

**Zoning Board of Appeals
May 28, 2019**

Meeting called to order at 7 pm.

Members in attendance: Bill Martin, Dick Stover, Ina Wilhelm, Peter Killeen, Wendy Laurin

Community members in attendance: Daniel Scorpa, John Scorpa, Marc Volk (Foresight Services), Ron Veillette (Conservation Commission), Tom Murtha, Howard Greenhalgh, Neil Pilson, Paul Supranowicz, Eric Schrim

There was an item from the last meeting where the confirmation of the officers of the ZBA was needed. The following individuals were nominated: Bill Martin for Chair, Dick Stover for Vice Chair and Wendy Laurin for Clerk. There were motions to approve each individual, seconded and approved.

The Special Permit application for 300 Shore Road owned by John and Carol Scorpa was presented.

The application was filed on March 28, 2010.

It was distributed to the Board on April 23, 2019

The agenda was posted at Town Hall on April 23, 2019

It was mailed to abutters and surrounding towns on April 23, 2019

It was posted in the Berkshire Eagle on May 3 and 10, 2019

Exhibit One -The notice of the public hearing that was posted on April 24, 2019 was read and listed as Exhibit One.

Exhibit Two - The Special Permit Application and supporting material was noted as Exhibit Two.

Exhibit Three - The Board of Selectman's decision to not vote on the special permit on May 8,2019 was recorded as Exhibit Three.

Exhibit Four - The Planning Board's decision not to vote on the special permit was recorded on May 13, 2019.

Exhibit Five – Conservation Commission- Comment dated April 26, 2019

Exhibit Six – Planting Detail prepared by Foresight Land Services for 300 Shore Road

Exhibit Seven-Google Map provided by Foresight Land Services of House and surrounding hours

Marc Volk of Foresight Land Services spoke about the application.

There was a pre-existing non-conforming use of the plot.

There was a proposed deck that was going to be a new addition to the house. It was no closer to the setback on each side of the house than the existing building. It was within the allowable distance from the lake.

It was changed to an enclosed porch.

There was an existing deck on one side of the building that has been rebuilt and extended and which will now be a walkway to the screened porch.

Marc showed the planting detail that was generated because of requirements by the Conservation Commission.

The addition to the house would not be more non-conforming and fits in with the character of the neighborhood.

Marc read from the Special Permit Finding for Section 6.3.4. It is page 8 of 22 of Exhibit Two.

He noted that it fit all requirements.

Marc presented a google map that showed the location of the house with surrounding houses.

Bill Martin notes that a site visit was made before the meeting by the members of the ZBA.

Marc answered questions on dimensions from page 7 of 22 of Exhibit Two and went over the summary.

Bill Martin asked the community members in attendance if there was anyone in favor of the application. No one responded.

He then asked if anyone was in opposition.

No one responded.

Bill Martin called for Board Discussion.

He referred to section 6.1.2 of the Zoning Bylaws

The original plan for a deck would have fit the bylaws and the Building Inspector was correct in issuing a building permit.

Because there was a change in height there needed to be another building permit and because of the Zoning Bylaws there was the question if the Building Inspector should have given approval for the addition.

Paul Supranowicz who is the contractor/builder for the project spoke. The Building Inspector had informed Paul Supranowicz that he could go ahead with the new plans verbally and in a text message.

The Conservation Committee became involved when it became known during building that the deck had gone to an addition and there were issues with run-off from the roof and the change from a pervious deck. There was initial approval from the Conservation Commission for the deck but not for the addition. Building was put on hold until a special permit was issued from the Conservation Commission and it became apparent that the a special permit application had to be filed with the ZBA.

Bill Martin referred to item 6.1.2. F that a permit was needed prior to reconstruction.

It was asked of Paul Supranowicz why he did not get building permit. He said that got a text message from the Building Inspector to go ahead with the roof and has a photo of the text. The Building Inspector had done a site visit as well.

Peter Killeen asked if an additional fee for the permit had been because there was a difference between the deck and the three seasonal porch.

Ron Veillette (Conservation Commission) noted that a verbal from a Building Inspector does not supersede what needs to be approved by the Conservation Commission).

Bill Martin also noted that the Building Inspector should not have issued a Building Permit because the height of the new roof was higher than the old building. A building permit issued in mistake can be revoked.

Bill Martin asked if there had been communication with the neighbors who were directly to the left and right of 300 Shore Road. John Scorpa said there was nothing negative. The neighbors were noted as Joan Rosenberg and Reena Cavill. John Scorpa also noted that before he ordered the windows he called the Building Inspector who said it was okay to precede.

Bill Martin asked if there were any other permits needed before the ZBA voted. Marc Volk said no.

The public hearing section of the meeting was closed at 7:35.

Bill Martin noted that 4 members had to vote in favor for this application to pass. He asked for comments from the board members.

Dick Stover said that there a lack of procedure followed on this and that the Selectman should talk to the Building Inspector about it and to make sure he hands out the proper permits and that they are signed off. All Boards need to follow up after decisions to check that permits were issued.

Wendy Laurin noted that the Contractor should have followed up on getting written permits. Peter Killeen agreed with this.

Bill Martin said that before a vote was taken noted that this was construction was taking a non-conforming structure and made it more non-conforming with the roof, rail and more walkway than the existing four foot side than before. This construction did not follow special permit requirements because it was not conforming.

A vote was taken on the following proposed use:

Is in compliance with all the provisions and requirements fo the Zoning Bylaw and in harmony with its general intent and purpose.

All members voted to approve.

Is not undesirable or does not substantially derogate from the public good or convenience at the proposed location.

All members voted to approve.

Will not be detrimental to adjacent uses or to the established or future character of the neighborhood.

All members voted to approve.

Will not create undue traffic congestion or unduly impair pedestrian safety.

All members voted to approve.

Will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting public health, safety or general welfare.

There was a discussion of any conditions of approval of application.

The application should have been submitted for a 3 season porch.

As a result, there will be a condition that the enclosed space remains a 3 season room and that it is not provided with heat.

If it had been originally put through as an addition would have given the neighbors a chance to comment. So since it had not been there is a condition put on this approval.

The meeting was adjourned at 7:49.