

Zoning Board of Appeals

Minutes

October 21, 2014

Public Hearings

7:00 PM 2 Labelle St. - Duque Suellen

ZBA Case # 1433-2014

Petition: On a newly constructed roof over the front steps which is in violation of the front yard setback which is 7 ft. (grandfathered) vs. 20 ft. minimum required for Zoning District A-3. In accordance to Chapter 650-41 of the Zoning Ordinance. Property is located at 2 LaBelle St., being Map 42, Parcel 25 of the Assessor's Maps.

The lot in question is fairly flat. Almost rectangular in shape. This is a "corner" lot with 2 front yard setbacks and 2 side yard setbacks with no rear setbacks. The lot is located at the corner of Labelle St. and Hunter Ave. The existing house sits close to the front lot line and to the northerly side lot line. The lot contains 13,459 sq. ft.

The abutting lots are similar in size and some of the abutting homes are set close to the front yard setback.

The applicant has installed a new front door, facing Labelle St. Along with that door, he has added some steps with a roof overhang which is the subject of this hearing. The overhang roof extends 4 ft. to the front lot line. The roof overhang covers the landing of the steps. (The original door entrance was at the left side of the house.)

List of exhibits:

- Denial letter from the building department dated August 12, 2014.
- Plans entitled: Proposed House Renovation at 2 Labelle St., dated April 7, 2014, prepared by T Design, LLC Sheets A-8 and A-7.

The applicant, Sullen Duque and Mr. Joel Soares of 56 Davidson Rd., Framingham, MA were present.

Mr. Joel Soares stated the following:

- The entrance to the house was where the enclosed porch was located. He was going to continue using this as his entrance, but in switching to gas, the gas company did not want to install the gas meter where there is a door entrance or a window. Thus. the moving of the door to the front of Labelle St.
- He stated he has done major interior and exterior renovations to the house.
- He stated when his plans were presented to the building department for permits, the architect left out the roof overhang over the steps on the

plans. When the building department came out to do some inspections, the roof overhang was in place.

- The building department issued a stop work order on any exterior work until such time as the applicant receives the proper variance for the roof overhang.
- The applicant feels the roof overhang adds to the character of the house.
- He also stated his surveyor is working on the final plans which should be ready in about 2 weeks
- He will be applying for a building permit for a garage in the future.

Speaking in favor of the petition:

- 26 Hunter Ave. – Patricia Zilembo –she stated she was in favor of the petition. The added roof over the steps looks very nice and adds to the house. She also stated that the front door was located at the front of Labelle St. This roof overhang will protect the mailman and their children from the winter weather. She also mentioned the entrance use to be at the front of the house on Labelle St. about 4 yrs. ago.
- 1 Labelle St. – Keith Anderson – he stated he had no opposition to the petition. He feels the roof overhang is a nice addition to the house.

Hardship as stated by the applicant:

- The roof overhang was not shown on the plans when said plans were presented to the building department, an error by their architect. So, when the plans were approved by the building department, he thought the roof overhang was also approved.
- The roof overhang is to protect the step landing from ice and snow. Also, to protect his children while waiting for the school bus.
- There was an entrance on Labelle St. in the past, but no roof overhang.
- The gas company would not allow a gas meter to be located where any door entrance or window was to be located thus, the moving of the door entrance to the front on Labelle St.

There was some discussion of an existing bay window located at the front of the house, which extends into the front yard setback.

The Board stated to the applicant that a Hardship cannot be a personal hardship. It has to do with the shape, topography and soil condition of the lot. Also, the Board felt the applicant has created his own hardship by adding a roof over the new steps. The Board also stated he does not have to move the front door entrance, just remove the roof overhang. The children can wait in the house for the school bus. The Board asked the applicant if any other homes in the area have a similar overhang. Answer – yes.

The Board felt there was no hardship according to Mass General Law Chapter 40A:

- The applicant does not need a roof overhang over the front entrance fronting Labelle St. this is the subject of this variance request.
- There was an entrance fronting Labelle St. in the past, which has moved to the left side of the house.
- The applicant is not making his case concerning the shape, topography and soil conditions of his lot. And in what makes his lot unique from the other surrounding lots.
- The Board finds that this is a “corner” lot.
- The Board stated there is an existing bay window already encroaching into the front yard setback, which is included in the plans. The Board felt that the proposed roof overhang may be allowed by extending the existing non-conformity with the bay window. The Board would like the applicant to investigate this, and add it to a revised plan.

The Board gave the applicant the following options:

- The Board would like to see a certified plot plan of the setbacks. The existing bay window maybe “grandfathered”. If so, the roof overhang can be extended as far as the bay window.
- Or the applicant can Withdraw Without Prejudice.

With the applicants’ approval, the hearing is continued to November 18th until such time as the applicants can present a certified plot plan to the Board at least 4 days prior to the hearing date to review the setbacks on the lot.

On a motion by Paul Giunta and seconded by Mitchell Gorka, the hearing was continued to November 18th at 7:00 PM.

The Board voted 5-0 to continue the hearing to November 18, 2014 at 7:00 PM.

7:30 PM

44 Ferrecchia Dr. - Shawn Butland

ZBA Case # 1434-2014

Petition: To erect a structure within the required minimum 15 ft. side yard setback vs. the proposed 10 ft. 5 inches from the side lot line. The property is located in Zoning District A2, being 44 Ferrecchia Dr., Map 79, Parcel 84 of the Assessors’ Map.

The topography of the lot slopes slightly from the existing garage to the side lot line and sharply to the front lot line. The shape of the lot is wider at the front and slightly narrows to the rear of the lot.

The neighboring lots are similar to the lot in question in relation to shape and topography.

The applicant proposes to erect a structure within the required minimum 15 ft. side yard setback vs. the proposed 10 ft. 5 inches from the side lot line. Proposal is to go back 12 ft. from the existing attach two car garage towards the rear of the property. The applicant is filing for a variance under Chapter 650-41 – Table of Lot Areas, Yards and Height of Structures.

List of exhibits placed on file:

- A write up attached to his ZBA application dated 9/15/2014
- A denial letter from the Building Dept. dated 9/16/2014
- A plan entitled: Proposed Addition, Plot Plan of Land in Marlborough, MA dated 7/31/2014 (plan is not stamped)
- A GIS map of the area in question.
- The applicant presented photos at the meeting.

Present this evening were Mr. and Mrs. Butland.

There was no one in the audience to speak in favor or in opposition to the petition.

The applicant stated:

- His existing driveway is steep, creating difficulties for entering and existing out of vehicles.
- He has 3 boys in the family who are driving with a 4th child who will be driving, creating additional cars to be parked in the driveway.
- The existing garage is poorly designed to accommodate the 2 cars they currently own. The applicant stated he has a truck which is too long to fit into the garage, thus the reason to extend the existing garage towards the rear.
- With the proposed added space they will also have more room for storage.
- There is a column at the middle of the garage which prevents vehicles to be parked for easy access in and out.
- He stated that his abutting neighbor on the left side has no opposition to his proposal. He was going to have his neighbor write a letter, but he is out of town.
- The existing angle of the side lot line prevents him from complying with the city's side yard setback requirement of 15 ft.

- The applicant has elderly parents which makes it difficult for them to enter and exit from a vehicle outside the garage due to the steep driveway.

The applicant's stated **hardship**:

- The existing attach 2 car garage is poorly designed for easy access.
- The driveway is steep creating a safety issue for people entering and existing out of vehicles.
- His growing family of drivers will create more vehicles onto his driveway.
- He has a truck that will not fit into the garage.
- The shape of the lot is odd shape. The side lot line slightly angles to the rear.

The Board wants to see the plan that was presented this evening to be stamped by their engineer and provide a copy for our file.

On a motion by Mitchell Gorka and seconded by Ralph Loftin, the public portion of the hearing was closed. The Board voted 5-0 to close the public portion of the hearing.

On a motion by Mitchell Gorka and seconded by Ralph Loftin to grant a variance as proposed by the applicant. The Board discussed the applicant's hardship and felt there was a substantial hardship on the shape of the lot in question.

The Board voted 4-1 to grant a variance with conditions.

The Board voted 5-0 to close the public hearing

Adjournment – The Board voted 5-0 to adjourn the public meeting.

Respectfully submitted,


Paul Giunta - Chairman