

**BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
APRIL 3, 2019**

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

Also present: Ralph Souza, Building Commissioner

Chairman Menard called the Zoning Board of Appeals meeting to order at 6:30 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.

Roland Charron, Jr. - Petitioner filed an application for a Special Permit to add a kitchen to an auxiliary living space consisting of 639 square feet of a detached building, pursuant to the allowances found in 4.0.1.D.13 et seq. The property is located at 13 Gifford Road, Westport, MA and is shown on Assessor's Map 22, Lot 30.

Members Present: Menard, Coutinho, Borden, Gee and Pontolilo
Also Present: Ralph Souza, Building Commissioner

Applicant/Owner Present: Roland Charron, Jr., 13 Gifford Road

Chairman Menard called the hearing to order at 6:33 p.m. with the reading of the Public Hearing Notice. He stated that an amendment to the By-Laws allows 750 square feet with a Special Permit by the Board.

Chairman Menard then noted that there are several requirements in the zoning by-laws that must be met in order to approve an accessory apartment. He asked Mr. Charron to describe how he will comply with all zoning by-law provisions.

Applicant, Roland Charron, Jr., addressed the Board, stating that:

1. The property at 13 Gifford Road is on the Assessor's records as having auxiliary living space.
2. The space currently has a sink which was installed 18 years ago but is now requesting the addition of a kitchen and cabinets without expanding the current square footage of 639 feet.
3. The intent is for him to move into the auxiliary space in the future and rent out the main house.

4. The detached space currently has one (1) bedroom and one (1) bathroom and would be occupied by no more than two (2) people.
5. There is sufficient off-street parking on the property that can occupy five (5) parking spaces.
6. There would be no new construction, only addition of a kitchen with cabinets.
7. With the addition of the accessory apartment, the property will not be subdivided.
8. His daughter is currently residing in the space.
9. The space is handicapped accessible.
10. The property consists of a sunroom, which is not heated.
11. There is a small room (approximately 5' x 5') that is currently being utilized as storage area access and was formerly used as a swimming pool changing room.
12. He does not intend to expand the construction up to 750 square feet at this time as it would be costly.

Ralph Souza, Building Inspector, stated that, back in 2001, a permit was issued allowing for extra living space, which is the reason that the space currently occupies a bedroom, bathroom and sink. He also said that, with the addition of the kitchen, the space becomes an allowable living apartment with separate access.

Chairman Menard noted that the garage extends past 800 square feet. However, the designated auxiliary space is only 639 square feet and Mr. Charron does not intend to expand that space with the addition of kitchen cabinets.

Mr. Coutinho asked if a building permit would be required if, in the future, the owner decided to expand the accessory apartment utilizing the garage area. Mr. Souza responded that if the Zoning Board of Appeals sets the allowable dimensions for the accessory apartment, any change would require a building permit.

Mr. Coutinho stated that the Board would normally allow for a larger area for handicapped accessibility; however, since someone is already living in that space, which includes a sink, there is no reason to encourage expansion for handicapped accessibility. Also, the applicant stated that the space is already handicapped accessible.

The issue was raised about whether the Board should make a determination that the square footage of livable space may be expanded to 750 square feet; otherwise, if the applicant needs to come before the Board for expansion, he will be required to file for further permitting.

Motion made by Mr. Coutinho to close the hearing at 6:50 p.m. Seconded by Ms. Pontolilo. The Board voted unanimously in favor.

Discussion by the Board ensued.

Chairman Menard stated that the auxiliary space meets the requirements of a Special Permit, as the applicant was requesting 639 square feet; that the space has a separate entrance and exit.

Mr. Coutinho stated that since the applicant meets all of the requirements for an accessory apartment, we have two options: either approve the plan of record or approve an accessory apartment not to exceed the zoning by-law allowance of 750 square feet.

Ms. Gee stated that she did not understand why the board would approve something in excess of what the petitioner requests.

Discussion ensued with regard to the possibility of the Board's granting the Special Permit for 750 square feet, as allowed by the By-Law and, therefore, if the applicant or future owner of the property were to expand the space, they would not be required to come before the Board in the future to expand to 750 square feet.

Vote taken.

Motion made by Chairman Menard to approve the granting of a Special Permit, pursuant to and as identified and relied on by the Board, the Plan filed with the Application for Special Permit, filed with the Town Clerk on March 1, 2019, for 639 square feet with the following conditions: accessory apartment must be done in accordance with the requirements mandated by Zoning By-Law 4.0.1.D.13, and must be in accordance with the plans provided by the applicant and dated at this meeting. Second by Ms. Pontolilo.

The Board voted unanimously in favor.

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

Chairman Menard then stated that the second order of business is a request for an extension to commence construction of the Brookmeadow Estates 40B development.

Brookmeadow Westport, LLC. RE: Request for a 12-month extension for commencement of construction of Brookmeadow Estates, specifically pursuant to the 2016 Brookmeadow Comprehensive Permit Modification dated April 6, 2016. Chairman Menard called the hearing to order at 7:00 p.m. with the reading of a letter that the Board had received from Paul Cusson, Managing Member.

Robert Carrigg, developer and representative of Brookmeadow Westport, LLC, provided the following information:

1. He is requesting a 12-month extension of commencement of construction.

2. The original permit specified a deadline of three years from April 6, 2016 for commencement of construction of Brookmeadow Estates.
3. Due to substantial time expended with litigation in both the Superior Court and Land Court; out-of-court resolution of a property line dispute with an abutting property owner; and the determination by the State that the property is classified as estimated habitat area which imposed restrictions on construction of the Project, it was not possible to meet the construction commencement deadline of three years from April 6, 2016.
4. The only remaining requirement is a letter from Mass housing granting final approval. They still have to combine actual costs to date to identify the cost basis of the project.
5. Mr. Carrigg stated that, once construction commences, the Project should be completed with a target date of 2022.

Chairman Menard noted that the April 6, 2016 hearing stipulated that the construction be completed within six years and asked if any relief from this requirement is being sought. Mr. Carrigg responded that they are not seeking relief from the six-year completion requirement.

Mr. Coutinho stated that we have to determine if the requested change is substantial. Ms. Pontolilo stated that she believed that the requested change is insubstantial. Chairman Menard stated that the requested relief in start date is beyond the control of the developer.

Motion was made by Mr. Coutinho, seconded by Chairman Menard and voted unanimously by the Board to **GRANT** the 12-month extension for commencement of the construction of this Project to April 6, 2020, on the grounds that the delay is insubstantial and the circumstances that underpin the delay in commencement of construction of this Project were beyond the control of the Project developer. The Board determined that no further hearing before this Board is required to proceed regarding this request.

Action Items - The Board reviewed and discussed the minutes of the meeting of March 20, 2019. **Motion** made by Ms. Pontolilo to approve the minutes of the meeting of March 20, 2019. Second by Mr. Borden. The Board voted unanimously in favor. Chairman Menard will have the minutes posted to the Town web site.

Correspondence - Chairman Menard read correspondence received from Citizens' Housing and Planning Association (CHAPA), who is the monitoring agent for the Briggs Landing Chapter 40B project. The

purpose of the letter was for CHAPA to provide the annual update on the project.

Other business - The Board discussed a request for comment received by the Planning Board regarding The Dance Academy located at 699 State Road. After review and discussion, Mr. Coutinho made a motion to submit a "no comment" response to the Planning Board, the Board having found no zoning issues. Motion was seconded by Ms. Pontolilo and voted unanimously.

The Oyster Company at 2065 Main Rd was at the Board of Selectmen meeting for a Shellfish Upwellers License.

The Board of Selectmen were discussing Weatherlow Farms' request for an all-year, all-alcoholic license. Mr. Coutinho stated that, while attending a Board of Selectmen meeting last week to comment regarding the upwellers matter, he heard the owner of Weatherlow Farms, Mr. Wagner, advise the Selectmen that the Zoning Board had approved certain uses at the facility. When the Board of Selectmen realized that Mr. Coutinho was present, they requested that he enter the conversation regarding the Zoning Board of Appeals previous decision. Mr. Coutinho recalled that the Board previously voted, 4-1 to allow certain events, based on a new wording of the By-Law that had been passed by a special Town Meeting. He indicated to the Selectmen that the Zoning Board of Appeals decision did not address the serving of alcohol, because the Alcohol-related permits do not come under the Zoning Board's jurisdiction. The Zoning Board of Appeals members tonight expressed concerns as to whether Mr. Wagner should come before the Zoning Board for a change of the approved use of Weatherlow Farms, because the change to an Annual alcohol license may be substantially more detrimental than the approved use. Board members suggested that the opinion of Town Council should be sought in this matter.

Chairman Menard stated that all the audio recordings of the Board meetings have been uploaded onto the web site and are up to date; the minutes for this calendar year are up to date; minutes need to be prepared for prior decisions; and a database for decisions is in progress.

Mr. Coutinho stated that the Planning Board is awaiting bids from various firms for purposes of reviewing and revising the By-Laws.

Chairman Menard mentioned that the Board is still in need of 2 members: 1 Regular Member and 1 Associate Member.

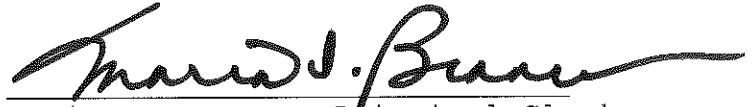
Next Board meeting is Wednesday, April 17, 2019.

7:53 p.m.

Motion made by Mr. Coutinho to adjourn the meeting. Second by Ms. Pontolilo. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,



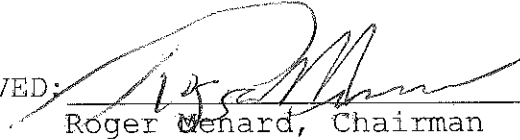
Maria I. Branco, Principal Clerk
to the Zoning Board of Appeals

RECEIVED

MAY 29 2019

WESTPORT ZONING
BOARD OF APPEALS

APPROVED:



Roger Denard, Chairman