

Town of Scarborough

Zoning Board of Appeals

April 9, 2008

AGENDA

1. Call to Order (7:00 P. M.)
2. Roll Call
3. Approval of Minutes (March 12, 2008)
4. Appeals
 - a. Appeal No. 2437 – A Miscellaneous Appeal by Running Hill Self Storage, 34 Running Hill Road, Assessor’s Map R18 Parcel 38, to expand the area of a nonconforming use in the R-F Zone
 - b. Appeal No. 2438 – A Variance Appeal by Ballantyne Development LLC, 8 Avenue Four, Assessor’s Map U22 Parcel 38A, to build a new home 20 feet from the front property line in the R-4A Zone
 - c. Appeal No. 2439 – A Special Exception Appeal by Nan McEvoy Trust, 9 Sealrock Drive, Assessor’s Map U18 Parcel 2405, to create an Accessory Unit 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

April 9, 2008

MINUTES

Members Present

Staff

Mr. Blaise
Mr. Dougherty
Mr. Loisel
Mr. Maroon
Mr. Temm

Mr. Grysk, Code Enforcement Officer
Mrs. 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. Massengill was absent. Mr. Maroon authorized Mr. Dougherty to vote.

3. Approval of Minutes (March 12, 2008)

Mr. Loisel moved to approve the minutes of March 12, 2008; Mr. Temm seconded.

Voted 5-0

4. Appeals

a. Appeal No. 2437 – A Miscellaneous Appeal by Running Hill Self Storage, 34 Running Hill Road, Assessor’s Map R18 Parcel 38, to expand the area of a nonconforming use in the R-F Zone

Mr. Dan Diffin, of Pinkham and Greer, explained that they had moved the proposed buildings back 250 feet from Red Brook and from the wetlands and added six trees at the front near the fence. He stated that fire tanks had been added and they had reduced the size of one building to meet Fire Department requirements. To a question from Mr. Maroon, Mr. Diffin replied that they had reduced the lot coverage by about 1%.

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

Mr. Maroon stated that he still had an issue with the right side building because, at the last meeting, an agreement was made that the buildings would be further away from the north side wetlands; he stated that the Board had struggled with expansion of the nonconforming use and trying to keep the impact down. Mr. Loisel agreed. Mr. Diffin stated that he understood that the request was for a certain amount of space from the brook. To a question from Mr. Temm, Mr. Diffin replied that they had reduced the amount of area to be expanded from 1.5 acres to 1.25 acres and had moved the pond over. Mr. Maroon stated that he thought the agreement was to take the development line straight up from the original approval.

Mr. Dougherty started that he thought the Board had gotten what was asked for in terms of reduction and buffering; Mr. Temm stated that he agreed and did not realize the agreement was to go straight back from the first phase. Mr. Dougherty noted that there was no opposition from the public tonight.

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

Voted 5-0

b. Appeal No. 2438 – A Variance Appeal by Ballantyne Development LLC, 8 Avenue Four, Assessor’s Map U22 Parcel 38A, to build a new home 20 feet from the front property line in the R-4A Zone

Mr. Grysk noted that this would be similar to a Limited Reduction of Yard Size reduction of 10 feet but that appeal could not be used because the lot was in a back dune. He stated that the site met all of the town’s requirements but the DEP would not allow development over 40% in the back dune. Mr. Grysk stated that the garage had been reduced and the driveway made smaller.

Mr. Maroon and Mr. Anderson addressed the criteria as presented in writing. Mr. Anderson noted that the front setbacks in this area ranged from four to 17 feet. He stated that they proposed a 24 by 36 foot house with an 8 by 12 foot bump-out and a one car garage. Mr. Anderson stated that the house would be gabled to the street and would be of a traditional style; he stated that the 10,000 square foot lot was a large, conforming lot for this area but with the back dune it was a tight site. He stated that the house was the smallest they could build that would be financially feasible because a smaller house would not sell.

Mr. Maroon opened the public hearing. He read letters from George Kolvec, of 69 Jones Creek Drive, and Roger and Beverly Kolvec, of 8 Avenue Four. Mr. Maroon closed the public hearing.

To a question from Mr. Dougherty, Mr. Maroon replied that almost no Variance Appeals had been approved within the last five years but there had been several Limited Reduction of Yard Size Appeals approved. Mr. Grysk noted that this proposal was not very different from the neighborhood and some garages had been added. To a question from Mr. Loisel, Mr. Anderson replied that he would guess 40% to 50% of the properties in the neighborhood had garages.

To a question from Mr. Dougherty, Mr. Anderson replied that he acquired the property from the Town of Scarborough in October 2007 and did not know what the requirements would be; he stated that he reluctantly swapped this land for land on Route One. Mr. Temm asked whether the garage could be built under the house; Mr. Anderson replied that there could be no basement because of the flood plain and he would build three feet above grade. He stated that with a garage underneath the house would not be a traditional style. Mr. Grysk stated that a garage beneath the house would put it out of perspective with the neighborhood; he noted that the water table in the area was high.

To a question from Mr. Blaise, Mr. Anderson replied that, in the flood plain, 20% of the site could be a structure and 20% could be landscaping, a walkway and the driveway. Mr. Blaise stated that there were a lot of possibilities with the size of the lot and he did not know why there had to be this style house. Mr. Loisel agreed and stated that the appellant could meet Criteria No. 2 because the site was unique and No. 4 because the hardship was not caused by the appellant. He stated that he struggled with Criteria No. 3 because he thought the number of garages was more like 10% to 20% in the neighborhood so a garage did not fit with the character of the neighborhood. Regarding Criteria No. 1, there would be reasonable return without a garage. To a question from Mr. Temm, Mr. Grysk replied that turning the house 90 degrees would make the driveway longer which would impact the amount of impervious surface. Mr. Anderson noted that in this area, even construction activities could not encroach any more than 40% on the site.

Mr. Maroon stated that this did not meet the Variance requirements; he stated that Criteria No. 2 was met and No. 4 was result of the Town splitting the lot, but there could be reasonable return without a garage. To a comment from the Board, Mr. Grysk replied that he had informed the appellant that very few Variance Appeals were approved, but he did have the right to ask. To a question from Mr. Loisel, Mr. Grysk replied that there were no other appeal options but the appellant could build within the setbacks.

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

Voted 0-5 – The appeal was denied.

c. Appeal No. 2439 – A Special Exception Appeal by Nan McEvoy Trust, 9 Sealrock Drive, Assessor’s Map U18 Parcel 2405, to create an Accessory Unit in the R-2 Zone

Mr. Patrick Carroll, of Carroll Associates, stated that the 500 square foot garage was being built with a bathroom; he stated that the structure would be used to house a car during the winter but the appellant wanted to use it as a family room for extra space when they were there for the summer. Mr. Carroll stated that there would be no kitchen but finishing the garage would be expansion of the residential floor space.

Mr. Grysk stated it was difficult to figure out what to do with this proposal because the appellant did not intend to use this as a second unit, but this appeal for an Accessory Unit was used in the event the appellant decided to built a kitchen in the future. Mr. Maroon stated that this was a conservative approach and gave the appellant the option of using the space for an Accessory Unit without returning to the Board.

Mr. Maroon proposed, and the Board agreed, using the criteria as addressed in writing. Mr. Maroon read the Registration of Accessory Units form.

Mr. Blaise stated that this was an excellent plan, but the space could be used for sleeping quarters for several people; Mr. Carroll stated that there were enough bedrooms in the house so the garage would not be needed for sleeping quarters. Mr. Grysk noted that any finishing of a detached structure should come to the Board because they tended to get bigger and then people would start living in them. He stated that this appeal gave the appellant the option to do that.

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

Voted 5-0

5. Zoning Board Comments

There were no comments.

6. Adjournment

The meeting was adjourned at 8:10 P. M.