

Town of Scarborough

Zoning Board of Appeals

December 13, 2006

AGENDA

1. Call to Order and Pledge of Allegiance
2. Roll Call
3. Approval of Minutes (October 11, 2006 and November 8, 2006)
4. Appeals
 - a. Appeal No. 2330 – An Administrative Appeal by Stephanie Williston, 135 Winnocks Neck Road, Assessor's Map R83 Parcel 30, against the Code Officer's determination that reconstruction of a shed violated the Zoning Ordinance, Shoreland Zoning Ordinance and Flood Plain Ordinance in the R-2 Zone
 - b. Appeal No. 2331 – An Administrative Appeal by Stephanie Williston, 135 Winnocks Neck Road, against the Code Officer's decision that work done on a cottage exceeded 50% of the assessed value
 - c. Appeal No. 2338 – A Limited Reduction of Yard Size Appeal by Peter and Libby Casset, 8 Virdap Street, Assessor's Map U 1 Parcel 43, to construct an addition 10 feet from both side property lines in the R-4 Zone
 - d. Appeal No. 2339 – A Practical Difficulty Appeal by Joel and Cynthia Bizon, 29 Jones Creek Drive, and the Jones Creek Drive Condominium Association, Assessor's Map U22 Parcel 75, to construct a second floor addition on Unit 1, 4 feet from the side and 5 feet from the rear property lines in the R-4 Zone
 - e. Appeal No. 2340 – A Practical Difficulty Appeal by Deborah Berry, 27 Jones Creek Drive, and the Jones Creek Drive Condominium Association, Assessor's Map U22 Parcel 75, to construct a second floor addition on Unit 2, 5 feet from the rear property line in the R-4 Zone
 - f. Appeal No. 2341 – A Practical Difficulty Appeal by Kevin and Judith O'Brien, 25 Jones Creek Drive, and the Jones Creek Drive Condominium Association, Assessor's Map U22 Parcel 75, to construct a second floor addition to Unit 3, 5 feet from the rear property line in the R-4 Zone
 - g. Appeal No. 2342 – A Practical Difficulty Appeal by Patrick Donahue, 31 Jones Creek Drive, and the Jones Creek Drive Condominium Association, Assessor's Map U22 Parcel 75, to construct a second floor addition on Unit 4, 4 feet from the rear and 5 feet from the side property lines in the R-4 Zone
 - h. Appeal No. 2343 – A Special Exception Appeal by Steven Brier, 183 U. S. Route One, Assessor's Map U45 Parcel 4, to operate a child care facility in the B-2 Zone
 - i. Appeal No. 2344 – A Special Exception Appeal by Diane Garthwaite, 58 Marion Jordan Road, Assessor's Map R101 Parcel 1910, to create a craft room in an accessory building in the R-F Zone
 - j. Appeal No. 2345 – A Special Exception Appeal by Patricia Wentworth, 154 Highland Avenue, Assessor's Map U6 Parcel 66, to operate a chiropractic office as a home occupation in the R-2 Zone
 - k. Appeal No. 2346 – A Practical Difficulty Variance Appeal by Gerald and Judith Gaudette, 38 Pillsbury Drive, Assessor's Map U21 Parcel 74, to demolish a cottage and construct a new home 33 feet from the front property line in the R-2 Zone

5. Zoning Board Comments

6. Adjournment

NO NEW APPEALS SHALL BE TAKEN UP AFTER 10:30 P. M.

MINUTES

Members Present

Mr. Blaise
Mr. Craft
Mr. Maroon
Mr. Massengill
Mr. Temm

Staff

Mr. Grysk, Code Enforcement Officer
Mr. Logan, Recording Secretary

1. Call to Order

Mr. Maroon called the meeting to order at 7:00 P. M.; the Pledge of Allegiance was recited.

2. Roll Call

The Recording Secretary called the roll; Mr. Dryzga and Mr. Loisel were absent. Mr. Maroon authorized Mr. Temm to vote.

3. Approval of Minutes (October 11, 2006 and November 8, 2006)

Mr. Maroon moved to approve the minutes of October 11, 2006; Mr. Massengill seconded.

Voted 3-0-2

Mr. Blaise moved to approve the minutes of November 8, 2006; Mr. Maroon seconded.

Voted 2-0-3

4. Appeals

a. Appeal No. 2330 – An Administrative Appeal by Stephanie Williston, 135 Winnocks Neck Road, Assessor’s Map R83 Parcel 30, against the Code Officer’s determination that reconstruction of a shed violated the Zoning Ordinance, Shoreland Zoning Ordinance and Flood Plain Ordinance in the R-2 Zone

b. Appeal No. 2331 – An Administrative Appeal by Stephanie Williston, 135 Winnocks Neck Road, against the Code Officer’s decision that work done on a cottage exceeded 50% of the assessed value

The applicant requested that these appeals be tabled. Mr. Blaise moved to void these appeals as they had been on the agendas and tabled with no further information provided for several months; Mr. Massengill seconded. Mr. Maroon stated that the appellant would have to reapply for her appeals.

Voted 5-0 to void the appeals

c. Appeal No. 2338 – A Limited Reduction of Yard Size Appeal by Peter and Libby Casset, 8 Virdap Street, Assessor’s Map U1 Parcel 43, to construct an addition 10 feet from both side property lines in the R-4 Zone

Mr. Thomas Blackburn stated that they had made significant changes to the plan to reflect the Board’s concerns at the October meeting; he explained how they had reduced the amount of impervious surface

by 3% to 29.9%. Mr. Maroon stated that the applicant had done his homework well. Mr. Massengill agreed and stated that all the Board's concerns including the parking and walkway had been addressed. Mr. Maroon read letters in favor of the appeal from Carol Turner, of 6 Virdap Street, and William and Elizabeth Holt, of 13 Champion Street. To a question from Mr. Craft, Mr. Blackburn replied that the property would be used during the summer and some holidays and vacations. To a question from Mr. Blaise, Mr. Blackburn replied that the height of the building was 30 feet and 35 feet to the ridge pole; he stated that they would raise the house up two feet.

Mr. Maroon opened the public hearing; no one spoke for or against the appeal; Mr. Maroon closed the public hearing.

Mr. Maroon and Mr. Blackburn addressed the criteria as presented in writing.

Mr. Maroon moved to approve the appeal as requested; Mr. Blaise seconded.

Voted 5-0

d. Appeal No. 2339 – A Practical Difficulty Appeal by Joel and Cynthia Bizon, 29 Jones Creek Drive, and the Jones Creek Drive Condominium Association, Assessor's Map U22 Parcel 75, to construct a second floor addition on Unit 1, 4 feet from the side and 5 feet from the rear property lines in the R-4 Zone

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f. Appeal No. 2341 – A Practical Difficulty Appeal by Kevin and Judith O'Brien, 25 Jones Creek Drive, and the Jones Creek Drive Condominium Association, Assessor's Map U22 Parcel 75, to construct a second floor addition to Unit 3, 5 feet from the rear property line in the R-4 Zone

g. Appeal No. 2342 – A Practical Difficulty Appeal by Patrick Donahue, 31 Jones Creek Drive, and the Jones Creek Drive Condominium Association, Assessor's Map U22 Parcel 75, to construct a second floor addition on Unit 4, 4 feet from the rear and 5 feet from the side property lines in the R-4 Zone

Mr. Maroon noted that these appeals were for the same property and he would like to take them in their entirety; the Board and the applicants agreed.

Mr. Roger Arsenault, who represented the appellants, stated that the one story cottages were 620 square feet and their intent was to add a second story for a total of 850 square feet each. He stated that all of the cottages encroached about four or five feet on the rear setbacks and they would not be expanding the footprint. Mr. Arsenault stated that the buildings had been rented since the 1940s and had recently been converted to condominium units. He read the criteria and stated that they felt they met them all. He stated that the buildings would become more like the scale of the single family dwellings in the neighborhood. Mr. Arsenault stated that there was a dropoff and moving the buildings would eliminate the parking areas and make the buildings less than 10 feet apart.

To a question from Mr. Massengill, Ms. Bizon replied that she did not know whether the construction of each cottage would be done simultaneously. Mr. Maroon noted that there was a six month window in which the construction needed to be started, though one six month extension could be requested. He noted that this was another well-presented package.

Mr. Maroon opened the public hearing; no one spoke for or against the appeals. Mr. Maroon read letters in favor of the appeals from Luis Martins, 7 Avenue One, James Widor, 24 Jones Creek Drive, Thomas and Teresa Keahon, 32 Jones Creek Drive, John and Lisa Wallace, 22 Jones Creek Drive, Geralynn Howard, 5 Avenue One, and Milton and Patricia Wilk, 26 Jones Creek Drive. Mr. Maroon closed the public hearing.

Mr. Blaise moved to approve Appeal No. 2339 as presented; Mr. Massengill seconded. Voted 5-0
Mr. Blaise moved to approve Appeal No. 2340 as presented; Mr. Massengill seconded. Voted 5-0
Mr. Blaise moved to approve Appeal No. 2341 as presented; Mr. Massengill seconded. Voted 5-0
Mr. Blaise moved to approve Appeal No. 2342 as presented; Mr. Massengill seconded. Voted 5-0

h. Appeal No. 2343 – A Special Exception Appeal by Steven Brier, 183 U. S. Route One, Assessor’s Map U45 Parcel 4, to operate a child care facility in the B-2 Zone

Mr. Massengill stated that he had a business relationship with the contractor and Tidewater Architects, but did not feel it would affect his decision.

Mr. Timothy Braun, of Tidewater Architects, stated that the appellant wanted to use the space of the former B-Fit Gym as a temporary location for the day care until a new building was constructed to the rear. He stated that they would create a dropoff area in front of the building and there would be a play area in the rear with a stockade fence 15 feet from the gas tanks. He stated that the children would be shielded from the parking lot with a fence at the boundary line.

Mr. Grysk stated that he was concerned about the rear parking lot where some parking would be eliminated and because of the gas cylinders. Mr. Braun stated that they would adjust the parking spaces. Mr. Grysk noted that when the new building was built, the appellant would have to return to the Board for the new building as well as parking and the play area. To a question from Mr. Maroon, Mr. Braun stated that there would be lattice in the fencing near the abutter.

Mr. Maroon and Mr. Braun addressed the Special Exception and day care criteria.

Mr. Maroon opened the public hearing; no one spoke for or against the appeal; Mr. Maroon closed the public hearing.

Mr. Blaise moved to approve the appeal as presented; Mr. Massengill seconded.

Voted 5-0

i. Appeal No. 2344 – A Special Exception Appeal by Diane Garthwaite, 58 Marion Jordan Road, Assessor’s Map R101 Parcel 1910, to create a craft room in an accessory building in the R-F Zone

Mr. Richard Renner, architect for the project, stated that the property would have two buildings and they would like to finish a portion of the detached garage so the appellant could use it for an art or craft studio. He stated that the Town was concerned that the space could become a dwelling unit so a Special Exception Appeal was required.

To a question from Mr. Maroon, Mr. Grysk replied that the trigger for a Special Exception was that, in the past, the Zoning Board had ruled on finishing detached structures with conditions that they could not become living units. Mr. Grysk stated that because this space would be plumbed, he felt it should be considered by the Board.

Mr. Renner stated that there would be no kitchen; he stated that the space would be a little over half the size of the structure and that the appellants did not want a second dwelling unit. To a question from Mr. Blaise, Mr. Renner replied that the barn would be built before the house and would be used by the contractor for storage of materials as he completed the house. To a question from Mr. Maroon, Mr. Renner replied that they had received approval from the developer for the design of the barn.

Mr. Maroon and Mr. Renner addressed the criteria as presented in writing.

Mr. Maroon stated that for any other use of this space, the appellant would have to return to the Board. To a question from Mr. Blaise, Mr. Renner replied that they had received their building permit for an unfinished barn and would be starting construction this week. To a question from Mr. Blaise, Mr. Grysk replied that, as long as the construction of the barn was begun within the six month approval window, he would consider that substantial start for this project; he noted that the area would be plumbed for this space. Mr. Maroon stated that there could be only one electrical meter for this and the dwelling.

Mr. Blaise moved to approve the appeal as presented; Mr. Massengill seconded.

Voted 5-0

j. Appeal No. 2345 – A Special Exception Appeal by Patricia Wentworth, 154 Highland Avenue, Assessor’s Map U6 Parcel 66, to operate a chiropractic office as a home occupation in the R-2 Zone

No one was present to represent the appellant. Mr. Maroon moved to table the appeal until the January meeting and if the appellant did not attend, she would have to reapply; Mr. Craft seconded.

Voted 5-0 to table

k. Appeal No. 2346 – A Practical Difficulty Variance Appeal by Gerald and Judith Gaudette, 38 Pillsbury Drive, Assessor’s Map U21 Parcel 74, to demolish a cottage and construct a new home 33 feet from the front property line in the R-2 Zone

Mr. William Koch, of SSL Development, stated that they had presented a survey showing the existing footprint; he stated that the Gaudettes had many grandchildren and needed more space, but the existing cottage was in a state of disrepair and they would like to build a new home. He stated that the lot was disadvantaged because it was on the radius of the street and the decks, which would be 18 feet from the property line at one point, did not meet the front setback requirement. Mr. Koch stated that they would like to significantly improve a nonconforming situation and the structure would be within the building envelope except for the porch; he stated that the intent was to improve the existing nonconforming setbacks.

Mr. Maroon stated that he was confused about the layout. Mr. Koch showed the building envelopes; he stated that the entire existing house would be demolished and they would build the new structure back from where it is now. Mr. Maroon asked whether the appellant had looked at alternatives; Mr. Koch replied that they wanted a New England Victorian style so wanted the porch to wrap around the house; he stated that they could not move to the side. Mr. Koch reiterated that the house would be more in conformance than the existing cottage. Mr. Maroon stated that he could have had issues with Criteria 4, regarding an alternative, but this proposal made the site better. Mr. Massengill agree that this was a good solution to the existing.

Mr. Maroon opened the public hearing. Mr. Tim Gallagher, of 21 Riversands Drive, stated that he had no objection to the proposal. Mr. Maroon closed the public hearing.

Mr. Maroon and Mr. Koch addressed the criteria as presented in writing.

Mr. Blaise moved to approve the appeal as presented; Mr. Temm seconded.

Voted 5-0

5. Zoning Board Comments

Mr. Maroon thanked the staff for coaching the appellants to make the presentations easy.

6. Adjournment

The meeting was adjourned at 8:15 P. M.