

# MARBLEHEAD PLANNING COMMISSION MEETING

April 3, 2024

Meeting called to order by Chairman Tim Feller at 6:00 PM. Members answering Roll Call: Members Corky Zembala, Council Member Dennis Kennedy, Mayor John Starcher, and Chairman Tim Feller. Member Cher Monak was excused. Motion made by Council member Dennis Kennedy and seconded by Member Corky Zembala to approve the March 6, 2024 minutes as presented. Motion carried by unanimous roll call vote.

**Public Comments: None**

**Old Business: None**

**New Business: Public Hearing for setback variance on Affidavit lot.** The owner, Scott Hirz who was present at this Board of Zoning Appeals hearing, would like to build an accessory structure (a barn) on his rear lot across the street from his house at 4225 Memorial Shoreway. This is an affidavit lot and he has already received the paperwork for this structure from the Zoning Administrator. However, Mr. Hirz would like to place the barn 25 feet from the rear line instead of the required 10 feet. This would require a variance. Mr. Hirz explained that they would like to place the barn farther away from the rear line so that if the neighbor built a house on the empty lot contiguous to that rear line, they would have more separation of the buildings. He pointed out that the Robert Tucker lot next to the Hirz lot was previously granted a rear setback variance for the same reason. An informal meeting on this Hirz setback was held at the March 6, 2024 Planning meeting, so the Board was familiar with the issue. Chairman Feller asked Mr. Hirz if anything has changed with the plan since the informal meeting. Mr. Hirz said nothing has changed. A motion was made by Mayor Starcher and seconded by Council Member Kennedy to approve the Scott Hirz Area variance #01-24, allowing a 30' X 40' accessory structure to be located 25 feet from the rear property line instead of the required 10', 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 to replace the required fence around a swimming pool with a safety cover.** Mr. John Aigler, who is present at today's BZA meeting is installing a swimming pool at his house at 118 Lifeboat Lane, and would like to use a safety cover over the pool instead of a fence so as not to block the lake view for himself and neighbors. This would require a variance. Mr. Aigler supplied written information (on file) about the pool cover for the Board to review. The name of the manufacturer is Automatic Pool Covers. The Model is AutoGuard. The installer, Nick Dubecky explained that the manufacturer supplies an On/Off master switch with a keypad code to satisfy the Village requirement of the cover not being easily opened by an unsupervised child. A motion was made by Council Member Dennis Kennedy and seconded by Mayor John Starcher to approve the John Aigler variance #02-24 to allow an AutoGuard child-safe swimming pool cover manufactured by Automatic Pool Covers and complying with the ASTM F 1346 standard instead of the required fence, and that the pool cover controller will be a keypad with code to prevent uncontrolled access by children from the street or from adjacent properties, and further that the Aigler variance application and Finding of Fact be made part of these minutes. Motion carried by unanimous roll call vote.

**Informal meeting for setback variance deck expansion beyond the Averaging rule for Bob Thoman at 3022 Memorial Shoreway.** Mr. Thoman was present at this meeting. He has a lakefront lot with house and deck that is non-conforming as to the setback from the lakeside lot line. The deck on the lake side of the house extends into the setback area. The house

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and deck were built following the rules in effect at that time which was prior to the time when Johnson's Island was annexed to the Village. The rules governing the setback to the lake have changed since then. So, the house and deck are allowed to stay, but now has a non-conforming status. The Board reviewed the drawings supplied by Mr. Thoman for the proposed deck addition and they generally were not in favor of a variance in this instance. The addition, if allowed, would increase the non-conformity which is already beyond the averaging rule. The averaging setback rule was started in 2017 and was instituted to curb this type of creep to the lake in order to protect the view for the existing neighborhoods in the Village. Member Corky Zembala and Council Member Dennis Kennedy were not opposed to this variance and Mayor Starcher and Chairman Feller were opposed. Three votes being necessary to grant a variance, this request would fail if it appeared before the Board at a variance hearing.

**Informal meeting for setback for variance** at 829 E. Main. The owner of the lake lot is Michele Beck who is present at this meeting, as well as Dan Frederick, the architect for this project. The existing house is encroaching into the State Road right-of-way. The owner wants to demolish the existing house and build a new house at the required 25' setback. However, doing this would still require a variance because although the lot is wide, it is narrow depth from the road to the lake. Mr. Frederick discussed a drawing supplied (on file) of the proposed new house. It would conform to the road setback but be only 20 feet from the water side instead of the required 60 feet. There are no neighboring lakefront dwellings within 400 feet in either direction and therefore the averaging rule does not apply in this case. After some discussion the Board agreed that moving the proposed new house off the road right-of-way even with the lakeside setback variance, is a much better location than the existing house and would be in favor of such a variance if it appeared at a Hearing before them.

**Informal meeting for a setback on an Affidavit lot on Johnson's Island.** The owner, Jeff Keefer was present to discuss this issue with the Board of Zoning Appeals. Mr. Keefer would like to place his proposed building 25 feet from the rear line instead of the required 10 feet. The reason he needs the space is because he would like to put his boat behind this building to keep it out of site between uses, as opposed to being left in the driveway. After some discussion the board agreed this would be an appropriate case for a variance if it appeared before them.

### **Zoning Administrator's report**

Meeting adjourned at 8:00 PM.

I hereby certify these minutes to be true and accurate.



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Secretary, Robert Hruska