

PRESENT: Dennis Mead, Chairman
Joanne Bonsack
Tracy Hirsch
Beverly Kent
Kathy Prackajlo
Bethany Pryor

ALSO Kelly Vacco Deputy Town Attorney
PRESENT Thelma Faulring Secretary to the Boards and Committees

Mr. Mead called the meeting to order at 7:00 PM and asked for a roll call of the members. Attendance is noted above.

Mr. Mead asked if there were any questions or comments for:
Josh Krencik 7998 Zimmerman Road – exceeding accessory use.
There was no Work Session discussion.

Mr. Mead told the members that Secretary Faulring advised him just prior to the meeting that Mr. Lawton had withdrawn his application for accessory building prior to principle on Dunn Road.

Mr. Mead asked if there were any questions or comments for Deanna Drive which was tabled at the last meeting:

- Received letter from Sean Hopkins stating that he sent letters out to adjoining residents that request him to do so

There was no Work Session discussion.

Mr. Mead: Is there a motion for the Work Session minutes from October 4, 2012?

Ms. Pryor: I'll make a motion to accept the minutes.

Mrs. Prackajlo: I'll second that. All those in favor say aye.

All were in favor of the motion.

Mr. Mead: Any other business for the Work Session, any other to bring up?

Mrs. Bonsack: Yes, mileage?

Mr. Mead: I did get a letter to them and my understanding is they did discuss at their meeting and they forwarded it to our Town Attorney to take a look it. We will get an answer back on that.

Mrs. Bonsack: Did they say why?

Mr. Mead: No. We will probably have an answer by the next meeting.

Mrs. Bonsack: Do you know what was in the letter?

Mr. Mead read the letter he sent to Town Supervisor Ballowe:

Mr. Ballowe:

I am inviting you and the Town Board to consider additions to the Zoning Board budget. As the Chairman to the Zoning Board of Appeals I have been asked by other Board Members to request mileage allocation for Zoning Board members to be reimbursed for location visits and other travel as it relates to the Zoning Board issue. Also reimbursement for New York City Association of Town Conference and all other associated costs to attend.

Thank you and the Town Board for your consideration on these items and any decision you and the Town Board decide, please let me know so I can inform the other Zoning Board members.

Sincerely
Dennis Mead
Chairman

CC: Boston Town Board
Secretary Faulring

Mrs. Bonsack: What about the training sessions from TGV that we could all attend for our hours?
It's coming up in a couple of weeks.

Mr. Mead: Does it have to do with the training?

Mrs. Bonsack: Yes.

Mr. Mead: If you would forward that to me I would have no issue forwarding that to the Town board for the training that has to be done.

Mrs. Bonsack: Didn't everyone get it. Did you send that to me?

Secretary Faulring: I didn't send it. If I had sent it to one, I would have sent it to everyone.

Mr. Mead: If you find it let us know where and when.

Mr. Mead: Is there any further business for this evening?

Being none, Mr. Mead made a motion to close the Work Session. Seconded by Mrs. Praczkajlo and carried.

:

Dennis Mead, Chairman

November 1, 2012

November 1, 2012

Petition #447

Darling / Gauthier
Deanna Drive Subdivision Extension

PRESENT: Dennis Mead, Chairman
Joanne Bonsack
Tracy Hirsch
Beverly Kent
Kathy Prackajlo
Bethany Pryor

ALSO	Kelly Vacco	Deputy Town Attorney
PRESENT:	William Ferguson	Code Enforcement Officer
	Thelma Faulring	Secretary to the Boards and Committees
	Marian Schiralli	6410 Deanna Drive
	Mark Schiralli	6410 Deanna Drive
	Linda Kaczka	6459 Willow Drive
	A. Susan Prentki	6474 Willow Drive
	Michele Jablonski	6484 Willow Drive
	Barbara Zak	6424 Willow Drive
	Henry Prentki	6474 Willow Drive
	Bill Gowan	8647 Park Drive
	Lorrie Valentine	8668 Park Drive
	Dana Darling	Project co-applicant
	Joe Gauthier, Jr.	Project co-applicant
	Sean Hopkins	5500 Main Street Williamsville Project Attorney
	Ron Yormick	6405 Deanna Drive
	Connor Vacco	High School Government Class student
	Sean ?	High School Government Class student
	Mitchell Scanlan	High School Government Class student
	Mark Michalski	High School Government Class student
	Bernie Lettieri	High School Government Class Student
	Mark Matyas	6444 Willow Drive
	Marianne Matyas	6444 Willow Drive

Mr. Mead opened the meeting at 7:25 PM and asked for a roll call of the members. Attendance is noted above.

Mr. Mead introduced Mrs. Vacco, Mr. Ferguson and Miss Faulring to those in attendance.

Mrs. Vacco gave the following instructions to the ZBA members:

- All you need to do is reopen Petition 447
- The petition was tabled, there was no vote on it
- Thereafter you can have discussion among yourselves
- If you choose to reopen the public comment portion of that petition there must be a motion to reopen and it must be seconded

Mr. Mead: At this point I will make a motion to reopen the petition for Dana Darling and Joseph Gauthier, Deanna Drive subdivision, proposing the extension of Deanna Drive subdivision..

Mrs. Prackajlo: I'll second.

All were in favor of the motion.

Mr. Mead: Is there any discussion?

Mrs. Bonsack: I make a motion to reopen the public section of the meeting, public hearing/ Is there a second on that?

Mr. Mead: Does anyone want to second that?

Ms. Pryor: In light of the crowd that's gathered here I feel that if they want to say something they should have the opportunity to do so, so I will second it.

Mr. Mead: All those in favor.
All were in favor of the motion.

Mr. Mead: At this point does anyone want to come forward,

Mrs. Vacco: At this point, if there is anyone here who wasn't heard the first time or something new has come to light and the additional maps that were provided to you, this is the opportunity for you to let the Zoning Board of Appeals know your position; and again it doesn't relate to anything except the petition that is before this Board, the only part of the petition for variance is for fifty (50) feet for a number of lots. If it has to do with the rezone or the subdivision itself, I can appreciate your issues but this Board has no jurisdiction over that, so it's for the fifty feet that is before this Board this evening.

From the audience: who has the jurisdiction for this?

Mr. Mead: Please come forward to the microphone.

Grumbling and cursing the man came forward.

Bill Gowan – Park Drive

- There is a variance for the depth, we understand
- Dana owns the property, we understand
- There is no reason for a variance for the depth
- The square footage of the lot makes no difference
- Who do we talk to, who do we contact because if this has no jurisdiction of any kind other than the depth, where do we go with this because at some point in time they're taking the greenspace away, we understand
- We understand that sort of thing
- It's de-valuing Boston
- Who has jurisdiction actually stand up and step in because at some point somebody's got to step in

Mrs. Vacco: The Planning Board has to approve an subdivision plat that is presented to the Town Board. The Town Board, ultimately, has the approval of rezoning and subdivision acceptance. This Board is here for variances, that's the only jurisdiction that statutorily they have.

Mr. Mead: When it comes to subdivisions the Planning Board has the most control over what happens with the subdivision directly.

Bill Gowan:

- We get that
- But the fifty foot variance is a ploy to get more lots
- More money, we understand this
- There's no reason to it anymore
- The Town of Boston is the Town of Boston, we're turning into, (?) amount of property area
- It started at Tim Horton's, go straight down and count the houses, count the rentals, you're outnumbered here now by the rentals
- We've got trailer parks
- We've got a third one on the way
- The townhouse, obviously if someone like them that's fantastic
- There's no reason for a variance to get any depth
- And I've tried to find this in the *Hamburg Sun* but we decided to ship it to Orchard Park for cost saving which put the basic Town of Boston in the dark, anybody who wants to know anything about this there are people within a half mile of this place that have absolutely no clue
- we have people that have bought in the Park Drive Willow area that have no idea what's going on 'cause this thing is buried somewhere
- at some point the Town has to let the people know, a half mile the *Hamburg Sun* somebody
- people aren't going to buy near these places when they start looking
- it devalues everything that they got on either side and through Deanna
- somewhere along the way someone has got to put a stop to it
- Force it to be a natural development
- Tax as a development and not as a complex for a military style town house or whatever you want to call it

Mr. Hirsch: You have a question about these, why don't you repeat what you had to say about the variance, that didn't make any difference.

Bill Gowan:

- From what little I heard
- I'm sorry I didn't make meetings, I looked, I didn't know everything was buried up in Orchard Park

Mr. Hirsch: No, you made a statement that it didn't make a difference about the size of the lot.

Bill Gowan:

- All I heard was second hand
- Everything came through and said that each lot is going to be less than 50 feet deep, we're going to widen it out and the square footage of each lot is going to be what the Town of Boston requires

Mr. Hirsch: Right, but have you ever seen the Code Book?

Bill Gowan: If I saw the Code Book I'd be sittin' where you're sittin' right now.

Mr. Hirsch: I'll tell you how it applies to what you're talking about. Because there is a certain square footage that is required in the book and that's what we have to go by, unless an applicant come and applies for something different, so that's the only thing we're here for today is to look at the size of the lot and do that, my suggestion would be is some of the comments that you have is to look into that and go before the Town Board or the Planning Board.

Bill Gowan: We can sit down and discuss the book, that's

Mr. Hirsch and Bill Gowan talking at the same time – not able to determine what either is saying.

Bill Gowan:

- We both understand square footage
- If I came in and asked for a variance for a house and you said no because I wanted it to be less than fifty wide or whatever the numbers are going to be
- Without this piece of paper in front of me, we all get it
- At some point we all know that you want to shorten up lots, the extra lots and do more building, we understand
- At some point somebody's got to say no
- It's very apparent where this is all going – it's a money grab, plan and simple, but it's a business decision

Mr. Mead: Okay. Did you have any other questions?

Bill Gowan: No, but it's sad because I've been trying to watch it through the media and I just found out that everything went to Orchard Park

Mrs. Bonsack: On-line you can go through the Town of Boston website, you can catch a lot of the meeting minutes there and what's on the agenda, the Planning Board's except the last one is September 12 is the last one for the Planning Board minutes, Thelma what happened to the September 25 meeting minutes?

Secretary Faulring: Maybe there wasn't a meeting. Why are we talking about Planning Board minutes?

Mrs. Bonsack: Well because he was inquiring about where he could find information about...

Bill Gowan:

- That's Planning Board, fine I get it, I understand.

Mrs. Prackajlo: It's also in the Town Board minutes too.

Bill Gowan: That's fine.

Secretary Faulring: Mr. Chairman, if I may?

Mr. Mead: Yes.

Secretary Faulring: The Public Hearing Notice for the first Public Hearing on the Deanna Drive subdivision was in the *Hamburg Sun* on September 20.

Mr. Mead: Okay. Thank you.

Bill Gowan: As it should.

Sean Hopkins:

- Representing Dana Darling and Joe Gauthier
- I think this Board was provided with very comprehensive evidence at your previous meeting as well as the application sincerely demonstrating there's justification for granting the requested variance pursuant to the balancing test of the five criteria set forth in the Town Law Section 267 B 3 b
- I did do what I said what I'd do at the last meeting by sending full sized copies of the plan to the neighbors who requested them and also providing Thelma with a letter and a copy on a 11 by 17 so that she could make sure all the neighbors now have a correct plan
- In terms of the comments we just heard as far as
 - These aren't rental units, these will owner occupied homes
 - The goal is not to squeeze extra lots, the goal is to recall, to develop the subdivision consistent with the subdivision that was approved in 1967
- The only other thing that I would note that as a Board if you grant this variance tonight, this process is far from over
 - There are still three separate approval processes - sketch plan approval, preliminary plat approval and final plat approval, which will include many public meetings as well as at least one Public Hearing

- Also I believe that variances are good for a period of six months from the date they are approved, so I would ask for a longer time frame because there is no way we would be done with that process, in six months which would mean that we would have to come back in front of you
- So if you would consider eighteen months or twenty four months for us to start the project, that would be greatly appreciated
- We also have to get health department approval, county or highway department approval, etc., etc. so we still have a long haul ahead of us
- Thank you

Mrs. Bonsack: In respect to the balancing test that you gave, a lot of information, and I appreciate that you want extra time, and from response to the balancing test that is very important, and again this is my opinion only, it's not the opinion of the Board or Town Attorney, this is my person opinion from going over Town records and what the Town's long term plan is:

#1 of the balancing test – “will it change the character of the neighborhood or detriment to nearby property?”

This is my personal opinion – people move to Boston because the open spaces, the agricultural space; to me it sets the precedent if you give this variance,

because there is property in works for another development and behind that little pixie place, that's another development that in the works, so there's two more subdivision developments that are in the talking process, okay, so that sets precedence for more variances

Mr. Hopkins: I actually disagree.

Mrs. Bonsack: This is my venting, then you can say whatever you want.

#2 – “can it be achieved by any other method?”

Yes it can be, #1 you can build less homes on that piece of property, I'm not against development just since the petitioners also own the property next door and originally they wanted that whole property be mobile homes, grab a hundred from over there not a problem, not a problem that can be a hundred feet is only a hundred feet to give to each house will then in retrospect give a hundred feet from the other adjoining property which the client owns

#3 – “is the variance substantial?”

No so much, not really 50 feet is not too much. In the grand scheme of things, yes in the grand scheme of things.

#4 – “will the variance have an adverse effect or impact on the environment?”

I don't know if everyone here is aware of this but up for a vote next year the Patchin Fire Department may not be around, the Patchin Fire Department is going to be in charge of that, this is the Patchin Fire Department jurisdiction, if that department is not there anymore those homes insurance is going to go sky high; I'm in that area as well as a lot of others, they don't realize that with only one egress in there; there is no other way out and it's going to be quite an issue..... we don't have anyone from the fire department to tell us other, I'm just saying that it could be an issue for the fire department if we only have two fire departments. You're asking for an extension of eighteen months, we should probably know within the next year whether that actual fire department is going to be allowed because they're talking about consolidation and that's a serious thing that could happen. Do I know what's going to happen? I don't know what's going to happen

#3 – “is the alleged difficulty self-created?” you say that's not really, could be an issue – yeah if you take that

Hundred feet from the next door property that they own and start over; yeah know come to the board, come, to the board, come to the Town with wanting to work with them, well the guidelines are the Code, because the guidelines are the Code that have been put there by people who spent a lot of time making them and we all want to get along, we're not trying to show not to move along with that development, that's not it, it's just that Codes were there for a reason and we differ from the Codes. And I think if you're going to say anything after that, that's my own personal opinion. Thank you.

Some applause from the audience.

Mr. Hopkins: The only thing I have to say is that this site is not zoned open space for agricultural; we're doing exactly for what it is zoned, and exactly what was approved in 1967, To speculate that this is inconsistent with the character of the area that's

Mrs. Bonsack: One more thing though, I looked up, I have copies for the Board if you'd like to look, on page 98 of The Comprehensive Plan of the Town of Boston referenced 1.5 units per acre is required by the commission that put together the Comprehensive Plan of Boston...I've got it right here.

Mr. Hopkins: That's not true. There's two memos in the file from Richard Brox, that Town Planning Consultant stating very clearly that this project is entirely consistent with the Town's adopted Comprehensive Plan. I don't know the meme that you're referencing but it's clearly consistent.

Mrs. Bonsack: It's a 2002 copy of the plan, page 98 which recommends that in an agricultural Town can have a total of one point five units per acre which is

Mr. Hopkins: Throughout the whole Town, sure, I would

Mrs. Bonsack: Sure, but what you're asking for 15000 square feet per unit that's half of what the Comprehensive Plan is calling

Mr. Hopkins: No, the Comprehensive Plan is recommend medium density, residential at this particular site, everyone can look it up.

Mrs. Bonsack: For some of it, but not

Mr. Hopkins: No, for this entire site; the Town Board found that as well when they rezoned the property in June of this year, so those findings have already been made. And that's okay, you can have your opinion, but those findings have already been made.

Mr. Mead: Is there anybody else?

Marian Matyas

- I live on Willow Drive in Boston
- I did speak at the last meeting and I thank you all for sending the maps and the new plan
- The people in our neighborhood were not aware of any change in this plan and I appreciate you taking the time to have a second meeting and getting the information out, because nobody knew about that because I was here
- I did have the opportunity to speak some people that were in the area when the Starlight Subdivision was proposed and you are correct, although it was never approved
- Mr. Schunk and his father who is deceased did plan on building large homes in that Deanna Drive area, they owned at the time, it was to be large homes on large lots to better that area, to better the property values around it because they built most of the homes on Willow Drive and Park Drive, and I believe they may have even built some of the ones on Thornwood
- The reason the people in our area built and bought the homes was to be in the areas with greenspace and the minimum size lots, were considered very small on Deanna Drive at the time and that's why they wanted to put in Starlight is to have bigger lots, bigger homes to better Boston and to give more of that feel of some land between the homes for people that didn't choose to live an urban area
- I vote no for this
- I hope you don't set a precedent
- I hope you don't give this variance. Thank you.

Susan Prentki

- I live on Willow Drive
- My property backs up to the ditch and the property that the Darlings are now considering
- My lot is 200 by 215 deep
- I don't see how they consider this Code, objecting to the Code and allowing it to be 50 deep

Mrs. Vacco: Excuse me, I don't mean to interrupt you but the what they are asking for is a fifty foot variance, not that the lot depth would be fifty feet, the Code requires 175 feet and they are asking for a depth of 125 feet, which is a 50 foot variance. I just wanted to make sure

Mrs. Prentki;

- But they want to make them smaller right?
- I hate to say this but I'm hoping that we have a really heavy winter because there would be no place for them to put that snow, really think about it
- Before we moved in in 1977 people were on their roofs, you couldn't see into their windows because there was so much snow and nowhere to put it
- And if they put all this in this small area where are they going to be able to maintain it, into Back Creek, it's already overflowing from the last rainfall that we had when we had to close Eckhardt Road
- As a suburb you need space, you need places for snow and rain
- On the other side of Willow Drive when we moved in there was a river flowing from the hill all the way behind the people, it was an actual river because of the snow and the quick route and I picture this and can't imagine what those poor people will do crowded into that small area and no basements; so where's the water going to go in their house, that's heartbreaking
- Back Creek cannot accommodate it
- You have to consider this, it's too much for a small area
- That's what's going to happen

- I hope that you will not allow this to happen
- We've been here 35 years, there are people who have been here 35 – 40 years, we know what the weather conditions are like
- Thank you

Mark Schiralli

- I live on Deanna Drive
- I am against the variance
- I bought my house about 23 years ago
- I wanted to live in Boston in a country setting
- Now with mores homes around and pile them in here like a can of sardines we're going to look like Buffalo
- Let's keep it country looking out here
- We got a nice town out here
- And let's just sell all rental property and pile all houses on top of one another

Mr. Mead: Anybody else?

Barbara Zak

- I live at 6424 Willow Drive
- I not against putting houses in there but like they said it's countryside
- We love it there
- I'm just totally against having all these houses up
- I know the public can't stop it, but

Mr. Mead: At this point I will close the Public Comment portion of the hearing.. one question – it was mentioned about the 12 month variance what is the normal time span?

Mr. Ferguson: 6 months.

Mrs. Bonsack: Do we need a motion on that?

Mr. Vacco: It can be a condition of the variance.

Mr. Mead: I am requesting a motion on the petition at this point.

Mr. Mead: I will make a motion to accept the petition with the stipulation that it will be a 12 month variance.

Mr. Hirsch: I don't know if he can do it in 12 (months).

Mr. Mead: You mean more than 12.

Mr. Mead: You're saying you're looking for a 12 to what?

Mr. Hopkins: We're going to try to get there as quickly as we can but we have at least six separate meetings after this, so 12 months would be pushing it.

Mrs. Vacco: Extending the variance so it catches up to the actual acceptance, approval or denial is not necessarily a bad thing, this would just have to happen all over again, but it also dies if the subdivision doesn't get approval. So there's not a negative to granting him 18 months, because if the Planning Board and Town Board do not approve and they don't get all their ducks in a row this is thrown away.

Mr. Mead: Then I will amend that motion to the 18 months variance. Is there a second?

Mr. Hirsch: Second.

Mr. Mead: All those in favor? Can I get a roll call?

Secretary Faulring: The motion is to approve the variance request. If you are in favor say yes, if not say no.

Mrs. Bonsack: No

Mr. Hirsch: Yes

Mrs. Prackajlo: I'm undecided.

Mrs. Vacco: You can't, I'm sorry you can't. You either abstain or vote.

Mrs. Prackajlo: I abstain.

Mrs. Vacco: Then you need to have a reason to abstain.

Mrs. Prackajlo: I abstain because I feel that there should have been a way to work this out and...

Mrs. Vacco: If you abstain it has to be for a conflict of interest or something of that nature; it just can't be because you are conflicted.

November 1, 2012

Petition #447
Page 7

Darling / Gauthier
Deanna Drive Subdivision Extension

Mrs. Prackajlo: Then I have to say no, because I cannot honestly say yes.

Secretary Faulring:

Ms. Pryor: (after careful consideration) yes

Mr. Mead: Yes

Secretary Faulring: The vote is 3 in favor and 2 against.

Mr. Mead: The motion carried.

Mr. Mead: I'll make a motion to adjourn.

Mrs. Prackajlo: I'll second.

Dennis Mead, Chairman

November 1, 2012

November 1, 2012
7:15 PM

Petition #448

Krencik, Josh
7998 Zimmerman Road

PRESENT: Dennis Mead, Chairman
Joanne Bonsack
Tracy Hirsch
Beverly Kent
Kathy Prackajlo
Bethany Pryor

ALSO Kelly Vacco Deputy Town Attorney
PRESENT: William Ferguson Code Enforcement Officer
Thelma Faulring Secretary to the Boards and Committees
Josh Krencik Applicant – 7998 Zimmerman Road

Mr. Mead called the meeting to order at 7:15 PM and asked for a roll call of the members. Attendance is noted above.

Mr. Mead introduced Mr. Ferguson, Mrs. Vacco and Miss Faulring to those in attendance.

Mr. Mead opened the Public Hearing at 7:17 PM.

Mr. Mead read the Public Hearing Notice and the SEQR review received from Town Engineer James Hannon – ‘there is no significant impact to the environment, and that no further action with respect to SEQRA is necessary or recommended.’

Mr. Mead read a note dated October 29, 2012 from neighboring property owners William and Lucy Kraft, 8014 Zimmerman Road, stating: we ‘have no objections to our neighbors at 7998 Zimmerman Road erecting a structure/garage on their property.’

Mr. Mead asked the applicant to come forward and state his reasons for requesting a variance.

Josh Krencik

- I’m here to apply for a variance for my garage to store some stuff
- That’s pretty much it

Mr. Mead asked if there were any questions from the Board members.

Mrs. Bonsack: Do you have a detached garage?

Mr. Krencik: Yes.

Mr. Mead opened the public comment portion of the Public Hearing (7:20 PM).

Mr. Mead: Hearing none I’ll close the public comment portion with a motion.

Mrs. Prackajlo: I’ll make a motion that we close the public hearing.

Mr. Hirsch: Second.

All were in favor of the motion.

Mr. Mead asked for a motion on the petition.

Mr. Mead: I'll make a motion that we approve the construction of the accessory building based on

- (1) Does it create an undesirable change to the character of the neighborhood? Yes [] No [X]
- (2) Can the benefit sought by the applicant be achieved if the variance is not granted? Yes [] No [X]
- (3) Is the requested variance substantial? Yes [] No [X]
- (4) Will the variance have an adverse effect/impact on the physical or environmental conditions of the neighborhood? Yes [] No [X]
- (5) Is the alleged difficulty self-created? Yes [X] No []

Mrs. Prackajlo: I'll second.

Mr. Mead: All in favor? All were in favor of approving the variance request.

Mr. Mead: So moved, you have your variance. The second petition that we did have on the agenda was for David Lawton, which we will be moving past, because that was one was withdrawn from the agenda So we will move on to the next petition.

Dennis Mead, Chairman

Dated: November 1, 2012