

**JESUS & MARICRIS ABELARDE
PETITION FOR VARIANCE
APPLICATION FOR SPECIAL PERMIT
OCTOBER 2, 2017**

The public hearing was held in Stow Town Building and opened at 7:30 p.m. The petition for Variance and application for Special Permit were filed by **Jesus and Maricris Abelarde, 84 Peabody Drive, Stow**. A Special Permit was sought under Section 3.9 of the Zoning Bylaw, "Non-Conforming Uses and Structures", to allow construction of a 24-ft. x 20-ft. two-car garage at said address. A side yard variance of five (5) feet was sought under Section 4.4, "Table of Dimensional Requirements". The property contains 23,976 sq. ft. and is shown on Stow Property Map R-6 as Parcel 131.

Board members present: Edmund Tarnuzzer, Charles Barney, William Byron, and Mark Jones (associate).

Mr. Tarnuzzer chaired and read the notices of hearing as they had appeared in the *Beacon Villager* on September 14 and 21, 2017. He recited the criteria to be met for grant of special permit and variance. The hearing notices had been forwarded by certified mail, return receipt, to all abutters. Abutters that appeared on the sign-in sheet were Betsy Wisch and Steve Jelinek, 88 Peabody Drive; Lawnie and Ray Roberge, 73 Peabody Drive; and Penny Garsik, 80 Peabody Drive.

Jesus Abelarde said that the reason for the Variance request and Special Permit application is to construct an attached garage for increased safety and ease of access for their parents' use. Jesus Abelarde said that the location for the garage was selected based on well and septic placement as well as cost efficiency and minimizing impacts to neighbors. Jesus Abelarde said that with four cars at the home, parking has been difficult.

Edmund Tarnuzzer noted that their house lot on Peabody Drive is part of a Planned Conservation Development, and that the requirements for open space in the subdivision may have caused their home to be skewed on the lot, with no side of the home parallel with a boundary. Edmund Tarnuzzer said this may explain the difficulty in finding a suitable location for an attached garage.

Charles Barney asked for more detail on the site selection, asking if the garage could be moved closer to the center of the lot. Jesus Abelarde said that could not be placed towards the center due to septic considerations, and that location was discussed with the Board of Health as well as Craig Martin, the Building Commissioner. Maricris Abelarde added that a detached garage was initially considered, though an attached garage would solve their concerns around their parents' safety in navigating from the car to the house.

William Byron asked for more clarity on the number of cars at the home, and whether a garage would solve this issue. Jesus Abelarde said that with extended family living with them, there are four cars, and that the driveway can hold three. Jesus Abelarde said that adding an attached

garage is the most cost effective solution and would bring the most value to the home. Jesus Abelarde said that the garage would be offset from the home's wrap around porch, and that the garage would have a flat top, allowing for master bedroom access to the garage roof as a terrace.

Mark Jones noted that as part of a Planned Conservation Development, required setbacks are 20 feet rather than 25 feet. Mark Jones said that perhaps the applicant could avoid the variance request by continuing to define the lot as a Planned Conservation Development and the Board could deliberate only on the Special Permit application. Mark Jones said that he feels the request would not meet the first required finding for a variance, "that owing to circumstances relating to the soil conditions, shape, or topography of the lot, but not affecting generally the zoning district in which it is located."

Steve Jelinek of 88 Peabody Drive provided a map of the Harvard Acres neighborhood, saying that that 88 and 84 Peabody Drive are two of the smallest lots. Steve Jelinek said that he is opposed to the variance request, as he believes it will block views from their home and negatively impact the resale value of their home. Steve Jelinek said that zoning decisions are magnified in the neighborhood as the lots are small, and homes are skewed to the lot lines. Steve Jelinek said that his home would overlook the proposed garage and remove their view, as it would be roughly 50 feet from their front door and the elevation would be higher than that of their living room. Steve Jelinek said that he is concerned about the loss of privacy and the impact to the resale value of their home. Steve Jelinek noted that previous owners of 84 Peabody Drive have requested a variance from the Zoning Board of Appeals to construct a garage and it has been denied.

Lawnie Roberge of 73 Peabody Drive said that she opposes the variance request, and asked if the placement of the garage would interfere with the backup leach field. Maricris Abelarde said that it would not interfere. Lawnie Roberge says that previous owners have wanted to build a garage there, though without trees, the structure would be a detriment to home values. Lawnie Roberge said that she opposes the request.

Penny Garsik of 80 Peabody Drive asked if the driveway could be extended and the garage placed in the back of the home. Maricris Abelarde said that the placement shown on the plans is the best location.

William Byron asked for more information about the previous Variance requests and Special Permit applications at 84 Peabody Drive. Steve Jelinek said that in 2003 an application was denied by the Zoning Board of Appeals, and that this was a similar request with the abutter looking for a 20 foot setback.

Jesus Abelarde offered that the garage could be screened by additional landscaping. Steve Jelinek said that he feels that structures are permanent and that trees are temporary, and wondered what would happen if the next owner removes the landscaped screening.

Mark Jones asked if the lots on Peabody Drive are non-conforming, and said that he would like to read the original decisions for the creation of these lots as part of an early Planned Conservation Development application. Barbara Carboni said that she would need to find out

more about earlier developments such as Harvard Acres, and since materials from that time are not available for this hearing, she recommended the Board continue the hearing until the Board can have this information in front of them. Barbara Carboni noted that if the lots are understood as Planned Conservation Development lots, they would not require a Zoning Variance, though a Special Permit would still be required.

The Board discussed their interest in a site visit before the next public hearing.

On motion of Mr. Jones, second by Mr. Barney, it was voted unanimously to continue the public hearing until November 6, 2017.

At 8:15, the public hearing was continued until November 6, 2017.

Respectfully submitted,

Valerie Oorthuys