

**BOARD OF APPEALS
REGULAR MEETING MINUTES
MARCH 02, 2011**

Members Present: Clayton M. Harrison, Chairman
Gerald Coutinho, Vice Chairman
Christopher Graham
Kimberley A. Fernandes, Clerk
Donna Lambert, Alternate

Absent: Kendal Tripp
William Wyatt, Alternate

Also Present: Ralph Souza, Building Inspector

Chairman Harrison called the Zoning Board of Appeals meeting to order at 7:00 PM in the Westport Town Hall, 816 Main Road, Westport, MA.

Victoria Black, Trustee – RE: A petition seeking a variance from Zoning By-law Article 7 – Intensity Regulations / Set Back Requirements to allow the construction of a duplex on a lot having less than 80,000 sq.ft. of area. The property is located on Main Road – Assessor’s Map 53, Lot 02, Sublot #11

Sitting on Petition: Harrison, Coutinho, Graham, Fernandes, Lambert

Attending: Ralph Souza, Building Inspector/Zoning Enforcement Officer
Attorney Brian Corey (representing applicant)

Abutters: Joel Andrade, 13 Charlotte White Road, Westport, MA.

Chairman Harrison called the meeting to order at 7:00 PM. with the reading of the public hearing notice. Mr. Harrison noted that no correspondence was received on this matter.

Attorney Corey presented a plot plan of the property to the Board. Attorney Corey stated there is approximately 350 ft. of frontage, which is more than adequate to meet the bylaw; there is 42,884 square feet of contiguous upland, which exceeds the requirement for a duplex; there is 65,351 square feet of land on this property, which is deficient of the required 80,000 square feet. This proposal is for a modest duplex with an attached garage, one-floor living area, which will accommodate a disabled person and her caregiver, the other half of the duplex will be rented in order to pay for the caregiver. The duplex will be the “Oak Ridge” type of construction. Mr. Coutinho asked Attorney Corey what he meant by “Oak Ridge” construction. Attorney Corey noted that the same plans would be used to construct the duplex as was used by the contractor for Oak Ridge Estates on Main Road. Attorney Corey stated the hardship is financial. Mr. Harrison asked about access to the property. Attorney Corey stated the access will be through Charlotte White Road, which will have less impact for the neighbors. Mr. Graham stated that Attorney Corey said the amount of area of upland exceeds the requirement, but Article 7.2 of the bylaw states that a lot to contain a dwelling for occupancy by more than one family must contain not less than 30,000 square feet of contiguous upland, plus 15,000 additional square feet of contiguous upland for each family in excess of one, which is 45,000 square feet and there is only 42,884 square feet being presented. Attorney Corey reviewed the bylaw and noted that he did not read that section. Attorney Corey requested a withdrawal of his clients petition and submitted a written request to the Board’s clerk. Mr. Coutinho asked Attorney Corey what was preventing the building of a single-family dwelling with an in-law apartment. Attorney Corey stated a single-family residence can’t be rented. Attorney Corey explained that the resident is his aunt, who is disabled (totally blind) and all her funds have been used for her care. With the

creation of this home, she would not have to go to a nursing home. At this time, she does not qualify for assisted living that is why renting the other half of the duplex would pay for the caregiver that lives with her. Attorney Corey stated it is not legal to rent an in-law apartment. Mr. Harrison asked if there were any abutters present with any concerns. Mr. Joel Andrade stated his main problem is the driveway being proposed. There is a drainage problem and no one wants to fix it; even when he called the Highway Department he was told there was no money. The water runs down Charlotte White Road to Main Road and gathers at the intersection, the water then goes over the embankment and collects in his yard. If the land is allowed to be built up about 15 ft., there will be a pond in his backyard also and that will fill his septic system. Attorney Corey stated the driveway will only be up about 2 ft. and with a 16-ft. access for emergency vehicles; there will be no negative effects. If the drain on Main Road is overflowing, that is the Town's problem and it should be considered a nuisance; your recourse would be to sue the Town. Attorney Corey stated his wife has owned this property since 1998 and last time everyone was accommodated during the planning stage; but make no mistake, there will be building on this lot no matter what. If no variance is received, a single-family dwelling will be built and it will be sold. Attorney Corey stated he has every intention of being a good neighbor and every step will be taken so no water is directed toward anyone's property; an engineer is being used on this project who is very familiar with the area. Attorney Corey stated he owns the stonewall and is giving Mr. Andrade permission to blow a pipe through it to help divert water.

Motion made by Mr. Graham to allow the petitioner to withdraw without prejudice. Second by Mr. Coutinho. The Board voted unanimously in favor.


Correspondence

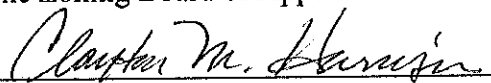
1. A hearing date for the Raymond Green petition is set for Wednesday, April 6, 2011 at 7:00 PM.
- 2 through 6 were informational for the Zoning Board members.

Motion made by Mr. Graham to adjourn the Zoning Board of Appeals meeting at 8:00 PM. Second by Ms. Lambert. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,


Diane Pelland, Principal Clerk
to the Zoning Board of Appeals

APPROVED: 
Clayton M. Harrison, Chairman