

**BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
NOVEMBER 02, 2016**

Members Present: Christopher Graham, Chairman
Heather Salva, Clerk
Gary Simmons
Roger Menard
Donna Lambert
Also present: Ralph Souza, Building Commissioner
Absent: Gerald Coutinho, Vice Chairman

Chairman Graham called the Zoning Board of Appeals meeting to order at 7:00 PM 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(e) – Meeting being recorded.

James S. Burns – RE: Applicant is seeking a special permit to convert an existing accessory building into a one (1) bedroom detached accessory apartment under Bylaw Article 4, Section D-13 with residence on the property. The property is located at 607 Adamsville Road, Westport, MA and shown on Assessor's Map 79, Lot 23.

Voting on Petition: Christopher Graham, Donna Lambert, Heather Salva, Gary Simmons and Roger Menard.
Also Present: Ralph Souza (Zoning Enforcement Officer/Building Commissioner)
Sean Leach, SITEC (representing petitioner)
Bernard Neves, Bernard Neves Builder, Inc. (representing petitioner)
Abutters Present: None

Chairman Graham called the hearing to order at 7:02 PM. Mr. Graham read the Public Hearing Notice and asked if anyone wished to speak on this petition, to give their name and address for the record.

Mr. Leach stated this property was located near the St. Vincent's property down on Adamsville Road; it consists of over one acre of land; the property is walled in; on the property, in addition to the antique style Cape home, is a barn and a very big yard. Mr. Leach stated his clients are looking at making the main residence as the accessory apartment and using the barn as the owner's residence; they are looking to preserve the character of the buildings and the property; they are going to keep the garage as is and use the back of the barn with a loft. There will be no physical change to the site and it will remain with the same number of bedrooms; no change in the footprints and the second floor will be used for storage only. Mr. Neves stated the second floor has no head room, maybe 6ft at best. Mr. Leach stated that the 740 sq.ft. does not include the 2nd floor of the barn. Mr. Neves stated the pantry will be eliminated from the interior of the building and will be made accessible from the outside only. Mr. Leach stated the loft on 2nd floor will be an open sitting room; as for the main house, it will be one level only and inhabited by the owners' elderly parents because the stairs leading to the 2nd floor are too steep to be used. Mr. Souza stated this will stay at the same number of bedrooms, only it will be a different configuration. Mr. Leach stated the Cape has only one bedroom.

Mr. Graham stated the owner is proposing to convert the garage into a one bedroom and the main house will be a one bedroom. Mr. Neves stated the garage (which will now be the main house) will be owner occupied and the Cape (which will now be the accessory) will be occupied by the owner's parents.

Mr. Menard questioned if the accessory will have water and septic. Mr. Leach stated the Title V was done for three bedrooms and yes, it will have water and septic. Mr. Souza stated the barn will be the main house so they will have to install water and septic by hooking into the existing systems. Mr. Leach stated if approved here, this will have to go to the Board of Health and the Building Department for permitting.

Mr. Graham noted no abutters were present.

Mr. Leach stated that all changes to the barn will be interior. At this time, Mr. Neves reviewed the interior plans at Mr. Menard's request.

Mr. Souza stated that occupancy permits will have to be applied for and an occupancy permit will have to be issued for each building.

Mr. Menard questioned the septic being for three bedrooms but the petition is stating two bedrooms; can the owner, in the future, go to the Building Department for an addition to the barn; the Board should note that the barn may have two bedrooms in the future; would they need another special permit. Mr. Leach stated the Board could make that a condition. Mr. Neves stated that the property already has a Title V for three bedrooms. Discussion ensued.

Mr. Graham asked if there was any more input or questions from the Board. None was received.

7:24 PM

Motion made by Mr. Menard to close the hearing. Second by Mr. Simmons. The Board voted unanimously in favor.

Discussion

Mr. Menard stated in order to keep the space at 740 sq.ft., the Board would need to put a condition in the decision regarding the pantry as not being part of the area and we need to note that the upstairs will be for storage only.

Vote taken:

Motion made by Mr. Menard to grant the Special Permit, with the plans as submitted, with the following conditions:

1. The pantry (identified on the existing conditions as 64.19 sq.ft.) will be closed off from the interior of the building and not part of the dwelling; being accessible only from outside and used as storage.
2. The upstairs (2nd floor) of the accessory building will be used as storage only.

Second by Ms. Lambert. The Board voted unanimously in favor.

The hearing is closed at 7:25PM

Mary M. DeFrias Hirst – RE: Applicant is seeking a variance to build a three-bedroom ranch style house in a residential zone for commercial use as a professional office. The property is located at 0 Main Road, Westport, MA and shown on Assessor's Map 53, Lot 2.

Voting on Petition: Christopher Graham, Donna Lambert, Heather Salva, Gary Simmons and Roger Menard

Also Present: Ralph Souza, Zoning Enforcement Officer/Building Commissioner
Mary M. DeFrias-Hirst and Leonard T. Hirst (petitioners)

Abutters Present: None

Chairman Graham called the hearing to order at 7:30 PM. Mr. Graham read the Public Hearing Notice and asked if anyone wished to speak on this petition, to give their name and address for the record.

Mr. Graham asked Mr. Souza about the application request and for some background on this property. Mr. Souza stated this property is not a commercial property; the lot is buildable as a residence; the plans show a building which looks like a house with a home office but the actual use will be commercial offices with parking.

Ms. DeFrias-Hirst stated she and her husband live at 3 Taber Lane; her husband is a Certified Financial Planner and an Estate Planning Attorney, most of his clients do not reside near Westport and most of his meetings are taken over the phone/internet. Ms. DeFrias-Hirst stated that currently they rent office space in New Bedford but would like to have their business in Westport. Ms. DeFrias-Hirst stated they are looking to build a 3-bedroom building; they want it to look like a home instead of a business; the closets shown on the plan would be used for paper supplies and coffee area. Mr. DeFrias-Hirst stated they will not be living there, they will remain in their residence at 3 Taber Lane; presently we have maybe 74 client meetings a year; my clients are country-wide; right now, maybe 3-5 come to the office a week. Ms. DeFrias-Hirst we currently have three employees besides myself and my husband.

Ms. Salva asked the petitioners, why not have an office in an area zoned commercial. Ms. DeFrias-Hirst stated they have been looking but have not found anything yet.

Mr. Graham stated to the petitioners that a variance requires a hardship; a hardship would be the topography, shape and size of the lot and/or the soils; what is the hardship? Mr. Hirst stated the only hardship is that the area is not zoned commercial.

Ms. Lambert stated the property can be used as a residence. Ms. DeFrias-Hirst stated that the real estate agent told them to say, that they were going to be living in the building and that would make it okay. Mr. Hirst stated we are not doing that; we are presenting what we are really doing. Ms. DeFrias-Hirst stated the area has Bittersweet Farms (a restaurant) and a service garage which will have more traffic than we will ever have.

Mr. Graham stated that even before the Board can act on this, a hardship needs to be shown. Ms. Lambert again explained what a hardship consisted of; she then stated that if this was to be a residence with an office, it would require a special permit or finding by this Board but that is not the case here. Mr. Simmons stated he did not hear or see a hardship. Ms. Salva stated if this were a residence, it would be considered a home occupation.

Mr. Graham stated the applicants had two choices tonight; either pursue the application as presented or request a withdrawal without prejudice. Mr. Graham stated that if the applicant pursued and the Board voted to deny, the applicant would not be able to come back before a two-year wait period.

Discussion ensued. The petitioners opted to request a withdrawal without prejudice.

Ms. DeFrias-Hirst then submitted a written request to the Board for withdrawal without prejudice.

Motion made by Ms. Lambert to allow the petitioners to withdraw without prejudice. Second by Ms. Salva. The Board voted unanimously in favor.

The hearing is closed at 7:45PM.

Action Items - None.

Correspondence - None.

Other business - None.

Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting - None.

Approval of Minutes - None.

8:50 PM

Motion made by Mr. Simmons to adjourn the Zoning Board of Appeals Meeting. Second by Ms. Lambert. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,
Diane Pelland, Principle Clerk
to the Zoning Board of Appeals

APPROVED: Christopher Graham, Chairman