

MARBLEHEAD PLANNING COMMISSION MEETING

November 1, 2023

Meeting called to order by Chairman Tim Feller at 6:00 PM. Members answering Roll Call: Members Richard Zembala and Cher Monak, Council Member Matt Kovach, Mayor Jacqueline Bird, and Chairman Tim Feller. Motion made by Mayor Jacqueline Bird and seconded by Member Cher Monak to approve the September 6, 2023 minutes as presented. Motion carried by unanimous roll call vote.

Public Comments: None

Old Business: None

New Business: Public Hearing for Variance request by Gary Desmond – setback on affidavit lot Gary Desmond was present to explain his request to the Board of Zoning Appeals. This is an affidavit lot which is across the street from their dwelling lot at 4084 Memorial Shoreway. Mr. Desmond would like to put a 44' x 16' accessory building on lot #348 of Bay Haven Estates. Mr. Desmond would like to locate the building 32 feet from the road which would result in a rear setback of 128 feet from the rear lot line instead of the required 10 feet. After some discussion, the Board said they would agree to 75 feet setback from the road, which would result in a rear setback of 85 feet. Chairman Feller asked if there were any comments or questions from the visitors. Mr. Mark Smolik, a contiguous neighbor to the east, was present and was concerned that the natural water flow from the Baycliffs development to the lake runs across the Desmond property. He was worried that a building on that lot might cause poor drainage and water backup. Mr. Desmond said that he is aware of the water flow and that the drainage has been greatly reduced by the installation of the storm sewer on Memorial Shoreway. He also pointed out that the proposed building is set on wood runners as opposed to a concrete foundation and the floor will be several inches above the grade allowing water to flow under the structure. Mr. Smolik did not oppose the variance.

A motion was made by Council Member Matt Kovach and seconded by Member Cher Monak to approve the Desmond area variance #05-23 to allow a new 44'x16' accessory structure to be located 81 feet to the rear property line of lot 348 of Bay Haven Estates instead of the required 10 feet, and further that the variance application and Finding of Fact which includes review of the factors listed in §154.279 is made part of these minutes. Motion carried by unanimous roll call vote.

Discussion about the Jeff Neverman gazebo. Mr. Neverman appeared previously at the August 2, 2023 Board of Zoning Appeals meeting informally, to resolve a non-conforming issue with a newly installed gazebo. The gazebo was installed with no zoning permit. Mr. Ron Ameigh, a neighbor called the zoning office and the Zoning Administrator investigated and found the gazebo was located too close to the sideline and too close to the lakeside lot line. The distance from the gazebo to the lakeside lot line is unclear since Mr. Neverman said his deed shows 190 feet for his lot length and the actual measurement from the roadside lot pin is only 160 feet on the west property line. The west property line is the common lot line between the Nevermans and the Ameighs. Both neighbors had different measurements for the distance to the lake from the gazebo, so the Board asked Mr. Neverman to get the property surveyed with the house and gazebo located on the plat. Mr. Neverman is present today with that updated information (drawings and photos on file). Mr. Ameigh is also present. Today's meeting is an informal meeting. The Board reviewed the information supplied by Mr. Neverman including the plat survey and the deed with legal description for his property. According to the survey, the gazebo is located approximately 8

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feet too close to the shoreline. The shoreline setback for an accessory structure by rule is 60 feet. A lively discussion ensued between Mr. Neverman, Mr. Ameigh and the Board members. Council Member Matt Kovach pointed out that the old adage of asking for forgiveness instead of permission does not really work since it leaves a situation like this for others to fix. Mayor Bird suggested pushing the gazebo back towards the house as far as it could go, in order to lessen the variance needed. After this discussion, the Board determined that the gazebo could be moved all the way to the deck of the house as a compromise to allow this issue to be resolved. This would put the front of the gazebo at 58.5 feet to the shoreline which would require a 1 ½' variance. This location will place the gazebo next to the existing house stairs and therefore cannot be moved any further away from the side lot line. The gazebo would be slid straight back maintaining the existing 3 ½' sideline setback requiring a second variance of 1 ½'. The sideline setback by rule is 5 feet. Secretary Hruska explained the process for a variance to Mr. Neverman. Mr. Neverman will contact the Secretary for the variance paperwork with the intension to be at the December 4, 2023 meeting for his variance hearing.

Zoning Administrator's report

- A. Bay Point is in the planning stage for a mini-storage permit for the lot across the street from Waterview, on the corner of Alexander and Bayshore. The individual storage rentals will be contained in long building as is typical for mini-storage. By rule each unit maximum is limited to 300 sf. The Zoning office is currently reviewing this plan and total number of units is not yet determined, but it will be over 400 in approximately 15 buildings. This project will also include a convenience store located at the front of the lot along Bayshore Road.

Meeting adjourned at 7:30 PM

I hereby certify these minutes to be true and accurate



Secretary, Robert Hruska