

HULL ZONING BOARD OF APPEALS

Applicant: Alan Kearney

Property: 9 Montana Avenue

Date: Thursday, February 20, 2014

Time Meeting Began: 8:45 p.m.

Time Meeting Concluded: 9:26 p.m.

Place of Meeting: Hull Municipal Building, Louis C. Costa Room, 253 Atlantic Avenue

Zoning Board Members Present for Hearing:

Alana Swiec, Chair	Sitting	Attending	Absent	Abstain
Dr. Roger Atherton	Sitting	Attending	Absent	Abstain
Atty. Mark Einhorn, Member	Sitting	Attending	Absent	Abstain
Phillip Furman, Associate	Sitting	Attending	Absent	Abstain
Jason McCann, Associate	Sitting	Attending	Absent	Abstain
Patrick Finn, Associate	Sitting	Attending	Absent	Abstain

Others in Attendance:

Alan Kearney, Architect

Henry S. Levin, of *Levin & Levin LLP*, 875 Southern Artery, Quincy, Attorney for the Applicant Tom and Sue Hagstrom [proposed owners, not present]

Sheila Connor, 7 Montana Avenue, Abutter

Robert and Karen Stacey, 5 Montana Avenue, Abutter

Karen Morgan, Recording Secretary

General Relief Sought: **Opening** of a Public Hearing on an application filed by **Alan Kearney** regarding property at **9 Montana Ave.**, Hull, MA which according to the application seeks: To apply for a Variance to construct a single family home with a detached garage within the front setback area pursuant to Hull Zoning Bylaws, Section 61.

General Discussion:

Ms. Swiec – We have two sets of plans floating around and I want to make sure everyone is working on the correct set before we go forward. There is one dated February 13, 2014 on the bottom right hand corner.

Mr. Levin – I represent the applicants, Tom and Sue Hagstrom who have this property under agreement subject to getting re-approvals of the construction on the house. The house is currently owned by people by the name Cotter who bought it in 2004 and they had designed a house to go on there and

they have gone before Conservation and were approved. It never came before the Board of Appeals. The applicants Hagstrom's have a different proposal which would be the plans in front of you to have two separate structures, one for the garage, and one for the proposed dwelling. This cuts down over 700 ft. of coverage of the land. Where the old one was one complete building, we were before the Con Comm on Tuesday night of this week and it appeared from my take that they were in favor of it. We have to come back on 3/11 because they want to see the vegetation and plantings to see how that was going to lay out. There is a deck proposed in the back and they were concerned in there was a suggestion to put in fill to stabilize it and there was a question of erosion later on. I think it's going to require one or more sonar tubes. That's my presentation for a variances that we need for the setbacks. I believe that topography and the shape of the lot is such. This is all embankments. This house over here, #14 is about the same distance from the street as the proposed house. It's not going to be any different from the neighbor. I turn it over to Mr. Kearney as the architect to give you any more information.

Ms. Swiec – I am looking at three different names on this property. On the plan I have owner of record as being Cotter.

Ms. Swiec – On the Zoning Hearing application it says the owners are Mr. and Mrs. Tom Hagstrom.

Mr. Levin – They are the proposed buyers of the property. The Cotters own it, we have it under a P&S agreement to buy it from the Hagstroms. Mr. Kearney is the architect so he submitted it as the applicant. He was in charge of that.

Mr. Einhorn – Is there a plan that shows what you can do by right on this plot?

Mr. Kearney – That's proves the hardship. It's defined by two lines. Once FEMA approved the lines, you can see that the straight side of the property that adheres to the setback. This compromises the lot to an almost non-buildable lot. We can argue that it is the nature of the dead end; it's a unit in or of itself.

Mr. Levin – That was one of the questions that the Building Inspector had first said it was a side yard then he decided it was a front yard. That's why we are asking for a variance.

Mr. Atherton – I can see the part that's parallel to Montana as being the front set back which is 10 ft. Not that garage, that garage is 22 and plainly okay. Then the side is arguable is if the vertical piece is a side lot line or a continuation of the front lot line. I don't see how you can do any better than you've done. Con Comm is worried about your potential impact on the coastal bank.

Mr. Kearney – This structure was the stone hearth-shaped patio and the porch here and that was different materials and there was a lot of filler and stone wall up there as well. They decided that it wasn't the best use of material in that spot and we'll go on the 11th with the amended drawings with more decking and impervious materials and less threatening to the land.

Mr. Atherton – Their decision and their issues are not related to our issues other than perhaps where to put the building. We are concerned about in our discussion is the setback, front side back and front set back. I can't see how we can do any differently with what they have done. It looks okay to me but we haven't really gone through the criteria of a variance.

Mr. Levin – Allan pointed out that the cost for bringing in utilities to this site is enormous. It's all ledge and actually the seller, they are contributing to it because just for the buyer to spend the money, nobody can do it with the water, the sewer, the gas, electricity, everything, it's just enormous in cost.

Ms. Swiec – There is nothing there now?

Mr. Levin – Just vacant land. The Cotter's wanted to build and then they decided after going through Con Comm and getting approvals that they decided not to do it.

Mr. Swiec – What is the square footage of the house?

Mr. Kearney – It's under 2300 sq. ft.

Mr. Atherton – The decks if they are above 5 ft. count for lot coverage. I went through it myself and I came up with 2500 square feet.

Ms. Swiec – I remember you looked at the numbers and there may be some inconsistencies so I wasn't sure which was which.

Mr. Atherton – It's a lot coverage of 12% which is so far below 30% that it really isn't a big issue.

Mr. Kearney – We propose we do have a hardship on this property and this would actually be complimentary to the neighborhood. Aligning it with those other structures and it would be an improvement what is an under-utilized site.

Mr. Atherton – Regarding the generator in the back of the garage, it could be an issue for the neighbor next door.

Mr. Kearney – We are going to move that.

Mr. Levin – This lady lives next door and brought that up and that can be moved, it's right next to her bedroom window and that is not an issue. That can be moved to behind the garage or to the other side of the garage. The abutter didn't understand, she thought the generator was there just for the garage, but it is for the whole house. It will be underground wires going into the house. We addressed that at the meeting and we will move it.

Mr. Atherton – Do we have to have that as a condition if we approve it?

Ms. Swiec – I think we should. I know I would be really angry if someone had a generator under my bedroom window.

Mr. McCann – You have said that the financial costs of the utility are really high, are you saying that the costs of the utility was so high...

Mr. Levin – It probably wasn't feasible. The cost is the same if you put in a one bedroom building or a large home. The cost of bringing in the utilities is the same.

Mr. McCann – Do you have estimates?

Mr. Levin – Yes, \$44,000. Plus that did not take into consideration if there was additional blasting required.

Mr. Kearney – This is not a big home. I'm not saying it's a small house.

Ms. Connor – For clarification, I need to understand about the utilities and the blasting. I didn't realize there were no water lines when they redid Atlantic Avenue. When Aquarion redid Atlantic Ave with their new water main, they had no connections for Montana Ave. Montana has to use cross lots to get to Atlantic Ave for water, there is no water main. The Cotter's didn't know that when they bought the property. It was after the work was done on Atlantic Ave. There is gas on the street and a sewer line on the street because that was done after the Town voted to sewer all of the un-sewered properties in Town. They blasted down the street and put in the sewer line and they happened to blast on my property when they did that w/o permission because the road crept towards our property and they blasted the existing road. Our land was returned to us. I was wondering with all the utilities, is it connecting the pre-existing gas line which is on the other side of the street and the sewer line put in 10 years ago or is it the water line? Was there going to be a lot of blasting? Now I realize it's going to be a lot of blasting for the water line which can impact our houses.

Ms. Swiec – We don't know.

Mr. Kearney – I didn't know about the sewer line coming into your property. I heard different things from the Building Dept. about trenching and utilities.

Mr. Stacey – They came and blasted the whole street to put in the sewer lines for homes that weren't connected. She's one of them. They blasted and put the sewer line and didn't put a water line in. All our utilities cross each other. We are happy that we have a sewer now; we don't understand why they didn't put water in when the trench was opened. We discovered that because I was trying to widen my yard, that over the years the road that widens to 20 ft., the Town gave me back the land so we gained of 8-10 ft. of frontage and now that sewer line is buried under our properties now and under my new drive way so there is a concern here. They did not create easements. I do support the project, some of the concerns are if they can get up the water line to the middle of the street.

Ms. Swiec – They wouldn't be able to unless the Town has an easement.

Mr. Stacey – I just want to make the new owners aware if they run into any issues.

Mr. Levin – Did the Town make a taking of your property?

Mr. Stacey – Over the years they kept widening the road and then I discovered we had parking issues and finally after going back and forth and being frustrated, I went up to the highway dept. and got a map of the street and realized it was supposed to be 18 ft. wide and then I pursued getting my land back. How are they going to dig water, that's my concern?

Ms. Stacey – So far 5 Montana and 7 Montana, our water comes off of Atlantic through the back of our Atlantic Ave neighbor's property, their back yard, into our house, into Sheila's house. We're the first property on the left.

Mr. Levin – If the water is put in, you can hook up to it.

Ms. Swiec – I don't know a lot about blasting, but it is heavily regulated. There has to be a lot to take place prior to any work being done. Go to every single meeting and make sure everyone notifies you. Tell me about the garage.

Mr. Kearney – The garage is 14 ft to the bridge.

Ms. Swiec – What is the sq. ft. of the garage?

Mr. Atherton – I come up with 772 sq. ft.

Ms. Swiec – I would like to schedule a site visit.

Motion: Ms. Swiec makes a motion to continue the Hearing until March 6, 2014 at 7:45 p.m.

Member	Motion	Second	For	Against
Alana Swiec, Chair	X		X	
Dr. Roger Atherton, Clerk		X	X	
Atty. Mark Einhorn, Member			X	
Phillip Furman, Associate				
Jason McCann, Associate			X	
Patrick Finn, Associate				

Action Taken, if any:

A site visit will take place on Saturday, February 22nd at 9:30 a.m.

Recorded by Karen Morgan

Approved by Roger Atherton

All actions taken:

All action taken includes not only votes and other formal decisions made at a meeting, but also discussion or consideration of issues for which no vote is taken or final determination is made. Each discussion held at a meeting must be identified; in most cases this is accomplished by setting forth a summary of each discussion. A verbatim record of discussion is not required.