

**Zoning Board of Appeals
Public Hearing, via Zoom
June 17, 2021 at 7:00 pm**

Attending: Peter Ignatovich, Bill Tracy, Laurie Sanders, Dave Loven, John Kelsey

Bill Tracy called the hearing to order at 7:03 pm. Many people were on the zoom call. The purpose of the hearing was to discuss Paul Facteau's request to add a 3-bay garage on to an existing structure through a Special Permit. The legal ad was properly posted. The hearing was recorded.

Before any commentary, Ginny Curtis spoke and noted that two abutters were not included in the list of abutters in the application; 41 East Shore Road (Bruce & Tess Young) and 46 (Tom and Sandor Pelaqun), and so that there was not proper notification.

Facteau said that he had spoken to the Pelaquins, and proceeded with his presentation on zoom.

Facteau stated that he wanted to build a 36' x 40' barn, with 20'9" in height (5' 9" higher than the existing structure). It would be a new building and not an add-on to the old. His presentation went through the by-laws:

- 6.29: Not a variance because a building permit issued in 2007 and the MA general laws (Chapter 40, Section 7) have changed since then to allow structures to stay, even it was supposed to be temporary. Cites case laws.
- Says not becoming more conforming, in character of town & neighborhood; purpose is to store equipment, with a wood shop on the 2nd floor. There will be no living space or running water. No vegetation will be removed. Says several neighbors have outbuildings and contends his proposed structure is consistent in design and scale with the neighborhood.

Bill Tracy opened the hearing to the board and public.

Lewis Cohen of 47 East Shore Drive spoke in favor of the application. Said it was functional and aesthetically consistent.

Janna Ugone asked about noise of the wood shop on 2nd floor. Facteau says he would insulate and sound proof.

Jim Drisko: Asked about no water, but electricity going to building and concerned about lights and A/C noise.

Ginny Curtis: notes main issue is that it is not a legal building lot in 2007 or now, and was built during an appeal period when the original Variance was proceeding through the courts. Facteau responds that these issues are not relevant due to changes in MA General Laws since 2007.

Facteau says he has not explored other locations on his land or other structures.

Peter Igantovich moved to close the public input of the hearing. Kelsey states that there is a lot of new information presented related to the site's history. The motion to close the hearing passed, 3:2 (Aye: Tracy, Ignatovich, Loven; Nay: Kelsey, Sanders).

Tracy noted that the temporary building is now legal also according to a lawyer he spoke with, so agrees that the Speical Permit is the appropriate pathway (vs Variance). He does not agree that the new building is appropriate to the neighborhood. Thinks alternatives exist that would be out of sight and still secure.

Kelsey notes that was on board in 2007 and that although the building is now legal, the intention of the shed that was presented was to store material during construction and then remove it. The applicant is relying on a technicality, although that's not sufficient or appropriate for a denial. Kelsey notes the criteria for approval or denial, highlight

potential noise of woodshop, scale, and location. He said he cannot support it and that the convenience of having the building close to the main house is insufficient to bend the existing zoning laws.

Loven agrees with Bill and John, believes there are other ways of managing equipment for security.

Ignatovich asking if he can make the building smaller than 36' x 40'.

Sanders cites criteria 1 & 2 of by-laws for justification.

Facteau notes that if he built elsewhere on his property, a variance would be needed.

Kelsey states that he is not comfortable discussing hypotheticals related to the design (size) and location, and suggest that the hearing is either continued or that a vote take place. The board reacts to a design, but does not provide suggestions. He also notes that the improper abutter notification opens any decision to an appeal.

Facteau requests withdrawing his application and reapplying.

Kelsey makes a motion: Motion to accept the withdrawal of Special Permit application v.223 without prejudice.

Ignatovich seconds.

All in favor.

Motion to adjourn by Bill Tracy.

All in favor.

The hearing closes at 9:02 pm.