

**MINUTES OF BRIDGEWATER ZBA MEETING
APRIL 21, 2014**

Meeting came to order @7:34 PM

Members present & voting:

Steve Williams, W. Robert Felder, Wayne T. Gerard C. and Bill W.

OLD BUSINESS

April 16, 2014 letter from Selectmen with clarifications as regard five variance steps and related items.

NEW BUSINESS

Steve W. read Selectmen's letter and addressed 5 required variance steps and application(s) submitted by Alex Bonner. There was confusion on this issue as several different applications had been submitted and after spirited discussion it was agreed by all parties that the 3/6/14* (see note below) submission would be used.

5 Step Variance Criteria

Step 1 – Public interest: (5 yes)

The Board felt the application was favorable and met this step but felt it was also a "gray area" of concern.

Step 2 – The spirit of the Ordinance is observed: (5?)

After "spirited" discussion the Board felt there was an "impasse" on this step and agreed to move forward and to revisit, if required, after completing discussion on rest of the steps.

Step 3 – Substantial Justice is done: (5 no)

Based on clarifications as regards side lot line variance, in the Selectmen's letter and other pertinent information provided, the Board felt the application did not contain acceptable information on the negative impact a variance for the garage would have on Vailis property going forward as no lot line adjustment or easement documentation was submitted that could be recorded at the County Registry.

Mr. Bonner, the applicant, left the meeting and stated "I will be seeking legal assistance to pursue this issue going forward" as regards his displeasure at the Board's handling of these issues.

It was the consensus of the Board that we should continue to discuss the remaining steps and render a final ruling on the applications.

Step 4 – The values of surrounding properties are not diminished: (Gar – 5 no, House – 5 yes)

The Board discussed the house and garage issues separately and found that the house additions did not diminish property values but the garage did, impact value in this case, as there was no fileable documentation as regards the impacted Vailis land as well, the Board felt, for other general concerns for future action on similar requests.

Step 5 – Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship: (Gar – 5 no, Hse – 5 yes).

The Board used the "new criteria" that eliminates "Boccia Concerns", returns to "Simplex Decision and "revives" Governor's Island findings. This type of house variance had been granted in the past, if requested/required by zoning ordinance, by other applicants in the area of interest.

A. "unnecessary hardship" means that owing to special conditions of the property that distinguish is from other properties in the area:

- a. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- b. The proposed use is a reasonable one.

B. If the criteria in subparagraph (A.) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of “unnecessary hardship” set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

The Board's opinion was that a house variance was reasonable but the garage variance was denied as a “hardship” did not exist as other land on site was available for the garage that would not require a variance.

In light of the multiple applications and other considerations the Board voted no, unanimously, to any variance being granted at this time.

The Board would fully consider any “new” application made for the property as regards house additions and a garage addition if submitted in the future.

Meeting adjourned @8:45 PM

Note: Steve W. and Board actually compared both applications and determined their intent was one for house and one for garage as the plans submitted clearly detailed both activities. The Board therefore used all documentation provided to discuss the variance requests and arrive at our decisions.

W. Robert Felder
Recorder of minutes