Holland Zoning Board of Appeals
Meeting Minutes

Date: September 11, 2019

Present: Don Beal, Chairperson, Scribe
Ron Seaburg, Secretary
John Stevens, Member
Mark Mitchell, Associate
Kevin Palmer, Associate

7:00 PM Don Called the Meeting to order.
The Minutes for August 28 were read and accepted.
General Board business was discussed.

There were no petitioners scheduled and while an agenda was published no members of the public were present.

The Board discussed an important court case that had been decided by the State Appeals Court in January 2012. The case is called Gale vs the Zoning Board of Gloucester. In this case, the Appeals Court rejected the need for a variance when altering or expanding a nonconforming single or two-family dwelling. The altering or expansion could be allowed after the ZBA identified the particular respect or respects in which the existing structure did not conform to local zoning and also determined whether the proposed alteration or addition would intensify the existing nonconformities or result in new ones. This would normally require a variance, and variances are never issued without all three required conditions for issuing a variance being met. The Court held that variance relief is not required when a project increases a nonconformity or creates a " new nonconformity " **if** the zoning board of appeals determines that the project would not be substantially more detrimental to the neighborhood.
However, if the project does intensify the existing nonconformities or results in new nonconformities, then the permit granting authority must make a finding as to whether the proposed change, extension or alteration would be substantially more detrimental to the neighborhood than the existing nonconforming structure.

It was noted that this was not the "law of the land," and that this decision had been challenged many times since 2012. During the discussion which followed we noted the subjectivity involved with each determination, and allowing one property owner to expand more than another could lead to more confusion and acrimony toward the neighbors and the ZBA. We generally agreed to keep our present standards but did not make a motion to continue nor vote on the subject.

8:00 PM Don moved to adjourn. Mark seconded the motion. Motion passed.

CC: Town Website, ZBA file.

Submitted by:

Ron Seaburg, Secretary