

**ZONING BOARD OF APPEALS  
REGULAR MEETING MINUTES  
WEDNESDAY  
NOVEMBER 14, 2018**

RECEIVED

DEC 11 2019

WESTPORT ZONING  
BOARD OF APPEALS

**Members Present:** Roger Menard, Chairman  
Gerald Coutinho  
Peter Borden  
Constance Gee  
Barbara Pontolillo

Chairman Menard called the Zoning Board of Appeals meeting to order at 7:00 p.m. in the Westport Town Hall, 816 Main Road, Westport, MA with the reciting of the Pledge of Allegiance.

**Pledge of Allegiance**

**Chairman's Announcement** - Under MGL Chapter 30A, Section 20(f) - Meeting being recorded.

Chairman Menard opened the hearing at 7:00 p.m. with the reading of the Public Hearing Notice on the petition of Laurianne and Christopher Parker for a Special Permit authorizing the construction of a one-bedroom detached in-law apartment, pursuant to the allowances found in 4.0.1D.13. The property is located at 33 Katlyne Court, Westport MA and is shown on Assessor's Map 81, Lot 13J.

Chairman Menard stated that the Board would hear evidence from the petitioner; open the hearing to anyone in the audience wishing to comment; and then close the hearing.

Also present were Ralph Souza, Building Inspector and Zoning Enforcement Officer; and Brian R. Corey Jr., American Legion Highway, Westport, MA, attorney for the petitioners.

Mr. Corey provided information regarding the Special Permit for the accessory apartment. The applicant seeks a detached accessory apartment not to exceed 750 square feet as allowed by the Bylaw. He showed plans generated for the detached accessory apartment, which have previously been approved by the Board of Health. On the lot is a three-bedroom home and a septic system design for four bedrooms. The property and the proposed accessory apartment meet all setback requirements. The

accessory apartment is to be constructed to accommodate the petitioner's aging parents, so they can live comfortably and be cared for. The apartment will utilize water from the well with a separate pump.

Chairman Menard asked about how the accessory apartment would be provided with electricity. Mr. Corey responded that the electricity would come from the electric service of the main dwelling. The power cables would be buried underground but an additional electric meter may not be required.

Chairman Menard asked Ralph Souza if he had reviewed the petitioners' drawings. Mr. Souza said that he had reviewed the documentation and the project meets all zoning requirements, with a common driveway.

Mr. Corey summarized the plans, indicating that the detached accessory apartment would consist of one bedroom with approximately 675 square feet, including a full kitchen, one bathroom, and a living room area. The petitioners requested that the Board allow them up to the allowed 750 square feet for purposes of possible on-site modifications to the plans.

Chairman Menard asked Mr. Souza what would be included in the square footage requirement since the plans call for a deck, a porch, and storage area. Mr. Souza answered that only heated interior living space is counted in calculating square footage of a dwelling. Mr. Souza then said that, if approved, the petitioners would have to submit plans and go through all of the building approvals including the Board of Health.

Mr. Corey stated that the petitioners have no intention of screening in the porch area.

Mr. Coutinho made a motion to close the hearing at 7:15 p.m. and Ms. Pontolilo seconded. The Board voted unanimously to close the hearing.

Mr. Coutinho started the discussion by noting that this is a perfect example of what this Bylaw is meant for. Ms. Pontolilo indicated that the Special Permit does not appear to be at all controversial and everything fits the criteria. Mr. Coutinho then said that the Board should allow the maximum allowed square footage, in the event there is a slight change to the original plans. By doing so, would eliminate having the petitioners to return to the Board for further permission; and, in any event, 750 square feet is allowed by the Bylaws.

Mr. Borden made a motion to approve the Special Permit to construct a detached accessory apartment with the following conditions:

1. Must comply with all provisions of Article 4.0.1D.13.
2. The accessory apartment is not to exceed 750 square feet.

The motion was seconded by Chairman Menard and the Board voted unanimously to approve the Special Permit.

Chairman Menard then indicated that there is a 20-day appeal period.

Chairman Menard opened the second hearing at 7:23 p.m. by reading the public notice. The matter before the Board is the petition of Robert Sieminski for a variance to use an existing one (1) bedroom detached apartment, which currently consists of approximately 125 square feet, as an accessory apartment to be in excess of the allowed 750 square foot as defined under 4.0.1.D.13; and a Special Permit formalizing use/existence of said pre-existing accessory apartment unit pursuant to the allowances found in 4.0.1 D.13. The property is located at 1296 Drift Road, Westport MA and is shown on Assessor's Map 56A, Lot 109B.

Also present were Ralph Souza, Building Inspector and Zoning Enforcement Officer; and Brian R. Corey Jr., attorney for the petitioner.

Mr. Corey provided background on the variance and Special Permit petition. In 1976, the property in question was deeded by Edward Sieminski to his son, Robert Sieminski. Edward Sieminski passed away several years ago. Mr. Robert Sieminski now plans to sell the property. On the property, is a structure that has a dual purpose, a garage and a detached one-bedroom apartment building. The building use pre-dates Zoning Bylaws. It is unknown whether it pre-date zoning requirements because of unclear Town records.

Mr. Souza indicated that he did a site visit and the property is of 1970's vintage and could be in existence prior to the promulgation of the Building Code in 1975. He also stated that he informed the property owner that he may need to remove the

kitchen from the apartment in order for it to be sold as a single-family dwelling. Otherwise, he could opt to apply to the Board for a special permit for the accessory apartment.

Mr. Corey commented that the septic system of the detached accessory apartment qualifies under Title V. The accessory apartment is approximately 125 square feet over the 750 square feet allowed by Section 4.0.1.D13.

Chairman Menard asked what is in the main house. Mr. Corey answered that the main house is a three-bedroom structure. Chairman Menard also asked if there is an attached accessory apartment and Mr. Corey answered that there is no attached apartment.

Chairman Menard commented that he viewed the property and took pictures, which he shared with the Board.

Chairman Menard asked Mr. Souza if there is any issue with the garage in the accessory apartment. Mr. Souza responded that sheetrock will need to be installed in the garage, but there is no restriction regarding having a garage underneath an accessory apartment as the garage (workshop) is not considered livable space.

Mr. Corey commented that Mr. Sieminski understands that he has to work with Mr. Souza to get all of the applicable permits and inspections.

Mr. Coutinho commented that the only reason for the variance is to allow for 125 square feet above the 750 square feet permitted under the Bylaw. He also noted that the Section 4.0.1D.13.j of the Zoning Bylaws allows for additional square footage to facilitate handicapped access. If the accessory apartment is reworked to allow for access and mobility, then the accessory apartment would meet the requirement under the Bylaws without the need for a variance. He further noted that the Board encourages the development of housing for disabled individuals with limited mobility.

The Board discussed in detail the differences formulated by the Bylaws as to 750 square feet for an accessory apartment and 900 square feet for handicapped accessibility.

Mr. Coutinho made a motion to close the hearing. Ms. Gee seconded the motion and the Board voted unanimously to close the hearing.

Mr. Coutinho started the discussion by noting that the Zoning Bylaw allows for an attached accessory apartment to include up to 900 square feet. This is 150 square feet more than the 750 square feet allowed by Special Permit for a detached unit. However, Section 4.0.1.D.13.j of the Bylaw encourages deviation from the dimensional requirement to facilitate access and mobility. The petitioner's request for a variance does not even reach the 900 square feet allowance. If the Board were to consider the dimensional deviation as allowed in Section D.13.j, there would be no need for a variance because the requested size would be covered by the Special Permit.

Ms. Pontolilo commented that the accessory apartment could be used as a rental unit. Mr. Coutinho said that using the accessory apartment as a rental unit is allowed, so long as the owner resides in either the main dwelling or the accessory apartment.

Chairman Menard made a motion to approve the Special Permit for a detached accessory apartment in accordance with Zoning Bylaw Section 4.0.1D.13 with the condition that all permits are obtained and approved prior to issuance of a certificate of occupancy. The motion also authorizes up to an additional 150 square feet of living space (i.e. total of 900 square feet) for installation of features to facilitate access and mobility in accordance with Section 4.0.1D.13.j.

Mr. Coutinho seconded the motion and the Board voted unanimously to approve the Special Permit.

Chairman Menard then indicated that there is a 20-day appeal period.

Mr. Corey submitted a request in writing to withdraw the variance requesting the additional 125 square feet. The Board accepted the petitioner's request to withdraw the variance petition.

### **Administrative Items**

1. Chairman Menard stated that the vacancy of Principal Clerk is being readvertised with specific duties outlined.

2. Chairman Menard said that he submitted the Board's budget for Fiscal Year 2020 to the Town Administrator, who said he would recommend approval by the Finance Committee.

3. The next hearing for the Board is Wednesday, November 28, 2018.

8:08 p.m.

**Motion** made by Ms. Gee to adjourn the meeting. Seconded by Mr. Borden. The Board voted unanimously in favor.

Chairman Menard advised that the Board would be conducting an Executive Session to discuss personnel matters.

**Adjournment.**

Respectfully submitted,



Maria I. Branco, Principal Clerk  
to the Zoning Board of Appeals

APPROVED: 

Roger Menard, Chairman

**ZONING BOARD OF APPEALS  
REGULAR MEETING MINUTES**

**WEDNESDAY  
NOVEMBER 28, 2018**

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OCT 23 2019

WESTPORT ZONING  
BOARD OF APPEALS

**Members Present:** Roger Menard, Chairman  
Gerald Coutinho  
Peter Borden  
Constance Gee  
Barbara Pontolilo

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**Pledge of Allegiance**

**Chairman's Announcement** - Under MGL Chapter 30A, Section 20(e) - Meeting being recorded.

Opening the meeting at 7:00 p.m., Chairman Menard stated that the first matter before the Board was the continuation of the hearing regarding the administrative appeal of David Sunderland with regard to the property located at 1346 Main Road, Units E, F, G and H and shown on Assessor's Map 56, Lots 10-5, 10-6, 10-7 and 10-8 known as Underwood Farm Development. He read the Public Hearing Notice.

Chairman Menard stated that he received written communication from Mr. Sunderland's attorney, Kenneth Mello, requesting that this matter be continued to either January 16, 2019 or January 23, 2019, when both he and Attorney Levin are available. The ground for the continuance is that Richard Leblanc has a family member in hospice care and he cannot attend the meeting. Attorney Mello also advised the Board that he and Attorney Levin expect to bring a proposal of resolution to the Board at the next meeting.

Chairman Menard made a motion to continue the hearing to Wednesday, January 16, 2019 at 7:00 p.m. The motion was seconded by Ms. Gee and the Board voted unanimously in favor.

**Action Items:**

1. Chairman Menard stated that the Board is current in filing of its decisions.
2. Interviews will be conducted this week for the Principal Clerk position.
3. Chairman Menard stated that the Board received correspondence from Lucy Tabit, Administrative Assistant to the Board of Selectmen, that someone was looking for guidance from the Board as to whether or not to file a petition for a variance. Typically, the Board does not make recommendations as to which course of action is required or to provide legal advice. Mr. Coutinho stated that he believed that this particular request seemed to be more complex than the average request and that, in his opinion, could involve some legalities. Therefore, he would suggest that the Board not make a recommendation or give advice in this matter.

**7:16 p.m.**

**Motion** made by Ms. Pontolilo to adjourn the meeting. Seconded by Mr. Borden. The Board voted unanimously in favor.

**Adjournment.**

Respectfully submitted,



Maria I. Branco, Principal Clerk  
to the Zoning Board of Appeals

APPROVED: 

Roger Menard, Chairman