

## DRACUT ZONING BOARD OF APPEALS

### Meeting Minutes of January 16, 2014 at 7:00 p.m. @ Harmony Hall, 1660 Lakeview Avenue, Dracut.

**2014-1 & 2 @ 18 Sunset Road** – Special Permit 2.16.25 and Variance 2.12.50 relative to front yard setback requirements on an undersized lot for proposed 30.8 x 6' porch. Petitioner: Eleanor G. Gordon.

Chairman Crowley opened the meeting and signed in a set of prints drawn by James D. Aho, Professional Land Surveyor dated 10/29/2013.

Attorney Clermont will be representing the Petitioner. This is a pre-existing non-conforming lot with a single family home on it. Mrs. Gordon would like to remove the existing landing and replace with an open porch 30.8' x 6' that will have the same 19.9' setback as the existing landing. She hopes to add additional living space to help her care for her sister who is confined to a wheelchair. The variance is for a front yard setback of 10.1'. The new stairs will extend two (2) steps further than the existing for a 16.3' setback. It was noted that the stairs could be turned and kept within the 19.9' setback if they were an issue. Chairman Crowley asked if there would be a handicap ramp. Attorney Clermont stated not at this time.

Attorney Clermont stated the porch would require a Variance under 2.12.50 for the front yard setback requirement and a Special Permit under 2.16.25 for alteration of a non-conforming single family residential structure which does allow for a proposed modification that would not be more detrimental than the existing structure to the neighborhood. They believe that enforcement of the by-law would involve a substantial hardship to the owner and that owing to the size and shape of the lot it does not allow sufficient front lot construction. An additional hardship to the owner is the medical issues concerning her sister and daughter. Attorney Clermont believes relief could be granted without substantial detriment to the public good and would not nullify or derogate from the intent of the by-law.

Mr. Hamilton asked if the existing landing had a roof over it. Attorney Clermont answered yes. The roof is within the same 6' as the landing.

Mr. Mallory asked how the stairs could be changed. The Contractor Mr. Don Crowell, 28 Crystal Drive, Hudson, N.H. stated the stairs could be put on the driveway side of the porch at the same setback of 19.9' as the porch. If there is a handicap ramp required, it would be installed on the driveway side with the same setback as the proposed porch. Chairman Crowley noted there is a lot of leeway on handicap ramps with regards to setback.

**Abutters: Who came forward in favor or in opposition? None.**

A motion to close was made by Mr. Stephen Hamilton and seconded by Mr. Scott Mallory. The Board voted unanimously to close.

A motion to approve the Special Permit was made by Mr. Scott Mallory and seconded by Mr. Stephen Hamilton. Mr. Mallory would like to make the moving of the stairs to the end of the porch so that the footprint of the new porch is at the same distance as the existing landing with a roof over as part of his motion. The Board finds that the petitioner meets the following three requirements of the Special Permit: that the change does not (1) substantially impinge upon any public right of way that adjoins the lot on which the structure is to be constructed; (2) create a danger to public safety by reason of traffic access, flow and circulation; and (3) be out of character with the traditional settlement and construction patterns of the area in which it is to be reconstructed. The Board voted unanimously to approve.

A motion to approve the Variance with the change suggested by Mr. Mallory to have the stairs off the side and not the front was made by Mr. Stephen Hamilton and seconded by Mr. Michael Pagones. Chairman Crowley feels the attorney has made an adequate presentation and certainly demonstrated the suitability under the detriment and based the hardship on size and shape and demonstrated that the variance would not derogate from the intent of the zoning by-law. He has no problem with the stairs as they are shown as he feels it is di minimis, but would go along with the Board's wishes. The Board finds the petitioner meets the requirements of a Variance as follows: that there is a hardship on the use of the land based on the soil conditions, shape or topography, this requested use does not derogate from the intent of the zoning by-law, and it is not injurious to the neighborhood. The Board voted unanimously to approve.

**2014-3 @ 810 Merrimack Avenue** – Variance for a proposed addition encroaching into a front setback on Intervale Avenue and Variance under Section 2.16.23. Petitioner: Michael Lenzi.

Chairman Crowley opened the meeting and signed in a set of prints drawn by Richard A. Alleca, Professional Land Surveyor dated December 21, 2013.

Mr. Lenzi stated he is present to seek a variance for a bump out to renovate Lenzi's and improve the front of the building. The bump out as shown on the print as proposed addition #1 is at the front corner of the building on the Intervale Avenue side and would allow him to level off the building front.

Mr. David Jaquith, Architect at 81 Railroad Avenue, Rowley, MA stated the proposed addition will be 21.6' x 22.5' and would encroach on the front setback no more than the existing building on the Intervale Avenue front setback at 5'. Lenzi's has three (3) fronts which make it very difficult to make any improvements to the property. The building obviously was there maybe even before the streets were there. The shape of the lot and where the building is placed on the lot creates a hardship on whatever is done on the Intervale Avenue side. The intent is, if they are successful having the variance granted, is to rebuild the entire front of the building. The shape of the building front will remain the same. The proposed addition #2 shown on the print on the Draycott Avenue side meets the required front setback and will square off the building on that side. A preliminary sketch showing the building renovations was passed out.

A five (5) minute recess was taken for the abutters present to review the drawing for the proposed additions.

Chairman Crowley reopened the hearing and asked if there were any comments, questions or testimony to be given. The only comment was regarding the dumpster pick up at 3:00 a.m. in the morning. Mr. Lenzi agreed and will contact the company to change the time. All present were okay with the proposed changes.

Chairman Crowley noted the proposed addition does extend the non-conformity somewhat, but is less than 500 sq. ft. which is like a couple of office in total area and is not a big addition.

**Abutters: Who came forward in favor or in opposition?** None came forward.

A motion to close was made by Mr. Stephen Hamilton and seconded by Mr. Michael Pagonos. The Board voted unanimously to close.

A motion to approve the Variance was made by Mr. Stephen Hamilton and seconded by Mr. Scott Mallory. The Board finds the petitioner meets the requirements of a Variance as follows: that there is a hardship on the use of the land based on the soil conditions, shape or topography, this requested use does not derogate from the intent of the zoning by-law, and it is not injurious to the neighborhood. The Board voted unanimously to approve.

**Election of Officers:**

A motion to nominate Mr. John Crowley as Chairman was made by Mr. Stephen Hamilton and seconded by Mr. Michael Pagonos. The Board voted unanimously to approve.

A motion to nominate Mr. Stephen Hamilton as Vice Chairman was made by Mr. Scott Mallory and seconded by Mr. Michael Pagonos. The Board voted unanimously to approve.

A motion to nominate Mr. Scott Mallory as Clerk was made by Mr. Stephen Hamilton and seconded by Ms. Heather Santiago-Hutchings. The Board voted unanimously to approve.

**Acceptance of Minutes:**

A motion to accept the December 19, 2013 minutes was made by Mr. Stephen Hamilton and seconded by Ms. Heather Santiago-Hutchings. The Board voted unanimously to accept the minutes.

**Old Business:**

Chairman Crowley reminded the Board that the Economic Development Committee still needs representation from the Zoning Board of Appeals. He noted that Ms. Santiago-Hutchings and he are already representing the Board on the Zoning Committee. If any member is interested, please contact the Chairman or the Secretary.

**Next Meeting:**

Thursday, February 27, 2014

**Adjournment:**

A motion to adjourn was made by Mr. Stephen Hamilton and seconded by Mr. Michael Pagonos. The Board voted unanimously to adjourn.

**Board of Appeals Members**

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Chairman, John Crowley

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Vice Chairman, Stephen Hamilton

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Clerk, R. Scott Mallory

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Absent  
Member, David Meli

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Member, Heather Santiago-  
Hutchings

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Alt. Member, Michael Pagonis