

Boxborough Board of Appeals
Meeting Minutes
March 13, 2012

Members present: Tom Gorman, Chris Habersaat, Kristin Hilberg, Michael Toups, Lonnie Weil and Karen Warner. Also present: Elizabeth Hughes, Town Planner.

Chairman Tom Gorman called the meeting to order at 7:15 pm.

Upon motion duly made by Tom and seconded by Chris, the Board unanimously voted to approve the minutes of February 7, 2012.

With regard to the Kazen Tuning LLC. application, the Board discussed the draft decision and the issues of towed vehicles. Additional language will be included to clarify the issue. Upon motion duly made by Tom and seconded by Michael, the Board unanimously voted to close the hearing and issue the Special Permit.

At 7:40 the Board opened the 94 – 100 Chester Road hearing for a Variance for a longstanding setback nonconformity to a single family dwelling and a Special Permit for two reduced frontage lots. Tom read the legal notice.

Attorney Kathleen Vorce, on behalf of the applicants Patrick and Harriet Moran, displayed plans and described the current situation.

The house was built in 1964. The Moran's are the third owners.

Per zoning side set-back 30' prior owners had enclosed a porch, essentially creating a living space and now the house is 23.4 ft. from the lot line thru no fault of their own. If a building permit was filed, it could be grandfathered; however no building permit has been found. A variance is the only way to correct this problem in order to be able to move forward with their plans to sell off reduced frontage buildable lots as proposed.

100 Chester Road must also conform to current zoning in order to move forward. The lot needs 12 ft. of frontage from Lot B. Ms. Vorce presented that it would be a financial hardship to remove the porch and landscape. There would also be a reduction in property value. This hardship is outside of their control and does not substantially affect zoning. Some non-conformity has existed for over 40 years and in her opinion the granting of this variance would not impact neighborhood in any way.

Sebastian Kiss, 50 Spencer Road, asked for clarification about when the porch was built. He also inquired about the ultimate goal of this request. Ms. Vorce replied that it is possible to make 100 Cheater Road conform with zoning in order to subdivide the remaining parcel into 2 lots as ell as continue to keep some land for forestry use.

David Kahan, 73 Meadow Lane, stated that Parcel D is located between his home and a neighbor and is wetlands. He discovered this when he applied to install a swimming pool and was required to relocate by the Conservation Commission. He asked if this had suddenly changed.

Board member Habersaat brought the discussion back to the variance and asked if there is a compelling reason to grant the variance.

Ms. Vorce maintained that 100 Chester Road must conform to zoning in order to be able to convey the property. The issue is that since the Moran's own the contiguous property, it must be corrected.

Judith Resnick, 684 Burroughs Road, asked if a variance is not granted, can Mr. Moran proceed with the purchase of Lot D from Mr. Flannery. Ms. Vorce said it is a distinct issue.

The discussion continued as to whether the Moran's have buildable lots or simply undevelopable land.

Cheryl Delaney, 65 Meadow Lane, submitted a letter to the Board expressing their concerns and noting possible discrepancies in calculations.

Mr. Kiss suggested that site plan measurements may be in error. He inquired about the accuracy of the lot lines and survey.

Ms. Hughes noted that the plan submitted had been stamped by an engineer.

Ms. Vorce then discussed all the reasons she believes this should be considered for a special permit. She suggested that if the Board does not grant the variance and special permit they will be infringing on the Moran's right to continue to use the land as forestry per Article XCVII (97).

Board Chairman Gorman suggested that the zoning history needs to be investigated further and that the hearing be continued to April 3rd.

John Churchill, 84 Meadow Lane, expressed concern that this has been presented in a confusing manner. While he understands the Morans are trying to maximize their investment in their land purchase, he believes the issues need to be decided based on the law, not the applicant's financial hardship.

Ms. Vorce countered that the Moran's hardship is a perceived benefit to the abutters.

Upon motion duly made by Tom and seconded by Michael, the Board unanimously voted to continue this hearing to April 3, 2012 at 7:30 PM.

Upon motion duly made by Tom and seconded by Karen, the Board unanimously voted to grant the applicant's request to continue the hearing for 34 Massachusetts Ave. with Chris abstaining. The continuation is April 17, 2012 at 7:30 PM.

Upon motion duly made by Chris and seconded by Michael, the Board unanimously voted to adjourn the meeting at 9:00 pm.

On behalf of the Zoning Board of Appeals,



Approved



Date