



Minutes for Meeting

Zoning Board of Appeals, Weston Town Hall

July 24, 2019, 7:30 PM

Members Present: Li, Sawyer, Sitole

10 Irving Road: an application by Dianne and Timothy O'Connor requesting a special permit to build a pool.

Pursuant to the foregoing notice, the Board held a public hearing on Wednesday, July 24, 2019 at 7:30 pm, at the Weston Town Hall. The following members were present:

- Winifred I. Li, Chair and Acting Secretary
- Natalie B. Sawyer
- Sujit Sitole

Documents in the record include:

- Site Plan prepared by Snelling & Hamel Associates, Inc., Lincoln, MA, dated July 1, 2019
- Site Plan prepared by Snelling & Hamel Associates, Inc., Lincoln, MA, dated May 3, 2019
- 4 sheets titled "O'Connor Poolhouse", and respectively "Exterior Elevations", "Plans", "RGFA Calculations", and "Pergola", each prepared by MGA, Marcus Gleysteen Architects, Boston, MA, and dated May 21, 2019
- "Petition for Special Permit for Pool, Pool House and Pergola, 10 Irving Road", prepared by Wilchins, Cosentino & Novins LLP, Wellesley, MA
- Handwritten note from abutter S. Polednak
- Email dated 9/5/19 from Jonathan White to Valerie Geary requesting the application be withdrawn without prejudice.

The subject site, 10 Irving Road, (the "Premises") is located primarily in Single Family Residence District B, with the dwelling and approximately 75% of the lot (the northerly portion) in that

district. Approximately 25% of the lot (the southerly portion) is sited in Single Family Residence District A.

The Premises is substandard in lot size, street frontage, and width at street setback. The dwelling on the Premises extends into the street setback, the northerly side setback, and the southerly side setback. There is a shed sited entirely within the northerly side setback. Accordingly, the subject lot and dwelling both are nonconforming.

Dianne O'Connor, 10 Irving Road, owner (the "Petitioner") appeared before the Board with her attorney, Jonathan A. White, Orleans, MA, and her architect, Marcus Gleysteen, Lincoln, MA. Neighbors Thomas and Maureen Johnson, 8 Irving Road, also were present.

The proposal includes a new pool, pool house, and pergola. The pool house would add a new nonconformity on the same side of the lot as the shed. The shed is currently 14.6 feet from the northerly lot line and the proposed pool house would be 10.4 feet from the northerly lot line. Mr. Gleysteen explained that he proposes locating the pool house where indicated because the property is flat and lower at that location. The architect said lining up the pool house with the existing house would provide the best sight lines for the neighborhood. The Petitioner plans to remove the non-conforming shed. The current house's RGFA is 2582 square feet (excluding the shed). The pool house would add 951 square feet of RGFA.

A note written by neighbor Stephen Polednak, 6 Irving Road, opposing this project was presented and entered into the record.

The Board raised the question whether the pool house is covered by Section 6 of the Mass. General Laws Chapter 40A, because the pool house is an additional, new structure, not an alteration or replacement of an existing structure. The Board believes that a variance may be required in order for the Petitioner to proceed, instead of a special permit. The Board agreed to consult with Town counsel to get clarification as to whether a special permit is all that Petitioner would need.

The Petitioner decided to change the locations of the pool house and pergola, so that both structures would be located within the building envelope. The Petitioner will prepare a new site plan for presentation to the Board. The Board unanimously voted to continue the hearing to Thursday, September 5, 2019, in the Town Hall, at 6:30 PM, when Petitioner expects the revised plans to be ready.

10 Irving Road (Land Swap): an application by Dianne and Timothy O'Connor requesting a variance for a land exchange.

Pursuant to the foregoing notice, the Board held a public hearing on Wednesday, July 24, 2019 at 7:50 pm, at the Weston Town Hall. The following members were present:

- Winifred Li, Chair
- Natalie Sawyer, Acting Secretary
- Sujit Sitole

Documents in the record include:

- Site Plan prepared by Snelling & Hamel Associates, Inc., Lincoln, MA, dated May 3, 2019

The subject site, 10 Irving Road, (the “Premises”) is located in primarily in the Single Family Residential District B (SFRD B), with approximately 75% of the northerly side of the parcel in that district, and approximately 25% of the lot on the southerly side is sited in the Single Family Residential District A (SFRD A). The other site, 8 Irving Road, is located in Single Family Residential District A (SFRD A).

10 Irving Road comprises 41,683 square feet of area, in a district requiring a minimum of 60,000 square feet. The lot has 110 feet of street frontage, and 117.8 feet of lot width at street setback, in a district requiring a minimum of 200 feet for lots created before 1997. The dwelling is sited 27.8 feet from the street, and 47.8 feet from the street centerline, in a district requiring a minimum of 60 feet and 85 feet respectively. The dwelling is sited 19.7 feet from the north, 30.9 feet from the south, and over 160 feet from the east side yard setback, in a district requiring a minimum of 45 feet. The shed is sited 14.6 feet from the northerly lot side line, completely within the 45-foot required setback. The proposal is asking for a variance to swap 723 ft<sup>2</sup> of land to the 8 Irving Road lot and in return 10 Irving Road lot would receive 723 ft<sup>2</sup> of land from 8 Irving Road.

Appearing before the Board were Dianne O’Connor, 10 Irving Road, owner (the “Petitioner”) with Jonathan A. White, Orleans, MA, her attorney, and Thomas and Maureen Johnson, 8 Irving Road, owners. Both sets of neighbors have agreed to exchange two small parcels of land. The Johnsons purchased 8 Irving Road in 1993. They later purchased an adjoining 1,537 ft<sup>2</sup> parcel (Parcel A on the Site Plan) from the Paine Condominium property next door to a developer. The Johnsons have been maintaining their proposed land exchange parcel for 26 years, and have put an underground irrigation system under this proposed parcel. The parties agree that the Johnsons have a potential adverse possession claim on the proposed land exchange parcel.

Mr. White stated that a variance is needed to swap these parcels because they will be newly created lots. Both lots will still remain non-conforming and no new nonconformities are being created.

DECISION:

Following due and open deliberation, the Board determined that, in the circumstances affecting these parcels, including the odd shape of the lots, the resolution of a potential adverse possession claim and the parties desire to remain good neighbors, a literal enforcement of the by-law would involve a substantial hardship, and the land swap could be approved without substantial detriment to the public good and without nullifying or substantially derogating from the intent of the by-law.. The Board voted unanimously to grant the requested variance for the land swap, as shown on the Site Plan submitted with the Petitioner’s hearing application. Parcel 10B will be combined with Lot 2 as shown on the Site Plan to become one lot at 10 Irving Road. Parcel A as shown on the Site Plan will be combined with Parcel 8B (the new parcel from this land exchange) and the existing Lot 1 to become one lot at 8 Irving Road.

Petition: Approved

8 Irving Road (Land Swap): an application by Thomas and Maureen Johnson requesting a variance for a land exchange.

Pursuant to the foregoing notice, the Board held a public hearing on Wednesday, July 24, 2019 at 8:10 pm, at the Weston Town Hall. The following members were present:

- Winifred Li, Chair
- Natalie Sawyer, Acting Secretary
- Sujit Sitole

Documents in the record include:

- Site Plan prepared by Snelling & Hamel Associates, Inc., Lincoln, MA, dated May 3, 2019

The subject site, 8 Irving Road, (the “Premises”) is located in Single Family Residential District A (SFRD A). The other site, 10 Irving Road, is located in primarily in the Single Family Residential District B (SFRD B), with approximately 75% of the northerly side of the parcel in that district, and approximately 25% of the lot on the southerly side is sited in the Single Family Residential District A (SFRD A).

8 Irving Road comprises 15,685 ft<sup>2</sup> of area, in a district requiring 60,000 ft<sup>2</sup>. The lot has a street frontage of 76.1 ft in a district requiring 200 ft for existing lots and 250 ft for newly created lots. The dwelling also encroaches into the required setbacks on all sides. A variance was granted in 1993 for an addition to the home. The current proposal is asking for a variance to swap 723 ft<sup>2</sup> of land to the 10 Irving Road lot and in return 8 Irving Road lot would receive 723 ft<sup>2</sup> of land from 10 Irving Road.

Appearing before the Board were Thomas and Maureen Johnson, 8 Irving Road, owner (the "Petitioner") with attorney with Jonathan A. White, Orleans, MA, and Dianne O'Connor, 10 Irving Road, owner. Both neighbors have agreed to exchange two small parcels of land. The Johnsons purchased 8 Irving Road in 1993. They later purchased an adjoining 1,537 ft<sup>2</sup> parcel (Parcel A on the Site Plan) from the Paine Condominium property next door to a developer. The Johnsons have been maintaining their proposed land exchange parcel for 26 years, and have put an underground irrigation system under this proposed parcel. The parties agree that the Johnsons have a potential adverse possession claim on the proposed land exchange parcel.

Mr. White stated that a variance is needed to swap these parcels because they will be newly created lots. Both lots will still remain non-conforming and no new nonconformities are being created.

#### DECISION:

Following due and open deliberation, the Board determined that, in the circumstances affecting these parcels, including the odd shape of the lots, the resolution of a potential adverse possession claim and the parties desire to remain good neighbors, a literal enforcement of the by-law would involve a substantial hardship, and the land swap could be approved without substantial detriment to the public good and without nullifying or substantially derogating from the intent of the by-law. The Board voted unanimously to grant the requested variance for the land swap, as shown on the Site Plan submitted with the Petitioner's hearing application. Parcel 10B will be combined with Lot 2 as shown on the Site Plan to become one lot at 10 Irving Road. Parcel A as shown on the Site Plan will be combined with Parcel 8B (the new parcel from this land exchange) and the existing Lot 1 to become one lot at 8 Irving Road.

Petition: Approved

44 Ripley Lane: an application by James Gerrity requesting a special permit for an addition.

Pursuant to the foregoing notice, the Board held a public hearing on Wednesday, July 24, 2019 at 8:30 pm, at the Weston Town Hall. The following members were present:

- Winifred Li, Chair
- Natalie Sawyer
- Sujit Sitole, Acting Secretary

Documents in the record include:

- “Proposed ZBA Plot Plan”, prepared by Metrowest Engineering, Inc, Framingham, MA, dated May 21, 2019, Sheets 1 & 2.
- Architectural As-Built drawings for The Gerrity Residence, prepared by Frank Shirley Architects, Cambridge, MA, dated February 2018, AB-1, AB-2, AB-3, AB-4, AB-5
- Architectural Elevation drawings for The Gerrity Residence, prepared by Frank Shirley Architects, Cambridge, MA, dated May 20, 2019, SD-Final
- Zoning Dimensions RFGA Calculations, prepared by Frank Shirley Architects, Cambridge, MA, dated April 5, 2019
- Letter from Town of Weston Historical Commission approving the proposed design, dated May 27, 2019

The property in question, 44 Ripley Lane (the “Premises”), is located in the Single Family Residence District A. It is a non-conforming lot because the house is set back 11.7 ft from the road in a District requiring 60.0 ft.

Appearing before the board were James Gerrity (the “Petitioner”), owner, 44 Ripley Lane, his attorney Jonathan White, Orleans, MA, and architect Frank Shirley, Cambridge, MA.

Winifred Li disclosed that she is a member of the First Parish Church, which is an abutter to this property, but stated that her membership will not affect her decision in this case. Attorney White stated that he is okay with Li sitting on the board for this case.

Mr. White explained that the property is located at the very end of Ripley Lane. The original house was built in 1740. It has been added to and remodeled many times over the years. The Petitioner proposes an addition to the home, including a new garage, to remove a portion of the house and porch, and to remove an existing unattached garage but preserve the unattached barn. The RGFA of the current home is 2.7% and the new proposed RGFA would be 3.7%. The proposed addition is 1.7 ft further into the setback towards Ripley Lane as measured from the public road which ends in front of the Gerrity property, however the home will not present as any closer to the road and the setback from the right of way accessed by a neighboring property is increased under the proposal.

The project was approved by the Historical Commission in the May 27<sup>th</sup> letter.

DECISION:

Following due and open deliberations, the Board, by unanimous decision, issued a special permit without any conditions for an addition as shown in the drawings submitted in the hearing application. The lot is non-conforming because it does not have the required street setback required in Single Family Residential District A. Although the proposed addition extends into the setback an additional 1.7 ft, it was determined not to be of significance considering the home is already 11.7 ft away from the street and moves farther from the right of way. The main part of the historical building will be saved and has received approval from the Historical Commission. The Board found that the proposal was not substantially more detrimental than the existing conditions.

Petition: Approved