

## BOARD OF APPEALS

### Minutes of Meeting

April 23, 2024

A regularly scheduled and noticed meeting of the Board of Appeals was held on **Tuesday April 23, 2024**, remotely on Zoom, and was called to order by Chairman Bill Moriarty at 7:30 PM.

Present were five Board members *Krasker, Labrecque, Liebman, Rudolph, Moriarty*.

This hearing was held in accordance with the provisions of the Marblehead Zoning Bylaw, and Chapter 40A of the General Laws as amended. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, Â§18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this public hearing of the Marblehead Zoning Board was conducted via remote participation.

Zoom recording of hearing

[https://us06web.zoom.us/rec/share/ckMr-4gVjRr89j488XHh55B-Opl6iQje1Vc9sbTiNZcfQTjhgNmrUugky7z8jDNP.O4XCfre3\\_p47BiPu](https://us06web.zoom.us/rec/share/ckMr-4gVjRr89j488XHh55B-Opl6iQje1Vc9sbTiNZcfQTjhgNmrUugky7z8jDNP.O4XCfre3_p47BiPu)  
Passcode: +KE50U5M

Audio recording of hearing

<https://us06web.zoom.us/rec/share/SidwDWIDs-18trPEAiHDpmaojBINrnp3DnYOWiL6dLClywOpVLns-X6qri1rZPdI.cuOLy-LXkPTKnpiH>

Passcode: +KE50U5M

#### 1. **New Business Topics: Hearings for Special Permit, or Variance, or Both**

**7:30 PM 99 Elm Street – Bianca and Matthew Olson** – construct an addition to an existing single family dwelling on a preexisting non-conforming property to increase the non-conforming area by more than 10% with less than the required lot area, lot width, front and side yard setback, located in the Central Residence District. The new construction will be within the side yard setback. Attorney Paul Lynch and architect Walter Jacob represented the application for a small addition (97sf) on the first floor that enlarge a kitchen area and make space for a laundry as well as a second floor addition at the rear elevation, constructed over the first floor that will add 200sf for a bedroom. The project was approved by the Old and Historic Commission and was issued a Certificate of Appropriateness. Robert Feinberg, at 97 Elm Street, is in full support of the project. The open air ratio will be 1- .73, which is standard in the district. No one spoke in favor or opposition to the project. A motion was made to close the hearing. (Krasker, Liebman). Labrecque, Krasker, Liebman, Rudolph, Moriarty. A motion was made to issue a special permit with the usual conditions. The findings from the Old and Historic District will be noted in the final decision. Labrecque, Krasker, Liebman, Rudolph, Moriarty. All in favor. **SPECIAL PERMIT WILL ISSUE**

**7:30 PM 1 Campbell Way – John Rice** – construct an accessory building [garage] to an existing single family dwelling on a preexisting non-conforming property to increase the non-conforming area by more than 10% with less than the required lot area, lot width, front and side yard setback, located in the Single Residence District. The new construction will be within the side yard setback. Attorney Paul Lynch represented the application for a new garage that meets the open area ratio and will give the owner covered auto access. Mr. Moriarty noted, as a technical matter, that the required two parking spaces are not identified on the plans; Mr. Lynch said that there will be two spaces in front of the garage. The applicant has shown plans to the neighbors; 3 Campbell Road neighbor is in support. There were no questions from the Board. No one spoke in favor or opposition. A motion was made to close the hearing (Labrecque, Liebman). Labrecque, Krasker, Liebman, Rudolph, Moriarty. All in favor. Given the size of the lot and the orientation of the garage, a motion was made to issue a special permit. Mr. Moriarty stated that applicant is not required to submit a new survey with the plans, but if possible a new survey with the two parking spaces would be appreciated. Labrecque, Krasker, Liebman, Rudolph, Moriarty. All in favor. **SPECIAL PERMIT WILL ISSUE.**

**7:45 PM 170 Jersey Street – Julie Fitzgerald, TTE** – construct second floor addition, porch and stairs to an existing single family dwelling on a preexisting non-conforming property with less than the required frontage and side yard setback, located in the Shoreline Single Residence District. The new construction exceeds the 10% expansion limits for a non-conforming building and is within the side yard setback. Attorney Paul Lynch requested to continue the hearing to June 25, 2024 while the project continues through the Planning Board process. A motion was made to continue the hearing (Krasker, Labrecque). Labrecque, Krasker, Liebman, Rudolph, Moriarty. **HEARING CONTINUES TO June 25, 2024 at 8:15 PM – NO EVIDENCE TAKEN.**

**7:45 PM 4 Abernathy Road – Lee H. Chrisman and Marian Spurrier** – construct an addition, deck and entryway to an existing single family dwelling on a preexisting non-conforming property with less than the required side yard setback and that exceeds the maximum allowed height, located in the Single Residence District. The new construction will be within the side yard setback and exceeds the 10% expansion limits for a non-conforming building.

Attorney Matt Wolverton represented the application. Prior to hearing opening remarks, Mr. Moriarty read aloud a letter of opposition from attorney Ken Schuster. Mr. Schuster is representing, Ms. Daly (neighbor at 21 Hillcrest Road). The letter stated the opposition to the proposed addition due to its proximity to Ms. Daly's home and, due to the Passover holiday, and the unavailability of an attorney to represent Ms. Daly, had requested that the applicant consider continuing their hearing to another date.

Attorney Wolverton responded to the letter and acknowledged that he had a conversation with Mr. Schuster and stated the applicant had waited patiently for the opportunity to appear before the ZBA and it was his inclination to move forward with the application. Mr. Krasker asked if the applicant spoke with the neighbor; Mr. Wolverton responded that the applicant

reached out but did not receive an answer. The Board agreed to move forward with the application hearing.

Mr. Wolverton explained that parcel 13 \_\_\_\_ is next to the Glover School and that Abernathy is a private way/dead end. A locus map showed blue dots of neighbors in support of the application and identified Ms. Daly's home location at 21 Hillcrest Road.

The application before the board was for a two-story addition that goes into the setback, a new deck, and a new entry way and front porch.

Architect Craig Bosworth walked through the design of the project and explained the home does not have a basement and there is lots of ledge. The proposal would increase functionality of living, storage and office spaces, including two new bedrooms. There would be no change to the gambrel roof and third floor. The existing footprint would remain and new entryways would be set up with parking on the left side of the home.

Michael Turi, 2 Abernathy Way, spoke in favor the application. He is the owner on the south side and stated that the project is modest and he is in support of the project even though it gets close to his property line.

Francoise Gadenne, 1 Abernathy Way, reviewed the plans and expressed support for the project.

Caron Mattacks was on the Zoom call with Robin Daly, both live at the 27 Hillcrest Road.

Ms. Mattocks, 27 Hillcrest Road, asked if there would be blasting and what the duration would be for the project. Mr. Bosworth said that there would not be any blasting. The property sits on a ledge and he anticipates that they would get to the 4' frost ledge and build off of the ledge. Duration of construction is estimated to be about 8 months. Ms. Daly is concerned about the height of the addition, and losing privacy and natural light, and that the proximity of the addition is close to her home. She spoke about the property fence that is 4' from her house.

Mr. Wolverton addressed the issue of the Ms. Daly's fence that sits on the property line and encroaches on the applicant's property. Mr. Moriarty said that the boundary line is a private matter and the board can't adjudicate on the matter.

Mr. Moriarty asked the Board if they have enough information to close the hearing and discuss. Mr. Liebman expressed concern over not enough information from opposing council and understood the implications. Mr. Krasker expressed concern over the property line and how the construction could be built to spec. Mr. Moriarty stated that both parties have to agree on the property line or the Board has to accept surveyor's site plan. He noted that fences are classical markets for adverse possession.

Mr. Wolverton showed the stamped survey by David Dwyer along with information from the Registry of Deeds for reference.

The hearing was closed. Labrecque, Krasker, Liebman, Rudolph, Moriarty. All in favor.

The Board deliberated on the application with the property line and fence being of concern as well as the proximity of the addition to 27 Hillcrest Road (Krasker, Labrecque). Mr. Wolverton asked if the Board could reopen the hearing and he could request to continue the hearing. The Board reopened the hearing and voted to continue the hearing to June 25, 2024 at 8:30 PM. Labrecque, Krasker, Liebman, Rudolph, Moriarty. All in favor.

**8:00 PM 77 Jersey Street – Elizabeth Kelley** – construct an addition to an existing single family dwelling on a preexisting non-conforming property with less than the required lot area, width, frontage, rear and side yard setback, located in a Single Residence District. The new construction will be within the side yard setback and exceeds the 10% expansion limits for a non-conforming building. Architect Brigitte Fortin represented the application to infill the area in the back of the home and enlarge a first floor bedroom. The project will remove the existing deck, increasing the living space and a smaller deck will be added. The addition will be setting the line of the house and sits 14.1' from the setback. A document with signatures from neighbors in support of the project was submitted to the Engineering office for file. There were no additional questions from the Board. Will Seymour, 80 Jersey St, spoke in favor of the project. No one spoke in opposition. A motion was made to close the hearing. (Labrecque, Krasker) Labrecque, Krasker, Liebman, Rudolph, Moriarty. All in favor. A motion was made to issue a special permit with the usual conditions. Labrecque, Krasker, Liebman, Rudolph, Moriarty. **SPECIAL PERMIT WILL ISSUE.**  
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**8:00 PM 134 Elm Street – ASB Getaways LLC c.o. Jason DeVincenzo** – change of use of a building from a place of worship, a conforming use, to a semidetached dwelling consisting of two residential units located in an Unrestricted District. No dimensional relief is requested. Application continues to May 28, 2024 at 7:30 PM – due to error in legal ad – no evidence taken). A motion was made to continue the hearing to May 28, 2024. Labrecque, Krasker). Labrecque, Krasker, Liebman, Rudolph, Moriarty. **APPLICATION ADJOURNS TO MAY 28, 2024 at 7:30 PM – NO EVIDENCE TAKEN.**

**8:15 PM 2 Rockaway Street – John R. Coelho** – construct an addition to a pre-existing non-conforming single family residence exceeding the allowed height, having less than the required lot area and with less than the required side and rear yard setbacks, located in a Central Residence district The new construction will be within the side yard setback and exceeds the 10% expansion limits for a non-conforming building. Attorney Matt Wolverton represented the application to enclose a porch located in the rear yard setback at 2 Rockaway Street. It was noted that the legal ad states expansion beyond is incorrect. The project does not seek relief for height. Pursuant to Section 1C and Section 12, a special permit is required. There were no questions from the Board. The project did receive approval from the Old and Historic District Commission in 2022 and it was recently brought to Mr. Coelho's attention that the Certificate of Appropriateness has expired. A new application will go before the OHDC board in May. No one spoke in favor or opposition. A motion was made to close the hearing. (Labrecque, Krasker). A motion was made to issue a special permit with the usual

conditions, in addition to having a renewed Old and Historic Certificate of Appropriateness.  
**SPECIAL PERMIT WILL ISSUE.**

**8:15 PM 31 Jersey Street – Hugh and Brenda Greville** – construct a set of stairs from the rear deck to the rear yard on a preexisting non-conforming property with less than the required lot area, frontage, front and side yard setback, located in a Single Residence District. The new construction will be within the side yard setback. Hugh Greville represented his application to add a 12’ set of stairs off the back deck at 31 Jersey Street. The deck sits about 8’ above the lawn, the stairs will run alongside the fence and is about 3’ from the side line. Mr. Krasker asked if the steps could be moved to the other side of the deck. Mr. Greville showed a photo of the deck with a large tree on that side of the deck. No one spoke in favor or opposition. A motion was made to close the hearing. (Labrecque, Krasker). Labrecque, Krasker, Liebman, Rudolph, Moriarty. All in favor. A motion was made to issue a special permit with the usual conditions. \*Note; a revised ZBA cover sheet with slightly revised numbers was submitted to the Engineering Dept. but was not referenced at the hearing.  
**SPECIAL PERMIT WILL ISSUE.**

The Board voted to approve Zoning Board of Appeals Minutes for:

September 26, 2023  
November 28, 2023  
January 23, 2024  
March 12, 2024

Labrecque, Krasker, Liebman, Rudolph, Moriarty. All in favor.  
All minutes inclusive, approved.

Meeting adjourned 9:06 PM

Respectfully submitted,  
Clerk, Engineering Dept.