



TOWN OF EASTHAM

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EASTHAM ZONING BOARD OF APPEALS MEETING MINUTES Earle Mountain Room July 6, 2023, 5:00 pm

Members present: Joanne Verlinden, Bob Bruns, Brian Ridgeway, Martin Ridge, Bob Sheldon and Jarod Carey

Members absent: None

Parties in interest present: Mary-Ann Agresti, Teresa Martin, Mark Monaco

Staff Present: Paul Lagg, Director of Community Development; Philip Burt, Community Development Coordinator

Joanne Verlinden opened the meeting at 5:00 pm, and stated the meeting was being recorded and could be found at <https://www.eastham-ma.gov/653/On-Demand-Video-of-Meetings-Special-Prog>

1.

Opening Statements: Joanne Verlinden read the following statement into the record:

Before we get to the regular business of this meeting, I would like, on behalf of the Board, to read into the minutes a thank you to Gay Craig, our former Clerk, who resigned her position in June because she was facing a surgery that would require a lengthy recuperation.

Gay's education, training, and experience as a high school teacher of Latin and Science, as well as her position on the Teachers' Association Grievance Board came to the fore when she accepted the responsibilities of Clerk for the Zoning Board of Appeals. Her patience, diligence, and thoroughness in accurately recording the proceedings of each meeting was unmatched.

On behalf of the Board, I want to express our sincere thanks for a job well done.

2.

Continuance of Case No. ZBA2023-07 –10 Hide Away Lane, Map 7A Parcel 7A-29, Teresa Martin (Owner/Applicant) seeks a Special Permit pursuant to M.G.L. c. 40A s. 6 and Eastham Zoning By-Law section 19.2 (non-conforming uses, buildings, structures) and section 7.2.4 (setback requirements) to construct a first-floor bathroom addition and a second-floor addition on a pre-existing non-conforming structure where proposed additions will intensify the setback non-conformity along the north property line. Vote may be taken.

Members Seated: *Verlinden, Bruns, Ridgeway, Ridge, and Carey*

Teresa Martin and architect Mary-Ann Agresti provided an updated plan for the renovations to the cottage. A discussion ensued regarding site setbacks, the proximity of the main house to the cottage, and the location and type of sheds on the property. Martin Ridge asked Paul Lagg if a bylaw existed regarding

the distance between dwellings on a property. Mr. Lagg indicated that the town's bylaws do not address the issue as that subject is covered by the state building code.

Dave Hobbs spoke in favor of the project.
Nancy Haley spoke in favor of the project.

At 5:29PM, Chair Verlinden closed the public comment.

A MOTION by Martin Ridge to approve the following Findings of Fact for **ZBA2023-07**.
SECONDED by Brian Ridgeway.

In favor: Verlinden, Bruns, Ridgeway, Ridge, and Carey

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

PROPOSED FINDINGS OF FACT:

The Zoning Board of Appeals finds that:

1. The property is located at 10 Hide Away Lane, Map 7A Parcels 29 and is located in District A (Residential).
2. The applicant has applied for a Special Permit pursuant to M.G.L. c. 40A s. 6 and Eastham Zoning By-Law section 19.2 (non-conforming uses, buildings, structures) and section 7.2.4 (setback requirements) to construct a first floor bathroom addition and a second floor addition on a pre-existing non-conforming structure where proposed additions will intensify the setback non-conformity along the north property line.
3. After an evaluation of all the evidence presented the site is adequate for the proposed use in terms of size of the proposed structure or use: *The property is pre-existing non-conforming to current zoning density where the lot contains two single-family dwellings on a single lot. The site has contained two residential structures dating back to 1946. There are examples of other properties in the neighborhood with similar density containing multiple dwellings and structures on a single lot. The existing cottage is pre-existing non-conforming to the minimum size required for a “dwelling” (469 sf. where a minimum of 500 sf. is required). The proposed additions will add 198 sf. to the cottage bringing the structure into compliance with the minimum dwelling size requirement.*
4. After an evaluation of all the evidence presented the site is suitable for the proposed structure or use with regard to the purpose and intent of the zoning district: *The lot is pre-existing non-conforming to minimum lot size (7,573 sf. where 40,000 sf is required). The majority of the lots in the neighborhood are also pre-existing non-conforming to lot size. The existing residential use is permitted in the residential zoning district. The proposed additions and expansions to the residential use may be permitted pursuant to the grant of a special permit.*

5. The proposal does provide adequate management of traffic flow and minimizes unsafe and harmful impacts within the site as well as in relation to adjoining streets and properties:
Portions of the existing driveway and the traveled way (Hide Away Lane) are located within the 14-foot wide easement. The entire easement is located within the property bounds of subject site (Lot 7A-29). No changes are proposed to the existing driveway. No detrimental impacts to the travelled way have been identified. Hide Away Lane is a low volume, dead-end road used primarily by the property owners on the street.

6. After an evaluation of all the evidence presented the proposed structure is compatible with surrounding land uses so as to minimize harmful impact or conflict with existing desirable neighborhood character, including views, vistas and other aesthetic values:
 - **Prevailing Character:** *The prevailing character of the neighborhood is a thickly settled residential area comprised of several pre-existing non-conforming dwellings of various architectural designs located in close proximity.*
 - **Height & Scale:** *At 20.6 feet, the proposed second floor will comply with the 30-foot maximum height requirement. Vertical expansion to existing structures to maximize the limited development potential of a small lot is common throughout the town and particularly on the bay side where development has historically been at higher density. Roof decks are a common characteristic in many areas of Eastham. No detrimental impacts to the views and vistas of the abutting properties resulting from the second floor addition were identified.*
 - **Massing:** *The proposed architectural design maintains balanced proportions between the existing structure and the proposed additions, utilizing upper floor setbacks, and façade variation to break up the massing of the building.*
 - **Setbacks:** *The cottage is pre-existing non-conforming to the North property line 4.9 feet where 25 feet is required and to the East property line 13.2 feet where 25 feet is required. The proposed expansion on the East side will result in a 4.7-foot intensification of the non-conformity with the proposed laundry room/porch at 8.5 feet where 25 feet is required. The proposed bathroom/bedroom addition will remain at 13.2 feet where 25 feet is required. This addition will not encroach any further into the setback but will result in a lateral extension within the setback keeping in line with the eastern edge of the cottage's building footprint. The proposed second floor loft space will remain within the current cottage footprint but will result in a vertical extension within the current setback limit and will be located 17.3 feet from the East property line where 25 feet is required. None of the proposed additions will intensify the setback non-conformities any further than the pre-existing non-conforming existing deck.*
 - **Building Materials:** *The proposed additions are designed to match the materials of the existing cottage utilizing single pane windows, and a combination of horizontal siding and cedar shingles. The project will enhance the aesthetic value of the existing structure.*

7. The proposal does not have adequate methods of sewage disposal, sources of potable water and site drainage: *The site is currently served by an Innovative Alternative septic system approved by the Eastham Board of Health on April 29, 2004. The property is*

currently non-complaint with the maintenance contract required for the innovative alternative septic system. The applicant is required to bring the maintenance contract into compliance and acquire Board of Health approval for expansion of habitable space for the existing septic system. These items will be made conditions of approval to be completed prior to the issue of a building permit.

8. The proposal does provide adequate protection and maintenance of groundwater quality and recharge volume and the water quality of coastal and fresh surface water bodies. *The site is not located within any resource areas. No negative impacts were identified.*
9. The proposal does provide adequate provision for utilities and other necessary or desirable public services. *The site is served by existing water, electrical, telephone, cable and data services adequate for residential use. No detrimental issues have been identified.*
10. Artificial light, noise, litter, odor or other sources of nuisance or inconvenience will be adequately controlled. *The proposed additions are comprised of interior space, which will lessen potential nuisance issues to the abutting properties. Conditions controlling exterior lighting will be added to the special permit. No other relevant issues were identified.*
11. The proposal does provide adequate protection from degradation and alteration of the natural environment. *The site is not located within any resource areas. No negative impacts were identified.*
12. After an evaluation of all the evidence presented and based on the Board's findings of fact, the proposed alteration to the pre-existing non-conforming cottage will not be substantially more detrimental to the neighborhood or the public welfare than the existing non-conforming structure.
13. [2] Abutters/Parties in Interest appeared IN FAVOR and [0] appeared IN OPPOSITION of the proposal. [1] letters was/were received IN FAVOR and [0] IN OPPOSITION.

A MOTION by Brian Ridgeway to approve the following Conditions for **ZBA2023-07**.

SECONDED by Bob Bruns.

In favor: Verlinden, Bruns, Ridgeway, Ridge, and Carey

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

PROPOSED CONDITIONS:

1. No Building Permit shall be issued until the application complies with all pertinent sections of the Town of Eastham Zoning By-Law.

2. The Applicant shall obtain a Building Permit from the Eastham Building Department prior to the start of the construction.
3. The Applicant shall verify bedroom count and septic design for adequacy with the approved plan with Eastham Health Department and if necessary, shall obtain Board of Health approval prior to issuance of a building permit. The applicant shall renew the maintenance contract on the IA septic system.
4. All exterior lights shall be down shielded to reduce light spill and nuisances to adjacent properties.
5. The applicant is responsible for providing building plans to the Eastham Building and Fire Departments. Plans shall contain information on construction methods and materials sufficient to conduct a full code compliance review.
6. Plan reviews conducted by town staff as part of this approval have been conducted for conformance with applicable sections of the zoning bylaw and for adequacy of the site for public safety access and environmental impacts. Additional plan review for health and safety code compliance will be required and may result in changes to the approved plans. Any changes to the proposed site plan dated 1/13/23 or the building plans with latest revision date of 1/31/23 except those that are de minimus must be reviewed by the Zoning Board. If the Board finds a change to be substantial, re-notice is necessary for a new hearing.
7. The Board reserves the right to monitor the ongoing construction for compliance with the approved plan.
8. The existing sheds shall be relocated to comply with applicable setback regulations which require that the sheds be setback the distance of the height of the structure with a minimum distance of 12 feet from side and rear property lines and 30 feet from the street. The relocation shall be completed prior to issuance of a use and occupancy permit for the primary dwelling.
9. The applicant shall work with the Town Assessing Department to establish an appropriate street address for the cottage. The cottage shall be labeled with a street number in compliance with the Town of Eastham General Bylaw 37-1 and 37-2 *Legible Street Numbers Required on Buildings*. The renumbering shall be completed prior to the issuance of a building permit.

A MOTION by Bob Bruns to approve the Special Permit to construct a first-floor bathroom addition and a second-floor addition on a pre-existing non-conforming structure where proposed additions will intensify the setback non-conformity along the north property line for **ZBA2023-07**.

SECONDED by Jarod Carey.

In favor: Verlinden, Bruns, Ridgeway, Sheldon, and Carey

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

3.

Case No. ZBA2023-08 –75 Bralla Avenue, Map 08 Parcel 08-355, Mark Monaco (Owner/Applicant) seeks a Special Permit pursuant to M.G.L. c. 40A s. 6 and Eastham Zoning By-Law section 19.2 (non-conforming uses, buildings, structures) and section 7.2.4 (setback requirements) to enlarge a bathroom, relocate a bedroom, add living/dining area into an existing deck area on a pre-existing non-conforming structure where proposed additions will intensify the setback non-conformity along the north and west property lines.

Members Seated: Verlinden, Bruns, Ridgeway, Ridge, and Sheldon

Mark Monaco addressed the Board and explained the proposed project and the decision-making that led to the application to the Zoning Board of Appeals. A brief discussion followed regarding the proximity of abutting properties. Two abutters, Wade Leconey (150 Circle Drive) and Maureen Voke (80 Brosan Avenue) spoke in favor of the project. Maureen suggested that some screening would be helpful.

At 6:10PM, Chair Verlinden closed the public comment on the case.

A MOTION by Bob Bruns to approve the following Findings of Fact for **ZBA2023-08**.

SECONDED by Brian Ridgeway.

In favor: Verlinden, Bruns, Ridgeway, Ridge, and Sheldon

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

The Zoning Board of Appeals finds that:

1. The property is located at 75 Bralla Avenue, Map 08 Parcel 353, and is located in District A (Residential).
2. The applicant has applied for a Special Permit pursuant to M.G.L. c. 40A s. 6 and Eastham Zoning By-Law section 19.2 (non-conforming uses, buildings, structures) and section 7.2.4 (setback requirements) to enlarge a bathroom, relocate a bedroom, add living/dining area into an existing deck area on a pre-existing non-conforming structure where proposed additions will intensify the setback non-conformity along the north and west property lines.
3. After an evaluation of all the evidence presented the site is adequate for the proposed use in terms of size of the proposed structure or use: *The existing dwelling, attached porch and two sheds cover 814 sf. This is smaller than most neighborhood properties within the 300-foot radius, suggesting that a modest increase in site coverage would be appropriate relative to the size of the property, the neighboring dwellings and the residential district. The proposed addition will increase the total site coverage to 1162 sf., which is close to the average of the abutting properties.*

4. After an evaluation of all the evidence presented the site is suitable for the proposed structure or use with regard to the purpose and intent of the zoning district: *The existing residential use is permitted in the residential zoning district. The proposed additions and expansions to the residential use may be permitted in the Residential zoning district pursuant to the grant of a special permit.*
5. The proposal does provide adequate management of traffic flow and minimizes unsafe and harmful impacts within the site as well as in relation to adjoining streets and properties:
No detrimental impacts to the travelled way have been identified. Bralla Avenue and the adjoining sidestreets off of McKoy Road are low volume, dirt / hardpacked roads used primarily by the property owners on the street.
6. After an evaluation of all the evidence presented the proposed structure is compatible with surrounding land uses so as to minimize harmful impact or conflict with existing desirable neighborhood character, including views, vistas and other aesthetic values:
 - **Prevailing Character:** *The prevailing character of the neighborhood is a thickly settled residential neighborhood comprised of several pre-existing non-conforming dwellings of similar architectural designs. The neighborhood maintains a traditional North Eastham, bayside feel, with numerous original cottage-style dwellings on small non-conforming lots.*
 - **Height & Scale:** *The proposed addition does not add to the height of the existing structure and the home is to remain a one-story dwelling. The addition/renovation is on the rear side of the structure, opposite Bralla Avenue and not easily visible from the roadway. No detrimental impacts to the views and vistas of the abutting properties resulting from the project were identified.*
 - **Massing:** *The proposed architectural design maintains balanced proportions between the existing structure and the proposed addition. Minimal changes to the appearance of the cottage are anticipated from Bralla Avenue and/or most adjacent properties. The home located at #90 Bosan Avenue (rear setback) will be nearest to the added bedroom and living room. While the proposed rooms will remain on the existing footprint of the dwelling (approximately 23 ft from the rear setback), the renovation from a deck and outdoor shower to a bedroom and living room may create a feeling of greater massing to that property.*
 - **Setbacks:** *The existing deck on the rear property line is pre-existing non-conforming at approximately 22.8 feet from the property line. The proposed addition will not intensify the setback non-conformities where the deck is currently located. A proposed bulkhead and proposed landing on the north side of the cottage will expand the existing non-conformity from 24.5 ft to 18.5ft.*
 - **Building Materials:** *The building materials proposed are designed to match the materials of the existing dwelling, utilizing metal roofing, matching siding and matching lattice. The project may enhance the aesthetic value of the existing structure.*
7. The proposal does have adequate methods of sewage disposal, sources of potable water and site drainage: *The applicant must confirm with the Eastham Health Department that*

the existing septic system is compliant with applicable regulations. The home is serviced by well water. No site drainage issues are anticipated.

8. The proposal does provide adequate protection and maintenance of groundwater quality and recharge volume and the water quality of coastal and fresh surface water bodies. *The site is not located within any resource areas. No negative impacts were identified.*
9. The proposal does provide adequate provision for utilities and other necessary or desirable public services. *The site is served by electrical, telephone, cable and data services adequate for residential use. No detrimental issues have been identified.*
10. Artificial light, noise, litter, odor or other sources of nuisance or inconvenience will be adequately controlled. *The proposed addition/renovation should not result in nuisance issues to many, if not all, of the abutting properties. The board should consider additional vegetative screening along the rear setback to combat any potential nuisance issue relative to lighting, privacy and screening to #90 Bosan Avenue. Conditions controlling exterior lighting may be added to the special permit.*
11. The proposal does provide adequate protection from degradation and alteration of the natural environment. *The site is not located within any resource areas. No negative impacts were identified.*
12. After an evaluation of all the evidence presented, the proposed alteration to the pre-existing non-conforming cottage will not be substantially more detrimental to the neighborhood or the public welfare than the existing non-conforming structure.
13. [2] Abutters/Parties in Interest appeared IN FAVOR and [0] appeared IN OPPOSITION of the proposal. [0] letters was/were received IN FAVOR and [0] IN OPPOSITION.

A MOTION by Brian Ridgeway to approve the following Conditions for **ZBA2023-08**.

SECONDED by Martin Ridge.

In favor: Verlinden, Bruns, Ridgeway, Ridge, and Sheldon

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

1. No Building Permit shall be issued until the application complies with all pertinent sections of the Town of Eastham Zoning By-Law.
2. The Applicant shall obtain a Building Permit from the Eastham Building Department prior to the start of the construction.
3. The Applicant shall verify bedroom count and septic design for adequacy with the approved plan with Eastham Health Department and, if necessary, shall obtain approval from the Board of Health prior to the issuance of a building permit.

4. All exterior lights shall be down shielded to reduce light spill and nuisances to adjacent properties.
5. The applicant is responsible for providing building plans to the Eastham Building and Fire Departments. Plans shall contain information on construction methods and materials sufficient to conduct a full code compliance review.
6. Plan reviews conducted by town staff as part of this approval have been conducted for conformance with applicable sections of the zoning bylaw and for adequacy of the site for public safety access and environmental impacts. Additional plan review for health and safety code compliance will be required and may result in changes to the approved plans. Any changes to the proposed site plan revised 4/27/23 or the building plans with latest revision date of 3/22/23 except those that are de minimus must be reviewed by the Zoning Board. If the Board finds a change to be substantial, re-notice is necessary for a new hearing.
7. The Board reserves the right to monitor the ongoing construction for compliance with the approved plan.
8. The applicant shall install vegetative screening along the rear setback of the property - approximately 75 linear feet – utilizing plantings of which a minimum of 75 % must maintain their effectiveness year-round and a minimum of 50 % must be native species appropriate to the existing landscape and habitat.

A MOTION by Bob Bruns to approve the Special Permit to enlarge a bathroom, relocate a bedroom, add living/dining area into an existing deck area on a pre-existing non-conforming structure where proposed additions will intensify the setback non-conformity along the north and west property lines for **ZBA2023-08**.

SECONDED by Brian Ridgeway.

In favor: Verlinden, Bruns, Ridgeway, Ridge, and Sheldon

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

4.

Minutes: Minutes of the ZBA **June 6, 2023**, meeting

A MOTION to approve the June 6, 2023 minutes by Bob Bruns.

SECONDED by Martin Ridge.

In favor: Verlinden, Bruns, Ridge, Carey, Ridgeway

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

5.

Board Reorganization.

A **MOTION** by Brian Ridgeway to elect Bob Bruns, Chair; Joanne Verlinden, Vice-Chair; Martin Ridge, Clerk.

SECONDED by Bob Sheldon

In favor: Verlinden, Bruns, Ridgeway, Ridge, Sheldon and Carey

Opposed: None

The VOTE: 6-0

Motion passed – Unanimous

6.

Other business: No other business.

7.

Adjournment:

A **MOTION** by Martin Ridge to adjourn.

SECONDED by Bob Sheldon

In favor: Verlinden, Bruns, Ridgeway, Ridge, Sheldon and Carey

Opposed: None

The VOTE: 6-0

Motion passed – Unanimous

Respectively submitted by Philip Burt
