

Town of Scarborough

Zoning Board of Appeals

August 8, 2007

AGENDA

1. Call to Order (7:00 P. M.)
2. Roll Call
3. Approval of Minutes (July 11, 2007)
4. Appeals
  - a. Appeal No. 2375 – A Special Exception Appeal by Nathan Clark and Sandra Sargent, 4 Blueberry Lane, Assessor’s Map R4 Parcel 11, to operate a pet grooming business in the R-F Zone
  - b. Appeal No. 2388 - A Miscellaneous Appeal by Lisa Webber, 12 Harlow Street, Assessor’s Map U34 Parcel 8, to construct a residential deck in the B-2 Zone
  - c. Appeal No. 2389 - A Miscellaneous Appeal by Philip Ceaser, 553 U. S. Route One, Assessor’s Map U35 Parcel 19, to demolish and rebuild a room in a dwelling unit in the B-2 Zone
  - d. Appeal No. 2390 - A Miscellaneous Appeal by Paul and Joanne Marchi, dba Sun ‘n Sand Motel, 77 King Street, Assessor’s Map U21 Parcel 119, to convert an 8 unit motel to 8 condominium units in the R-2 Zone
  - e. Appeal No. 2391 - A Miscellaneous Appeal by Patrick and Young Ah O’Reilly, dba Pride Motel, 677 U. S. Route One, Assessor’s Map U30 Parcel 26, to expand one cottage in the B-1 Zone
  - f. Appeal No. 2392 - A Miscellaneous Appeal by Peter, James and Sheila Malia, dba Beals Ice Cream, 161 Pine Point Road, Assessor’s Map R68 Parcel 6C, for expansion of a nonconforming use in the R-2 Zone
  - g. Appeal No. 2393 - An extension of a Practical Difficulty Appeal by Jean and Kathleen Kelly and Ann Pakradooni, 24 Greenwood Avenue, Assessor’s Map U2 Parcel 8, for additions to the existing structure in the R-4 Zone
  - h. Appeal No. 2394 - A Special Exception Appeal by Shannon Trudeau, 5 Milliken Mills Road, Assessor’s Map R67 Parcel 17, to construct an accessory unit in a new garage in the R-F Zone
  - i. Appeal No. 2395 - A Special Exception Appeal by Elizabeth Currier, 1 Smithers Way, Assessor’s Map U18 Parcel 10A, to create an accessory unit in a new house in the R-2 Zone
  - j. Appeal No. 2396 - A Limited Reduction of Yard Size by Andrew and Maura Gwyer, 26 Ocean Avenue, Assessor’s Map U2 Parcel 115, to demolish and reconstruct a new garage 20 feet from the front property line and 10 feet from the side property line in the R-4 Zone
  - k. Appeal No. 2397 - A Practical Difficulty Appeal by Ava Adams and Robert Talley, 4 Avenue Two, Assessor’s Map U22 Parcel 55, to demolish and reconstruct a home 15 feet from the front property line and 8 feet from the rear property line in the R-4A Zone

1. Appeal No. 2398 - A Practical Difficulty Appeal by Jeffrey and Steve Quirk, 147 Old Blue Point Road, Assessor's Map U27 Parcels 79 and 80, to alter the property line between two grandfathered nonconforming lots in the R-2 Zone

5. Zoning Board Comments

6. Adjournment

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

Town of Scarborough

Zoning Board of Appeals

August 8, 2007

MINUTES

Members Present

Staff

Mr. Blaise  
Mr. Dryzga  
Mr. Loisel  
Mr. Maroon  
Mr. Massengill  
Mr. Temm

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

1. Call to Order

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

2. Roll Call

The Recording Secretary called the roll; Mr. Craft was absent. Mr. Dryzga authorized Mr. Temm to vote.

3. Approval of Minutes (July 11, 2007)

Mr. Maroon moved to approve the minutes of July 11, 2007; Mr. Massengill seconded.

Voted 3-0-2 – Messrs. Blaise and Dryzga abstained.

4. Appeals

Mr. Dryzga noted that there was a full agenda and no new appeals would be heard after 10:30 P. M.

a. Appeal No. 2375 – A Special Exception Appeal by Nathan Clark and Sandra Sargent, 4 Blueberry Lane, Assessor's Map R4 Parcel 11, to operate a pet grooming business in the R-F Zone

This appeal was tabled at the request of the appellant.

b. Appeal No. 2388 - A Miscellaneous Appeal by Lisa Webber, 12 Harlow Street, Assessor's Map U34 Parcel 8, to construct a residential deck in the B-2 Zone

Ms. Webber explained that her steps led directly from her back door with no landing and she would like to make it safer by adding an 8 by 12 foot deck. She stated that there were no setback issues. Mr. Grysk stated that there were existing property pins from which to measure.

Mr. Dryzga and Ms. Webber addressed the criteria as presented in writing. Mr. Blaise confirmed that the house was in existence before the zone changed and became nonconforming because of the zone change.

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

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

Voted 5-0

c. Appeal No. 2389 - A Miscellaneous Appeal by Philip Ceaser, 553 U. S. Route One, Assessor's Map U35 Parcel 19, to demolish and rebuild a room in a dwelling unit in the B-2 Zone

Ms. Linda Ceaser stated that their den was once a porch that is on sona tubes which were failing; she stated that they wanted to remove this section of the building and build a slightly larger addition. She stated that there were no setback issues.

Mr. Dryzga and Ms. Ceaser addressed the criteria. Mr. Grysk noted that part of this lot was in the Shoreland Zone, but this addition would meet the 75 foot setback required.

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

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

Voted 5-0

d. Appeal No. 2390 - A Miscellaneous Appeal by Paul and Joanne Marchi, dba Sun 'n Sand Motel, 77 King Street, Assessor's Map U21 Parcel 119, to convert an 8 unit motel to 8 condominium units in the R-2 Zone

Mr. Marchi explained that they wanted to convert their motel to eight condominium units with no changes to the property; he stated that this would have a positive effect on the neighborhood and be more conforming by eliminating the business use. Mr. Marchi stated that all of the units had heat, separate electrical meters and kitchens and were occupied year round. He stated that this change would reduce noise and traffic and would be safer. He stated that owners would have more personal pride in the site and condominiums generated fees for maintenance and upkeep the property values would increase with removal of the business sign. He stated that they would replace the windows and add landscaping and there were several letters of support from their neighbors.

Mr. Marchi stated that parking had not been a problem and would not be with this conversion; he stated that they had 12 parking spaces and there would be an understanding that there would be only one space per unit with four guest spaces. He stated that if there was a need for additional guest parking, the site was between two public parking lots. He stated that the condominium documents would restrict any outside storage; he stated that the conversion would not increase parking or traffic. Mr. Marchi displayed photos of five nearby condominium projects and noted that there were fewer parking spaces and fewer cars parked than there were units at each site but at the motels there were more cars parked than there were units. He stated that the condominium association would maintain, govern and enforce and would create their own community.

Mr. Grysk stated that this was a motel when the zoning came into effect so was a grandfathered nonconforming use which the appellants wanted to change to another nonconforming use.

Mr. Dryzga and Mr. Marchi addressed the criteria as presented in writing. Mr. Dryzga read letters in favor of the appeal from the following: John and Susan Thurlow, 1 Starpine Lane; Pat Corea, 81 King Street; Pat Donahue, 31 Jones Creek Drive; Robert Loiselle, 76 King Street; Ann and Bud Sampson, no address given; Robert Daniels, 10 Driftwood Lane; Beverly Bayley-Smith and Barbara Sawyer, 78 King Street; Karen Lothrop, 56 Jones Creek Drive; Steve Ross, Steven Ross, surveyor, East Waterboro; Sandra Murray, Pillsbury Shores; Michael Thurlow, Scarborough Fire Chief; Cristy Matti, former tenant; and Neil Minschwaner, tenant.

Mr. Maroon stated that he agreed with the concept but, even though it did not affect this appeal, the Town Council was working on a change to the ordinance. He stated that approving this prior to those changes could create a challenge for the Board and the Council because the rules were not yet finalized. Mr. Maroon stated that it seemed reasonable that an abutter could give an easement for four extra parking spaces for a two-to-two ratio. He stated that there were three units with three bedrooms and he thought there would be a need for more parking spaces. Mr. Maroon stated that the ordinance required 10 by 20 foot parking spaces but he would lobby for 9 by 18 foot spaces because of the improvement to the property. Mr. Marchi noted that some of the Town's parking spaces were below the required footage and if he could use those sizes he could put in more parking spaces. Mr. Maroon stated that the requirements were for 10 by 20 or 9 by 18 foot spaces and if the Code Enforcement Officer was satisfied with enough 9 by 18 foot spaces, he would be satisfied.

Mr. Marchi noted that three of the units were studios and only the house had two bedrooms. Mr. Maroon stated that he would rather get this right on the first request and asked why the appellant did not want an easement. Mr. Dryzga stated that a certain number of spaces could be required and it would be up to the applicant to find them. To a question from Mr. Dryzga, Mr. Grysk replied that one of the Town Council's ideas was to use the Miscellaneous Appeal process for these conversions or a motel could continue to operate as a motel with an owner of each room which could also be rented out by a manager.

Mr. Temm stated that he had no issues but asked whether there was a minimum square footage necessary for a dwelling; Mr. Grysk replied that there were room size requirements but this structure was grandfathered. To a question from Mr. Temm, Mr. Marchi replied that the average at this site would be 246 square feet per unit. Mr. Marchi stated that a lot of owners would be snowbirds who would drive only one car to the property; he stated that this was a safe parking lot with good circulation that was wide enough for emergency access. To a question from Mr. Massengill, Mr. Marchi replied that they had no parking issues now and they rarely used any overflow parking lots; he stated that he would rather have only one space per unit with four guest spaces so the site would not look crowded.

Mr. Dryzga opened the public hearing. Mr. Patrick O'Reilly, of 677 U. S. Route One, stated that this was a request to convert a nonconforming use to another nonconforming use but it was from an operating business to a residential use. He stated that the parking was perplexing but two spaces for a one bedroom unit was ludicrous and there were public parking spaces nearby. Mr. O'Reilly encouraged the Board to allow only 12 parking spaces.

Mr. Pat Donahue, of 29 Jones Creek Drive, stated that his site had four units which were a little bigger, at up to 800 square feet with two bedrooms, and the owners came from away with only one car; he stated that their condominium regulations did not permit any appendage to the building and any guests must park elsewhere and meet all town parking regulations. Mr. Dryzga closed the public hearing.

To a question from Mr. Dryzga, Mr. Marchi replied that there would be ten bedrooms on the property. To a question from Mr. Massengill, Mr. Marchi replied that each unit would have one set of trash barrels. Mr. Dryzga stated that he was not uncomfortable with the 12 parking spaces because of the units with only one bedroom, but he would not want any fewer spaces. Mr. Massengill stated that he had no problem with the parking as proposed.

Mr. Blaise stated that he had a problem with the whole idea of the association policing itself because he did not think owners would live in such small quarters but would rent their properties. Mr. Marchi stated that there was a market for the small units for people to hang their hats and a lot of his present customer base was interested and this was a way for people to continue coming to Pine Point. He stated that he could impose a restriction that there be no rentals and it would be his responsibility to do the right thing for the neighborhood. Mr. Dryzga noted that bylaws often restricted the length of time a unit could be

rented. Mr. Grysk stated that that was decided by the developer who wrote the documents and the association would enforce them.

Mr. Dryzga stated that the building would not change and he did not see the use changing other than lowering the impact. Mr. Temm asked why it would be any different for the units to be rented in the winter. Mr. Maroon stated that it would disturb him if they were rented because it would not be different from what it is now. Mr. Marchi stated that he did not want a condo/motel. Mr. Dryzga stated that he did not want to see the units rented on a weekly basis. Mr. Donahue stated that his project was limited to one week minimum rental in the summer and one month minimum for the remainder of the year. Mr. Loisel stated that he was more comfortable with the parking after having read the restrictions and the units would be so small that people would not jam into them; he noted that traffic now is day by day and would be minimized by weekly or monthly rentals.

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

Mr. Blaise stated that his point was that the condominium association would not be present because the units would all be rented and the site would not change from what it is today. Mr. Maroon stated that he was worried about rental property without management. Mr. Marchi noted that Mr. Donahue's association had a president and treasurer who monitored the site; he noted that all of the existing condominiums were being maintained. Mr. Maroon stated that a minimum rental of a month worked for him. Mrs. Marchi noted that none of the other locations had a one month minimum and they looked good; she stated that almost every house in the area was rented for the winter and they had fewer cars during the summer than many of the homes. She stated that they were not asking for anything that was not being done now. Mr. Dryzga and Massengill noted that the reaction from the neighborhood was overwhelming support.

Mr. Dryzga moved to amend the agenda to include the minimum restrictions as presented in the package; Mr. Maroon seconded.

Voted 5-0 to amend the motion.

Voted 5-0 on the main motion

e. Appeal No. 2391 - A Miscellaneous Appeal by Patrick and Young Ah O'Reilly, dba Pride Motel, 677 U. S. Route One, Assessor's Map U30 Parcel 26, to expand one cottage in the B-1 Zone

Mr. Dryzga confirmed that this item would go to the Planning Board for site plan approval because of the expansion of a business.

Mr. O'Reilly explained that his business was on five acres of land, the front of the site being B-1 and the rear in the R-F Zone in the Dunstan area. He stated that this had been a seasonal property for at least 85 years and in his family since 1968; he stated that the B-1 Zone did not allow hotels or motels but the Town Council was in the process of rezoning Oak Hill to the TVC-2 Zone and the Comprehensive Plan called for that zone in the Dunstan area but, because of the construction season, he did not want to wait for that rezoning. Mr. O'Reilly stated that the seven-unit motel was open year round but the 10 cottages were not winterized and he had no intention of using them year round or turning them into condominium units. He stated that the cottages did have kitchens. Mr. O'Reilly stated that they wanted to expand the smallest cottage by adding a second bedroom because a lot of families returned every year and needed more than one bedroom. He stated that he had submitted a boundary survey.

Mr. Grysk stated that this was simply expansion of a nonconforming use and there were no setback issues. The Board agreed that the criteria had been addressed in writing and did not need to be read. Mr. Dryzga stated that there was a straightforward issue with no space and bulk issues.

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

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

Voted 5-0

f. Appeal No. 2392 - A Miscellaneous Appeal by Peter, James and Sheila Malia, dba Beals Ice Cream, 161 Pine Point Road, Assessor's Map R68 Parcel 6C, for expansion of a nonconforming use in the R-2 Zone

Mr. Temm stated that he had known the Malias for a long time but did not feel that would affect his vote.

Mr. Peter Malia noted that they had been at this location for more than 16 years and over the years had made changes to conduct the business more effectively. He stated that they had installed new freezers, a concrete pad, compressors, a Jersey barrier, a propane tank, and two compressors had been moved. He stated that the new compressor exceeded the overhang of the old compressor by 17 by 10 inches and they put up barriers so vehicles would not hit the compressors. Mr. Malia explained the differences in the parking and landscaping from the original site plan; he stated that they wanted to install a storage shed to replace the Ryder truck they had removed at the request of the town.

Mr. Grysk stated that the appellant had been in violation of the existing site plan and there was now a consent order with the condition that the Malias return to the Board for approval of the changes.

Mr. Dryzga noted that most of the changes were repairs to keep the business running. To a question from Mr. Dryzga, Mr. Grysk replied that the original plan needed to be amended to reflect what was on the site, which would be done by the Planning Board following any approval by the Zoning Board. Mr. Maroon confirmed that the consent agreement had been worked out between the town and the appellant. Mr. Dryzga stated that since the shed was within the setbacks he had no issues.

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

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

Voted 5-0

g. Appeal No. 2393 - An extension of a Practical Difficulty Appeal by Jean and Kathleen Kelly and Ann Pakradooni, 24 Greenwood Avenue, Assessor's Map U2 Parcel 8, for additions to the existing structure in the R-4 Zone

Ms. Jean Kelly explained they had received their approval in March but their contractor could not start the project until September and they wanted to be sure their approval did not expire.

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

Mr. Blaise moved to approve the extension as requested for six months; Mr. Maroon seconded.

Voted 5-0

Mr. Dryzga called a recess at 8:50 P. M.; the meeting resumed at 9:00 P. M.

h. Appeal No. 2394 - A Special Exception Appeal by Shannon Trudeau, 5 Milliken Mills Road, Assessor's Map R67 Parcel 17, to construct an accessory unit in a new garage in the R-F Zone

Because no one was present to represent the appellant, Mr. Maroon moved to table the appeal to the September meeting; Mr. Blaise seconded.

Voted 5-0 to table.

i. Appeal No. 2395 - A Special Exception Appeal by Elizabeth Currier, 1 Smithers Way, Assessor's Map U18 Parcel 10A, to create an accessory unit in a new house in the R-2 Zone

Ms. Currier explained that they would be building a new house and the proposed accessory unit would be in the storage garage for a small living space for her mother for a month in the summer. Mr. Grysk noted that this accessory unit would meet the proposed new definition of the location of an accessory unit in a separate building without looking like a second house.

Mr. Dryzga and Ms. Currier addressed the criteria as presented in writing as well as the Accessory Unit Registration Form.

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

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

Voted 5-0

j. Appeal No. 2396 - A Limited Reduction of Yard Size by Andrew and Maura Gwyer, 26 Ocean Avenue, Assessor's Map U2 Parcel 115, to demolish and reconstruct a new garage 20 feet from the front property line and 10 feet from the side property line in the R-4 Zone

Mr. Gwyer stated that they wanted to retire to this house next year and would like to demolish the existing garage and build another on the lot to meet the setbacks allowed by the Limited Reduction Appeal. He stated that there was a small mudroom with a deck and stairs in the rear and they wanted to use that foot-print for a mudroom connector from the house to the new garage.

Mr. Grysk stated that this was a straightforward appeal to upgrade the property and there was no building envelope to work in so they wanted to use the existing footprint. Mr. Gwyer stated that there would be 1.5 square feet of building less than the existing footprint.

Mr. Gwyer and Mr. Dryzga addressed the criteria. Mr. Dryzga read a letter in favor of the appeal from Theodore Meserve, of 25 Houghton Street.

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

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

Voted 5-0

k. Appeal No. 2397 - A Practical Difficulty Appeal by Ava Adams and Robert Talley, 4 Avenue Two, Assessor's Map U22 Parcel 55, to demolish and reconstruct a home 15 feet from the front property line and 8 feet from the rear property line in the R-4A Zone

Mr. Talley stated that the Board had approved additions to the house about a year ago but the DEP would not give their approval. He stated that they had discussed this proposal for a single family home with the DEP who had approved it. Mr. Talley stated that the old structure was 1,047 square feet and the new home would be 1,044 square feet; he stated that they would enlarge the rooms and build a one-car garage.

Mr. Dryzga confirmed that the house would be no closer to the property lines than it is currently. Mr. Talley stated that were improving one lot line and would shift toward the center of the lot so they would not disturb a maple tree.

Mr. Dryzga and Mr. Talley addressed the criteria as presented in writing.

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

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

Voted 5-0

l. Appeal No. 2398 - A Practical Difficulty Appeal by Jeffrey and Steve Quirk, 147 Old Blue Point Road, Assessor's Map U27 Parcels 79 and 80, to alter the property line between two grandfathered nonconforming lots in the R-2 Zone

Mr. Maroon noted that he had talked with Jeffrey Quirk regarding this appeal but was not biased by that conversation.

Mr. Quirk stated that in 1972 his grandmother purchased a vacant lot on each side of her house and he had built on one of those lots in 1994; he stated that the R-2 Zone required a 20,000 square foot lot but these two lots were 10,000 square feet. He stated that when his grandmother died they sold her house but it was determined that the garage was outside the building envelope so they took some land from the lot on that side to make the garage conforming. Mr. Quirk stated that the lot was no longer grandfathered for 10,000 square feet because of the change in land but it met all other bulk and space requirements.

Mr. Grysk stated that the Ordinance indicated that two or more nonconforming lots under one ownership with contiguous frontage had to be one lot, but within certain dates the lots stand and that is why the first lot was buildable, but the grandfathering was lost when amending the lot line.

Mr. Maroon noted that by trying do the right thing in making the garage conforming, the appellant got stung; he asked whether there was any other advantage to changing the lot line. Mr. Grysk stated that there was no other advantage. Mr. Maroon stated that he saw no reason for being penalized for doing the right thing.

Mr. Dryzga noted that the appellant had answered all the criteria; the Board did not feel they needed to be read.

Mr. Dryzga opened the public hearing; no one spoke for or against the appeal. Mr. Dryzga read a letter in favor of the appeal from William Baker, 149 Old Blue Point Road. Mr. Dryzga closed the public hearing.

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

Voted 5-0

5. Zoning Board Comments

There were no comments.

6. Adjournment

The meeting was adjourned at 9:35 P. M.