



Minutes for Meeting

Zoning Board of Appeals, Weston Town Hall

June 3, 2019, 7:30 PM

Members Present: Li, Sawyer, Laroque

35 Hubbard Road: application by Sean Stuber, 35 Hubbard Road (Map 58, Lot 92), requesting a special permit for an addition.

Pursuant to the foregoing notice the Board held a public hearing on Monday, June 3, 2019 at 7:30 pm, at the Weston Town Hall. The following members were present:

- Winifred Li, Chair
- Stephen LaRocque
- Natalie B. Sawyer, Acting Secretary

Additional documents in the record include:

- Email from David Kulow dated 5/30/19, subject "Abutter concerns about 35 Hubbard Road Special Permit request"
- "Screen Planting Plan", prepared by Harris & Company Landscaping, Peter Guy

Winifred Li opened the hearing and Mr. Sean Stuber, the Petitioner, presented the plans to provide screening between the proposed addition and the west side of the property. He is proposing installing four 14-foot white pine trees. The Board asked about installing lower vegetation and a complete landscape plan. Mr. Stuber stated that this has not been completed.

Mr. Stuber stated that he evaluated putting the addition in other locations, but doesn't believe any of them are feasible.

Mr. David Kulow, 41 Hubbard Road, addressed the Board with his concerns about the proposal. He feels that since the proposed addition is only 24 feet away from the property line and the

new addition will have a second floor, his privacy will be negatively impacted. He also stated that 14-foot trees will not provide screening right away.

Ms. Vivian Day, 50 Hubbard Road, addressed the Board in support of the proposal.

The Petitioner requested the hearing to be continued to September 5, 2019 so that he can revise his proposal to address the concerns that were raised at the hearing. The Board agreed and passed a motion to continue the hearing on September 5, 2019 at 7:00 PM.

Petition: Hearing Continued to September 5, 2019

5 Concord Road: application by Charles Gentile requesting a variance for a dog enclosure.

Pursuant to the foregoing notice the Board held a public hearing on Monday, June 3 at 7:45 pm, at the Weston Town Hall. The following members were present:

- Winifred Li, Chair
- Stephen Larocque
- Natalie Sawyer, Acting Secretary

Documents in the record include:

- “No. 5 Concord Road Petitioner’s Plan”, prepared by The Jillson Company, Inc., dated April 5, 2019

The property in question, 5 Concord Road (the “Premises”) is located in the Single Family Residence District B.

Winifred Li opened the hearing. Appearing before the Board was Kevin O’Leary, from the Jillson Co., Inc. Mr. O’Leary explained that the dog fencing was installed within the setback unknowingly, and that the Owner was looking for a wooded spot on the property to locate it.

The Board noted that it wouldn’t be difficult to move the fence out of the setback area and still have the tree protection for the dog enclosure. The Board noted that this case does not meet the criteria for hardship which is required to grant a variance.

DECISION:

Following due and open deliberation, the Board voted unanimously to permit the Petitioner to withdraw the application, without prejudice.

Petition: Withdrawn without prejudice

147 Orchard Avenue: an application by Jennifer Hart, Hart Associates Architects, 50 Church Street, Belmont, MA, requesting a special permit for replacement dwelling.

Pursuant to the foregoing notice the Board held a public hearing on June 4, 2019 at 8:15 P.M. at the Weston Town Hall. The following members were present:

- Winifred I. Li, Chair
- Stephen Larocque, Acting Secretary
- Natalie Sawyer

Documents in the record include:

- “Existing Conditions Site Plan” prepared by Metrowest Engineers, Inc., 75 Franklin Street, Framingham, MA, dated April 19, 2019
- “Erosion Control Plan”, prepared by Metrowest Engineers, Inc., 75 Franklin Street, Framingham, MA, dated April 19, 2019
- “Proposed Layout Plan”, prepared by Metrowest Engineers, Inc., 75 Franklin Street, Framingham, MA, dated April 19, 2019
- “Proposed Site Plan”, prepared by Metrowest Engineers, Inc., 75 Franklin Street, Framingham, MA, dated April 19, 2019
- “Proposed Detail Plan” ”, prepared by Metrowest Engineers, Inc., 75 Franklin Street, Framingham, MA, dated April 19, 2019
- Architectural Drawings, “Basement Floor Plan”, “First Floor Plan”, “Second Floor Plan”, “Loft Floor Plan”, prepared by Hart Associates, Inc., 50 Church Street, Belmont, MA, dated April 23, 2019
- Elevation Plans, “East Elevation”, “South and North Elevation”, “West Elevation”, prepared by Hart Associates, Inc., 50 Church Street, Belmont, MA, dated April 23, 2019
- “RFGA Calculation Diagram & Existing Site Photos”, prepared by Hart Associates, Inc., 50 Church Street, Belmont, MA, dated April 23, 2019
- email from Irwin Grossman, 99 Oxbow Road, dated 6/3/19
- Letter from Alan Fobes, Weston Historical Commission, dated April 20, 2018

The subject site, 147 Orchard Avenue, Weston, Massachusetts (the “Premises”) is located in the Single Family Residential District A, and comprises 38,291 square feet, in a District requiring 60,000 square feet. The lot has 206.72 feet of frontage, and 216.96 feet of lot width at street setback, in a district requiring a minimum of 250 feet. The Premises has a dwelling originally constructed in 1875 (prior to the institution of the Zoning By-Law). The dwelling is sited 54 feet from the street line, and 64 feet from the street centerline, in a district requiring 60 feet and 85 feet respectively. Approximately thirty percent of the existing dwelling encroaches into the street and street centerline setbacks. The dwelling is 43.9 feet from the north, 60.2 feet from the west, and 99.6 feet from the south, in a district requiring a minimum 45-foot side yard

setback. The Premises is nonconforming due to the deficient lot area, and the encroachment of the dwelling into the street and street centerline, and northerly side yard setbacks.

The previous Zoning Board of Appeals cases for the Premises include:

- August 6, 1973 variance granted for removal of the garage, and an addition to the dwelling, to be 49 feet from the street line, 59 feet from the street center line, and 37 feet from the northerly lot line.
- August 12, 2009 petition to reconstruct dwelling encroaching into street centerline, and exceeding RGFA denied.
- August 21, 2018, petition to reconstruct dwelling was withdrawn

The proposal before the Board seeks a full reconstruction of the dwelling, with a single bedroom, 2.5 bathroom barn residence, with a two-car garage. The replacement dwelling is proposed to be sited approximately 65 feet from the street, and 75 feet from the street centerline, in a district requiring 60 feet and 85 feet respectively. The dwelling is proposed to be sited 48.3 feet from the north, 45 feet from the west, and 98.6 feet from the south, in a district requiring a minimum 45-foot side yard setback. The existing Residential Gross Floor Area (RGFA) was reported to be 8.3% and the replacement dwelling is proposed to be 10%, the maximum allowed.

Winifred Li opened the hearing. Appearing before the Board was Jennifer Hart, Hart Associates (the "Petitioner"). Ms. Hart explained that the proposed house barn will be less non-conforming than the existing dwelling. It is further away from the road and does not exceed the maximum RFGA allowed. In addition, the plan calls for moving the septic system to the property instead of using the septic system from 140 Orchard Ave which is the existing case via a prior easement on the deed. Devin Hefferon from Matthew Cunningham Landscape Design described the proposed landscape design for the property. The Owners of the property, Sarah and Mark Williamson told the Board that the major difference between this proposal and the one that was withdrawn in 2018 is the moving the septic system onto their property and their intent is to build a guest and entertainment house on this property.

Diane Kaneb, a neighbor who lives across the street at 140 Orchard Avenue is concerned about stormwater runoff, removing the septic system deed from their property, and emergency vehicle access. She told the Board that currently her property has stormwater problems from runoff.

Brian Nelson from Metrowest Engineers discussed the proposed stormwater management plan. He stated that the proposed systems that will collect, filter, and slowly release stormwater will result in a 30% reduction in stormwater volume leaving the property.

The Petitioner agreed to consult with the fire department to make sure their proposed driveway allows for adequate accessibility. The Petitioner also agreed to investigate the removal of the easement for use of 140 Orchard Avenue's septic system.

DECISION:

Following due and open deliberation, the Board voted unanimously to grant the special permit for a replacement dwelling based on the plans submitted. Since this is an existing non-conforming lot, the proposed addition was determined to be no more detrimental to the neighborhood. It was also noted that the changes being made are lessening the existing nonconformity.

Petition: Approved

13 Pigeon Hill Road: an application by Aimee Debrot requesting a variance for retaining walls.

Pursuant to the foregoing notice the Board held a public hearing on June 3, 2019 at 8:45 P.M., at the Weston Town Hall. The following members were present:

- Winifred I. Li, Chair and Acting Secretary
- Stephen J. Larocque
- Natalie B. Sawyer

Documents in the record include:

- "No. 13 Pigeon Hill Rd. Existing Conditions Plan", prepared by The Jillson Company, Inc., dated October 11, 2016
- "No. 13 Pigeon Hill Rd. Site Development Plan", prepared by The Jillson Company, Inc., dated October 11, 2016
- "No. 13 Pigeon Hill Rd. Retaining Wall Elevation Plan", prepared by The Jillson Company, Inc., dated May 29, 2018
- "Proposed Site Improvements Plan", prepared by The MacDowel Company, LLC, dated June 6, 2018
- Weston Planning Board decision dated October 16, 2012
- Weston Planning Board "Certificate of Action, 13 Pigeon Hill – Fence Addition", dated December 29, 2016
- Memorandum from Imaikalani Aiu, Town Planner, to John Field, Building Inspector, "Certificate of Action Scenic Road Site Plan Approval AMENDMENT" "Re: 13 Pigeon Hill RD – Retaining Wall and Grading Violation", dated June 20, 2018

The property in question, 13 Pigeon Hill Road, Weston, Massachusetts (the "Premises"), is located in Single Family Residence District B and comprises approximately 40,125 square feet in a district requiring a minimum of 40,000 square feet. The Premises have 271.45 feet of frontage along Pigeon Hill Road and 289.74 feet of lot width at street setback, in a district requiring a minimum of 150 feet for both dimensions for lots created before May 13, 1997. The lot therefore constitutes a conforming lot. The Premises also has 115.86 feet of frontage and 116.42 feet of lot width at street setback along Hill Top Road.

The present replacement dwelling was constructed in 2013 and complies with the district setback requirements. There is a pre-existing non-conforming detached garage located 23.8 feet from the street and 43.8 feet from the street centerline, in a district requiring a setback of 50 feet from the street and 75 feet from the street centerline. This structure is also located 15.2 feet from the easterly lot sideline, in a district requiring 35 feet. There is a permissible retaining wall in the setback area to the south of the dwelling. In 2017, a group of three additional retaining walls was constructed largely in the easterly setback, in violation of the Zoning By-Law, without notifying the Town or receiving any permits. The non-compliant portions of the these three retaining walls within the setback area are: approximately 124 feet of the longer first wall; and comprising a tiered pair of retaining walls, approximately 34 feet of the longer second wall plus the entire 32.2+/- feet of the third wall.

Appearing before the Board were Aimee Debrot, 13 Pigeon Hill Road, Weston, Massachusetts (the "Petitioner") and Jay Lavoie, an engineer from the Jillson Company. Mr. Lavoie explained that the Premises had been before the Planning Board twice and that first a 5-foot high fence had been approved. The retaining walls which are the subject of the present hearing were added later. The contractor who installed the subject walls was unaware that the Zoning By-Law limited retaining walls to a maximum height of 3 feet from natural grade; he thought the limitation was measured from finished grade.

In June 2018 the Planning Board found the wall[s] to be generally in character with the neighborhood and largely screened by vegetation and other structures, although in violation of the Zoning By-Law and requiring ZBA approval.

The ZBA noted that the deviations were as much as 1.1 feet (that is, 4.1 feet above natural grade) in a small section of the longest wall and less than 1 foot in most other areas; in some areas the 3-foot maximum was not exceeded.

Mr. Lavoie stated that the retaining wall actually helps the drainage problems on the property and therefore is beneficial to the abutters.

DECISION:

Following due and open deliberation, the Board, by unanimous decision, granted the requested variance for the three retaining walls as built and as shown on the plans submitted for 13 Pigeon Hill Road. The Board found that the dimensional deviations presented by the walls were minimal in the context of the topographically challenging and oddly shaped lot. In addition, the Board recognized that granting the variance would have minimal (and net positive) impact on the neighborhood. The Board concluded that enforcing the wall-height limitation of the Zoning By-Law in this case would involve a substantial hardship because of the topography and shape of the lot, and that relief would not be substantially detrimental to the public good and would not nullify or substantially derogate from the intent or purpose of the By-Law.

Petition: Approved