

ZONING BOARD OF ADJUSTMENT
SEPTEMBER 7, 2010

APPROVED AS AMENDED:

10/5/10__jrl_____

AGENDA: CONTINUED VARIANCES: JOHN MESSINA, Holiday Hills
Drive, #110-049
VARIANCE: CHARLES M. PARILLO, 78 Castle Lane,
#203-139

ATTENDING: Alan DeStefano (Chairman), Michael Willingham (Vice
Chairman), Lorraine Bohmiller, Larry Denton, Ashley Dolloff.

ABSENT: Alternate: Sara Shattuck

OTHER: Michelle Bonsteel (Land Use Officer), multiple public

The meeting opened at 6:00 pm.

CONT. VARIANCES: JOHN MESSINA

Mr. Messina apologized for missing last month's meeting and thanked the Board for continuing his case. He stated that he has been dealing with the Conservation Commission who has received word from Concord about things that need to be done. They are now waiting for DES to send a written copy of the decision of work needed on this lot.

Mr. Messina then distributed a copy of Century 21 Realty's paper of what the Mr. & Mrs. Messina were aware of at the time that they purchased the lot. He feels that the paper that the town has on record was filled in after they had signed it (DRA Real Estate Transfer Questionnaire) and this new paper disputes it.

M. Willingham made a MOTION, second by L. Denton, to CONTINUE THE VARIANCES OF JOHN MESSINA TO OCTOBER 5, 2010. The motion CARRIED.

VARIANCE: CHARLES M. PARILLO

The secretary read the application, abutters notified, where the hearing was advertised and stated that no other telephone calls or written correspondence has been received. Mr. DeStefano explained the procedure for variance hearings.

Mr. Parillo distributed 6 letters of approval from his additional neighbors (all abutters letters of approval were included with the application. Mr. Parillo then thanked the Board for their time as well as that of Ms. Bonsteel.

PARILLO VARIANCE continued:

Mr. Parillo stated that the addition he is looking for is on the right side of the house so as to allow a walk-in closet and storage. Underneath this new second floor addition, he will use for storage (a boat, trailer, trash barrels) and it will be open except for lattice work.

Mr. Denton asked about the angle of the lot as shown and Mr. Parillo answered that this is how the lot sits. Ms. Dolloff mentioned that there are no setbacks on the plan. Mr. DeStefano measured it, according to the scale, and stated that it is 16 and 30 seconds from the lot line to the nearest portion of the addition. Mr. Denton asked if the addition is to be a new bedroom, not storage and closet. Mr. Parillo stated that this is correct; they intend to turn the existing bedroom into the closet and storage space.

L. Denton made a MOTION, second by L. Bohmiller, to ACCEPT THE APPLICATION OF CHARLES M. PARILLO AS COMPLETE WITH THE ADDITION OF THE LOT LINE DIMENSION THAT IS MISSING. THIS TO BE DRAWN IN WHERE THE ADDITION IS TO BE. The motion CARRIED.

Mr. Parillo stated that, when he constructed the present cottage, it was not his intent to live there permanently. However, in 2001 he was forced to retire due to an injury he received as a Fireman. After that, his wife had to have a knee replacement. In 2004, they moved here permanently. Their only storage is in the attic with a pull-down ladder for access. Since, his wife has had Gilliam Beret Syndrome which has left her unable to climb the ladder.

Mr. Parillo then went over the 5 requirements for a Variance:

1. NOT CONTRARY TO PUBLIC INTEREST – The variance would not conflict with the Zoning Ordinance and would not violate the Ordinance’s basic zoning objectives. It would not alter the essential character of the neighborhood and would not threaten the public health, safety or welfare. All abutters and other neighbors in the Association have signed statements of approval of the plan.

2. SPIRIT OF THE ORDINANCE - The sole purpose of the addition is to provide storage and closet space for the Parillo’s. It would not create overcrowding, the impervious surface of the land would not be greatly impacted, and the lake will not be threatened by water pollution. Since the property is ½ mile from the lake, the ecological and cultural character of the lake will be preserved. The addition would be well within all of the required setbacks and would be less than the 25% lot coverage guidelines (15%). The building will be constructed to provide the highest amount of energy conservation and the new roof line will add character to the home.

PARILLO VARIANCE continued:

3. **SUBSTANTIAL JUSTICE WOULD BE DONE** - Without the variance they would not be able to achieve the goal of storage and closet space. They have a utility trailer, boat trailer, and several rubbish barrels that are stored adjacent to the right side of the house. The open area under the new addition would be enclosed with lattice and used for storage of these items, being more attractive to the neighbors. Substantial justice would be done without causing harm to the general public and without injury to the private rights of others. The addition will conform to all of the homes in the neighborhood and they will enjoy the comfort and easy access to the new storage area.

4. **SURROUNDING PROPERTIES WOULD NOT BE DIMINISHED** – The addition will follow existing wall lines, soffits and fascia boards so as to blend with all details of the home. The roof line of the addition will be lower than the existing roof, the walls, ceiling and windows will provide an abundance of protection to maintain maximum energy conservation. The front of the new room will step back from the existing front wall and will enhance the character of the entire home. There will be no diminution to the surrounding properties; instead it would increase value to the neighborhood.

5. **UNNECESSARY HARDSHIP** – Denial of the variance would result in unnecessary hardship because the property lacks storage and closet space that most of the other homes in the neighborhood have. It will force continued moving up and down the pull-down ladder which has become a safety hazard due to their physical conditions. The addition will comply with all other current zoning guidelines.

No fair and substantial relationship exists as the home is not near the water (approximately ½ mile from the lake front). Therefore, overcrowding, water pollution and preserving ecological and cultural character of the lake shore area will not be affected.

The proposal is reasonable as it will provide safer and easier access to the storage and closet area. Its use will not alter the essential character of the neighborhood and the design would enhance the overall appearance.

The lot measures 26,800 sq. ft. The proposed addition meets all current setbacks and is a 15% ratio of building area to property area. It will not injure the rights of others in the neighborhood and the abutters all agree that the project would satisfy their needs, improve the character of the property and not cause harm to the lake or neighborhood.

Mr. Willingham questioned the notification to Avis Roy as the abutters list shows it as lot 139, the same as the applicant. Mr. Parillo stated that this should have been lot 140 and the secretary stated that Ms. Roy was notified. Ms. Roy was also in attendance.

PARILLO VARIANCE continued:

Mr. Denton asked why they did not say that the new addition is to be a bedroom and does this mean that there will now be two bedrooms. Mr. Parillo stated that they need storage and closet space and the existing bedroom will be used for this with the new addition being the only bedroom after this project is complete. Mr. Denton asked if the new addition is just on the 2nd floor and Mr. Parillo answered in the affirmative, adding that the main area of the home is all on the 2nd floor. Mr. Willingham asked what is in their barn. Mr. Parillo stated that, in their previous home, they had a basement, barn, and other storage areas so this houses a lot of the things from their, along with his tools, etc.

Mr. Parillo went on to say that he will have a licensed electrician and a local roofer. He will do the carpentry. Ms. Bohmiller asked about the existing bedroom being on the second floor and Mr. Denton stated that a ladder will be needed to build the addition. Mr. Parillo stated that his son and neighbors are to help.

Mr. DeStefano asked for public comment in favor: Frank Rooney stated that they keep everything neat and clean; he is in favor. Gail Rosetti agreed. Mel Scott felt it would be a good project. Karen Roy stated that everything that the Parillo's do is top quality. Frank G. is in favor and Avis Roy also. Mary Scott stated that it will enhance the home and the neighborhood. Barbara Goodick was in favor.

Mr. DeStefano asked for public comment against: There were none.

Mr. Denton asked if all abutters were in attendance and was told that all but one and he submitted an in-favor letter. Mr. DeStefano then gave a brief summary of the project.

The public portion of the hearing was then closed.

Mr. DeStefano asked for comments on Public Interest. Mr. Willingham asked if the Board is satisfied with the 5 requirements, if they can just move to vote on the application. All of the Board agreed that they were ready to vote. Mr. Denton mentioned that it is great when an applicant has so much public support. He added that the Board needs to keep in mind that what we decide here sets precedence. Mr. DeStefano disagreed, stating that we are to judge each case on an individual basis. Ms. Bonsteel bought up a point of order, stating that there is no such thing as precedence in Zoning. Mr. DeStefano further explained that we judge on every case, depending on how well the applicant has presented the 5 requirements; some may not present these well. Mr. Willingham added that some is based on how the completion of the application was accomplished and the review of it.

PARILLO VARIANCE continued:

M. Willingham made a MOTION, second by L. Bohmiller, to MOVE TO VOTE ON THE APPROVAL OF THE APPLICATION OF CHARLES M. PARILLO. A vote was taken for approval which PASSED, 4 for, 0 against. Mr. DeStefano explained the 30-day appeal period and signed the Notice of Decision.

MINUTES OF AUGUST 3, 2010:

One amendment was made: Page 3, 3rd paragraph, 4th line, replace “mow” with “loft”. A. Dolloff made a motion, second by M. Willingham, to approve the minutes as amended. The motion carried.

CORRESPONDENCE:

A notice on the LGC Law Lecture series was read and any member who may wish to go can notify the secretary or Ms. Bonsteel. The notice for the Annual LGC Conference was noted. Mr. DeStefano read the letter to John W. Palmer from Ms. Bonsteel. Ms. Bonsteel explained that she has talked to the Mrs. today. The original permit was almost 5 years ago and expired 2 years before they began to complete the deck. In Feb., Ms. Bonsteel spoke with them. Both have had serious illnesses. Due to today's Ordinance, they now need a Variance. They will also need a handicap ramp, which Ms. Bonsteel stated does not need a Variance. Ms. Bonsteel has stopped the construction ad it sounds like they are willing to work with her.

Ms. Dolloff mentioned that the Board has to look at the project like it never was started. All agreed. Mr. DeStefano asked about Shoreland Protection and Ms. Bonsteel stated that they said that they got a verbal exemption from the State. Mr. DeStefano said that the Board would need to see this in writing.

OTHER:

Not wanting to embarrass Mr. Messina in front of all of the public here tonight, the secretary showed the Chairman a copy of the DRA questionnaire that Mr. Messina had referred to. Mr. Willingham felt that the questionnaire has no merit for the Board as we do not know who or how the designation of “unbuildable lot” was done. Mr. DeStefano asked the secretary to make copies for the Board.

Ms. Bonsteel mentioned that the Planning Board will soon be working on the Lake District regulations and that the ZBA should submit their recommendations or considerations. Members can e-mail them to Ms. Bonsteel and she will forward them to the Planning Board &/or members should attend the Planning Board workshop when they work on this. A discussion of various ideas, such as leaving the designation of Lake District but with Overlay Districts to cover those in the watershed or those nowhere near the lake might be made.

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OTHER continued:

A discussion on hardship was held. Questions came up as to whether or not health can be looked at or if it is not allowed as finances are not. Ms. Bonsteel will look into this for the Board.

NEXT MEETING:

The next meeting will be on Tuesday, October 5, 2010 at 6:00 p.m. Nothing has come in to our office as yet though the Cell Tower may (Ms. Bonsteel has until 9/10/10 to get completed applications to our office).

With no other business before the members, M. Willingham made a motion, second by L. Bohmiller, to adjourn at 7:30 p.m.

Respectfully submitted,
Jan Laferriere, secretary