

MARBLEHEAD PLANNING COMMISSION MEETING

October 4, 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 Jaqueline Bird, and Chairman Tim Feller. Motion made by Mayor Jaqueline 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 Dan Russell – larger accessory building at 510 E Main St. Mr. Russell would like to put a 2400 square foot accessory building in the rear of his lot. The maximum allowable square feet for all accessory buildings are 1200 sf. There is currently a swimming pool and deck on the lot which is 642 sf. This leaves 558 square feet available for accessory expansion and would need an 1842 square foot variance. Mr. Russell has previously investigated the possibility of splitting the rear property off into a stand-alone lot. Because of the shape of the land and the surrounding properties and the multiple variances required, this is unlikely. The Board discussed the variance option and found that because of the large area of the lot, (3.54 acres) a larger building would not look out of place. In addition to the large lot, the placement of the proposed building would be in the southwest corner of the lot and be approximately 300 feet to the nearest existing neighboring house. The south and west lot lines of the Russell property border the LaFarge Quarry property. Mr. Russell appeared before the Board informally in August so the Board was familiar with this issue. After some discussion with Board members, Chairman Feller asked if there were any comments or questions from the visitors. Glen and Pat Tinker, neighbors to the west were present to determine where the building was to be located. A copy of the plat showing the location of the proposed building was given to the Tinkers to review. They also asked if any trees were going to be cleared. Mr. Russell said he will only be removing trees necessary for construction. After reviewing the plans, the Tinkers were not opposed to the variance. Hellen Pasqualini, a neighbor to the north was present to ask about the placement of the proposed accessory building. She did not object to the variance.

A motion was made by Mayor Jackie Bird and seconded by Council Member Matt Kovach to approve the Russell area variance #03-23 to allow a new accessory building to be 2400 square feet instead of the required 1200 square feet, and to be located 20 feet from west property line and 20 feet from the south property line, 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.

Public Hearing for Variance request by Pat Aubry for side setback at 110 Glacial Lane.

Pat Aubry, the owner was present to explain his request to the Commission. The Aubry's had an existing house that they demolished in order to build a new house. The new setback requirements for their lot are 15 feet to both sidelines. This would not allow a house as wide as the old house and centering the new house on the lot would require two variances, one for each sideline, so the Aubry's are asking for relief for one sideline setback. If they locate the house at 9 feet setback to the overhang on the north side then the other side of the house will be 20 feet setback from that sideline. The old house had no setback to the sideline, so this variance would allow a more normal setback to the neighboring property, the Pleasant Pointe Condominiums. Mr. Aubry appeared at last month's Planning meeting, so the Board was familiar with this issue. Chairman Feller asked if there were any questions from the visitors. There were none.

A motion was made by Council Member Matt Kovach and seconded by Chairman Tim Feller to approve the Aubry area variance #04-23 to allow a new house to be located 9 feet from the north property sideline measured to the overhang, with all other setbacks conforming, 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.

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Zoning Administrator's report

- A. Next month's hearing, November 1 2023 will be three months since Jeff Neverman was sent a setback violation notice by the Zoning Administrator. This was for an accessory structure (Gazebo) that was installed without a permit. Mr. Neverman appeared informally at the August 2 Planning meeting to resolve this issue. However, his setback numbers did not agree with the neighbor, Ron Ameigh's numbers and since the drawing that was submitted by Mr. Neverman was not done by a surveyor, the Board of Zoning Appeals asked Mr. Neverman to have a proper survey done that would officially locate the Gazebo, that the Board could use to make their decision. The Board decided that this situation should not be left in limbo this long, as the original structure was installed without a permit. The Board asked Mr. Hruska to contact Mr. Neverman and let him know that they will decide what to do about this issue at their November 1, 2023 meeting with or without a survey plat.
- B. An answer to the issue of letters and phone calls in opposition to Variances or other public hearings when the complainant does not show up at the hearing. If someone is not present at the hearing, the information that they sent (letter or phone call) is considered hearsay. The question then is, should the Commission be informed of that information to consider at the Public Hearing. According to council, it would be a good idea to have the Commission fully informed, but it should be stated in the minutes how they are weighting the information if it is hearsay. If the Commission thinks the hearsay should be included in the record, they should read the letter out loud and ask the applicant what he thinks of the comments. The applicant comments should hold more weight than the hearsay. However, if the applicant does not address the hearsay, but instead makes a statement indicating that he thinks the hearsay should not be considered at all, then it should not be put into the record. It should be kept in our file, but not included in the Hearing file or used for a determination in that case.
- C. Condominium rules for Planning permits. After discussion between Chairman Tim Feller and Solicitor Jim Barney, it was determined that the Planning Commission does not regulate the condominium declaration, which would be established by the owner after the Village Zoning Permit(s) are issued. The Village is only involved in the Multi-family permit process, not the Condominium determination. So, for example, an owner of that property would apply for a Multi-family development permit through the Conditional Use hearing process, and once that is approved by Planning, the owner would see the Zoning Administrator for zoning permits and then the Ottawa County Building Department for the building permits.

Meeting adjourned at 7:55 PM

I hereby certify these minutes to be true and accurate



Secretary, Robert Hruska