicant to speak. Mr. Guthrie was attending via remotely. Mr. Guthrie stated there were no changes to his business and only asked that the Special Permit be allowed for ten years rather than the previous five. Chairman Guercio asked Mr. Guthrie if there were any changes to the conditions placed on his Special Permit that was granted last time and they were: No retail sales, no storage of hazardous materials, upstairs of the barn is not used for living space, no heavy maintenance or washing of vehicles - light maintenance only, no running water in the barn – but the used of a hose is permitted to fill the boiler to maintain the radiant heating for the flooring, minimize the removal of trees or screening located on the property. Mr. Guthrie stated that there were no changes to the conditions.

Chair Guercio stated that there were no abutters present in the building or via Zoom that wished to speak. Board Member James Yocum stated he was all for the renewal, as did Mr. Kelly. Mr. Mirkovic stated that if Mr. Guthrie is good with maintaining the conditions then he fully supports the 10 year extension as did Mr. Hildebrant and Chairman Guercio and alternate Member Dave Swain.

7:53 PM Chairman Guercio closed the public hearing.

Mr. Kelly moved to approve the renewal of a Special Permit under current Zoning Bylaw 4.6.3 with its current conditions for 15 Munson Avenue and extend it for a period of 10 years. Mr. Hildebrant seconded, as did all members and Chairman Guercio.

The extension of the Special Permit for 15 Munson Avenue passed unanimously.

2. Michael and Tracy Slocumb – 4 Trout Brook Way, seeking a variance for relief from Protective Zoning Bylaw 3.1.2 to construct a pool house less than 50 feet from their property line. Property is in the R-R District, Parcel ID: 116 A 1.13

Chair Guercio read the legal advertisement into record and gave an overview of their application which included a drawing by Muse Design. He then read the comments from other Boards.

- The Planning Board commented: The Planning Board met on May 13th and discussed the proposed variance for 4 Trout Brook Way on the ZBA agenda. After some discussion, the Planning Board voted to recommend the denial of this request for the following reasons:
 1. Based on the review of the map provided and the review of the property on Google Earth, the proposed pool house would not need to be placed in that specific spot on the property.
 2. A pool house is a nicety, not a requirement of the property, therefore, even if there is a topography issue, the by-law should be followed and if it cannot be met, than they could not have a pool house.
- The Conservation Commission commented: Not within the jurisdiction of the Conservation Commission.
- The Tax Collector commented that the taxes were current
- The Building Inspector had no comment
- The Fire Chief had no comment
- The DPW had no comment
- The BOH had no issues to comment

Chair Guercio then read three letters in favor of the project into record (see attached letters). He mentioned that three of the Members made a site visit and then asked the Slocumb's if they would like to speak. Tracy Slocumb came forward and stated that there was some confusion among the Board Members and the pool house would be 34' away from the property line rather than 27' and that Planning Board though. Also that the topography in their yard causes issues which is why they asked for the site visit. There is a hill, a well line and electrical lines making the space to put the pool house where it is on the drawing. Chair Guercio asked anyone in the audience or on Zoom for comments, there were no questions. The Board Members were then allowed to comment. Mr. Yocum stated that he was concerned that it wasn't just a foot or two, it was a significant distance and the Bylaws were there for a reason. He also agreed with the Planning Board's thoughts and mentioned that he didn't believe the topography was such an issue and saying yes would set a precedent and he felt they should respect the laws.

Mrs. Slocumb responded that putting it on the other side of the property to respect the neighbors on that side and explained in depth. She also explained more on the topography issues. A conversation was had regarding the same. Mr. Kelly suggested putting a restriction and changing the distance to 40' as the property abuts conservation land. A conversation was had between the Members. Mr. Hildebrandt stated that the site for the pool house was a logical place and he after visiting the site he supported its placement.

Mr. Mirkovic posed a few questions about the structure itself of Mrs. Slocumb and a conversation was had. Mr. Mirkovic stated that he wasn't comfortable with the setback and he honors the thoughts of the Planning Board and his tendency was to vote against the Variance. Mr. Oelfke in the audience, who is a member of the Planning Board was asked if he would like to comment. He spoke regarding the Planning Board statement and how they based their comments on a plan and the MGL laws. They didn't think there was really a "hardship",

perhaps a preference but not a true hardship. They felt that the rules were put in place for a reason and the Planning Board was following those rules.

Chairman Guercio stated that he respects the Planning Boards comments and thanked Mr. Oelfke. He expressed that the Building Inspector as well as the Board of Health had no comments and he felt that applicants had done their due diligence and were coming to the Zoning Board of Appeals for relief and that's what this Board is created for, an outlet when there is a conflict with the setbacks. He didn't feel any negative liability to the Town or the Zoning if it were to pass. In this case he feels that the place they applicants proposed to construct the pool is perfect for their home and all the work they have done. He has not made his decision lightly nor is it disrespect to the Board but he supports the variance. He asked the Board for comments. Mr. Yocum stated that he felt since there are other options on the site, which may not be their first choice, he did not support the variance. No other Members had additional comments.

8:41 PM Chair Guercio closed the public hearing portion of the meeting.

Mr. Kelly moved to Grant the Variance under Section 3.1.2.c.3 for 4 Trout Brook Way with the condition of changing the setback to 40 feet. The Board discussed this change instead of the 34' currently proposed amongst themselves as well as Mr. Slocumb, whether it meant changing the size of the structure or it's location to one side or another. Chair Guercio asked the applicant if he would be willing to come back in front of the Board with an engineered plan, taking into account all that they discussed. Other Members agreed to a continuance to another date with a more definitive plan with the proposed changes should happen.

Mr. Kelly withdrew his Motion. No vote was taken.

Mr. Guercio made a motion to continue the meeting until June 15, 2020 at 8:45 pm. All in favor, passed unanimously.

ADMINISTRATIVE MATTERS

Chairman Guercio made a motion to approve and sign an invoice from Ayer Shirley Tracker in the amount of \$140.00. Mr. Mirkovic seconded, all in favor, unanimous.

Chairman Guercio made a motion to approve and sign the minutes from May 4, 2020 meeting. Mr. Kelly seconded, all in favor, unanimous.

Chairman Guercio made note of the letter from TEC Engineering regarding 52 points they were intending to go over in a letter and asked the Board to read and comment at a later date to the Administrative Assistant.

CLOSE OF MEETING

Chairman Guercio made a motion to adjourn the meeting at 9:25 PM, Mr. Mirkovic seconded, all in favor, unanimous.

Prepared By: Sheryl Belley

Accepted By: 

Date: 7/2/2020

Good Morning,

I received a letter regarding the upcoming variance meeting for Michael and Tracy Slocumb seeking approval to build a pool side structure.

My husband and I have no issues with this request and wish them the very best.

If you have any questions, please do not hesitate to reach out to me.

Sincerely,
Cheryl and Michael Pinault
3 Trout Brook Way
(978)448-8180

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Good morning Sheryl,
I live at 6 Trout Brook Way and am writing to inform you that my husband and I have no objection whatsoever with Mike and Tracy Slocumb building a pool side structure.

Thank you,
Christina James

To whom it may concern;

In accordance to the Protective Zoning Bylaws Section 3.1.2 in reference to the above mentioned variance address we as abutters located at 2 Trout Brook Way, take no issue and agree to the variance requested by Michael & Tracy Slocumb.

Sincerely,
Basil & Catherine Gregory
2 Trout Brook Way
Shirley, MA