

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
JUNE 19, 2019**

Members present: Roger Menard, Chairman
Gerald Coutinho, Vice Chairman
Peter M. Borden
Constance Gee
Barbara Pontolilo

Chairman Menard called the Zoning Board of Appeals meeting to order at 6:32 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.

6:35 p.m.

Jason Alexander - Application for a Special Permit to construct and use a detached accessory apartment above a new garage structure, said structure to be a separate unit with living/kitchen/bath and have 600 sf, pursuant to the allowances found in Zoning Bylaw 4, Section 13; also requested is a variance to construct a new 2-car garage with accessory apartment above the garage, having a 15-foot setback from the front property line, pursuant to the allowances found in Zoning Bylaw 7, Section 7.6.1, that requires a 25-foot front yard setback. The property is located at 169 Atlantic Avenue Westport, MA and is shown on Assessor's Map 89, Lot 18.

Members present: Roger Menard, Chairman, Gerald Coutinho, Vice Chairman, Peter M. Borden, Constance Gee and Barbara Pontolilo.

Also present:

Jason Alexander, Petitioner.

Mark Rapp, Architect, 9 Simmons Road, Little Compton, RI.

Brendan McDonald, Contractor, 743 Drift Road, Westport, MA.

Ralph Souza, Building Commissioner/Zoning Enforcement Officer, Town of Westport.

Chairman Menard read the Public Hearing Notice.

Mark Rapp, Architect, addressed the Board, stating:

1. He has been working on renovations of the main house.
2. The current garage structure, which does not meet Building Code, is situated on the southwest corner of the property, is not structurally stable to build a second floor and will, therefore, be demolished, so that a new 2-car garage with accessory apartment may be constructed on a different area of the property.
3. The accessory apartment would be utilized by the Alexander family, guests, and a work area for Mrs. Alexander, who is a pottery/ceramic artist and would utilize the kitchen for her art.
4. A variance from the setback requirement is being requested to place the new structure on the property with a setback of 15 feet, instead of 25 feet, on the east side of the property.
5. McFarland Engineers are conducting a survey of the property.
6. The leeching field will be moved to the area where the current garage structure is now on the property.
7. The new structure would be 24' x 30', with new footprint and compliance with backyard setback requirements. The height of the structure would be 22' 6".
8. The landscaping and paving will allow for additional off-street parking.
9. All utilities are constructed above flood zone.
10. The new garage structure will mirror the same type of structural lines as the existing house.

Jason Alexander, Petitioner, addressed the Board, stating that:

1. He and his family reside in Florida and purchased the property at 169 Atlantic Avenue to be a summer home.
2. He is a former resident of Fall River and has real estate and business that he conducts on a regular basis in the surrounding areas of Westport.

3. His wife needs a kitchen to work with pottery and ceramics and this apartment would also be utilized by her.

4. Subsequent to purchasing the property, the main house was raised to comply with flood plain zone and has tried to keep the character of the outside to be as close as possible as to the look of the surrounding properties.

5. Mr. Alexander's mother, who resides with him and his family in Florida, may stay in the apartment when the family is up north from Florida.

6. The accessory apartment will not be a rental unit, as he and his family intend to live at the property during the summers and any other time they visiting the area.

7. He believes that the renovations and construction will raise the value of the neighborhood.

Brendan McDonald, Contractor, 743 Drift Road, Westport, MA addressed the Board, stating:

1. Mr. Alexander's intent in constructing the main house is to keep the integrity and historic nature of the building; the new structure would maintain the same character.

2. The current garage structure hinders the overall character of the main house.

3. The original intent was to construct a new 2-car garage structure with no accessory apartment.

4. He has discussed this project with the Historic Commission in an effort to keep in the character and integrity of the main house and the neighborhood.

Chairman Menard stated that one of the intents of the Bylaw for an accessory apartment is typically for a family member to reside; and cannot be used to conduct a business, which would affect the Town Bylaws and the neighborhood. He also asked why a variance was being requested, as there was sufficient land in which the garage could be built without the necessity of a variance.

Mr. Borden noted that Zoning Bylaw 4.0.4(a) dictates there is to be no new construction in the flood plain, unless such construction will not increase the water surface elevation of the base flood more than one foot at point within the Town.

Ralph Souza stated that the current garage structure does not meet code and in order to construct a second floor would require a finding and special permit. Mr. Alexander would have to petition the Board of Health and the Conservation Commission and the garage would require flood gates. He also stated that the living space above the garage would not be in the flood zone.

Ms. Gee asked if since the current garage structure was being torn down and whether the new structure could be built on the same footprint but oriented differently.

Mr. Alexander stated that the current garage structure is in front of the house and it is not aesthetically feasible to have it remain there. Also, there was enough surrounding land where a new structure could be built. He further noted that his neighbor's setback is less than 25 feet.

Mr. Coutinho stated that all setbacks must comply with the Zoning Bylaw; however, if direct abutters' setbacks (within 250 feet) are not in compliance, then it could be possible that this project could be constructed with the setback as requested.

Chairman Menard advised the Petitioner that if the Board denies the variance, then the request for Special Permit will be concurrently denied as well because of the manner in which the application was submitted. He also stated that in order to be granted a variance, the petitioner must show hardship based on the soil, topography, and wetlands. If the petition is denied, the application cannot be refiled for two (2) years. The alternative would be for the petitioner to withdraw the petition without prejudice and, that way, a new application can be filed for a special permit, and complying with the proper setback requirements.

After discussion, Chairman Menard read into the record correspondence (letters and e-mails) received from:

1. Christine B. Root, 177 Atlantic Avenue, Westport, MA. Ms. Root stated that the construction of the new garage would not impact her view of the water; however, she believed it would impact other neighbors' views. She also expressed concern that there would be a material change to the shoreline.

2. Sally Brayton, 176 Atlantic Avenue, Westport, MA. Ms. Brayton expressed her concern with the size of the entire construction project.

3. Keith and Susan Watson, 172 Atlantic Avenue, Westport, MA. The Watsons, who reside directly across the street from the subject property, expressed various concerns, including the placement of the new structure in relation to their view of the water.

4. Bill and Cindy Krause, 21 Prospect Avenue, Westport, MA. The Krauses expressed concerns about their view being obstructed and compliance with the setback requirement.

Ms. Pontolilo stated that the construction of the main house does not fall under the purview of the Zoning Board of Appeals and, therefore, the Board will not be considering or deciding any issues pertaining to the main house.

Abutters present:

1. Keith Watson, 172 Atlantic Avenue, Westport, MA stated that he currently has a view of the water and most abutters do as well. He noted that the new structure would have an impact on the view. Mr. Watson presented a photograph to the Board, showing how the new structure would be detrimental to the view by neighbors. Mr. Watson said that most houses in that neighborhood do not have garages and are single-story homes. Mr. Watson further stated that he appreciates that the Alexanders are improving the main house and is hopeful that all neighbors can work together with the petitioner on this project.

2. Mark Wellen, 15 Remington Avenue, Westport, MA stated that he approves of the way the project is being constructed in keeping with the character of the house. He also noted that the second floor on the new garage would be an issue for some abutters' views; and that anyone building in the neighborhood should be respectful of neighbors' views and keep within the character and nature of the neighborhood.

Mr. Rapp submitted a written request, signed by Jason Alexander, asking to withdraw the petition without prejudice.

Chairman Menard read the request into the record.

Ms. Pontolilo made a motion to accept the request to withdraw the petition without prejudice. Mr. Borden seconded the motion with all in favor.

The hearing on this matter concluded at 7:56 p.m.

Action Items:

Re: Administrative Items

Approval of Minutes

The minutes of the June 5, 2019 meeting were previously reviewed by the Board. There was discussion regarding insertion of information regarding a letter that the Zoning Enforcement Officer had mailed to Joan E. Morton, 125 Main Road, Westport, MA, which was not included in the minutes. Chairman Menard stated he would revise the minutes to include that information. Mr. Coutinho made a motion to approve the minutes, with the addition of information as discussed. Ms. Pontolilo seconded the motion and the Board voted unanimously in favor.

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

Other Business

Chairman Menard stated that he and Mr. Coutinho attended a meeting of the Steering Committee who is working on the review and revisions of the Zoning Bylaws. He noted there is progress being made by the contractor and the Committee will be meeting again in July. Submission of the revisions must be made in September for consideration at Town Meeting in April 2020.

8:10 p.m.

Motion made by Ms. Pontolilo to adjourn the Zoning Board of Appeals meeting. Seconded by Ms. Gee. The Board voted unanimously in favor.

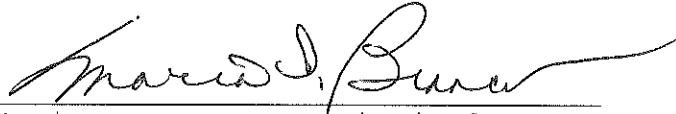
Adjournment.

Respectfully,

RECEIVED

JUL 30 2019

WESTPORT ZONING
BOARD OF APPEALS



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

APPROVED:



Roger Menard, Chairman