

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
DECEMBER 11, 2019**

RECEIVED
JAN 29 2020
WESTPORT ZONING
BOARD OF APPEALS

Members Present: Roger Menard, Chairman
Gerald Coutinho
Peter Borden
Barbara Pontolilo
Raymond Elias

Absent: Constance Gee

Also present: Ralph Souza, Building Commissioner/Zoning Enforcement Officer.
Elizabeth Grenier, Petitioner

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(e) - Meeting being recorded.

Chairman Menard opened the hearing at 6:30 p.m. with the reading of the Public Hearing Notice on the petition of Elizabeth Grenier for a Special Permit to allow a portion (approximately 750 square feet) of the structure to be utilized as a one-floor accessory apartment, as allowed by Zoning Bylaw Article 4 at property located at 34 Robbins Street, Westport MA and is shown on Assessor's Map 83, Lots 99-100.

Chairman Menard read the denial letter from the Building Commissioner/Zoning Enforcement Officer, which states, in pertinent part:

"As per the Westport Zoning By-Laws Article 4 Use Regulations #13 'The Zoning Board of Appeals may issue a Special Permit authorizing the installation and use of a detached accessory apartment in a detached structure on a lot containing a single family dwelling provided conditions are met.'"

Chairman Menard stated that the Board would hear evidence from the petitioner, then the Board would ask questions of the petitioner. At that point the Board would open the hearing to anyone in the audience wishing to comment.

Petitioner, Elizabeth Grenier, and co-owner, Jane Linden, addressed the Board. They stated that:

1. They understand that they are before the Board because the request is for an accessory apartment in a detached building.

2. 5 Fairview Avenue and 34 Robbins Street are abutting properties.

3. There is a single-family home at 5 Fairview Avenue.

4. Robbins Street is a paper road, which separates the 2 properties.

5. The barn structure is on Robbins Street.

6. Barn utilized by previous owner as a workshop

7. The barn is currently used for recreation purposes and storage for the swimming pool accessories.

8. The accessory apartment will be utilized by elderly parents.

9. The building will consist of the accessory apartment and storage.

10. The apartment will consist of 750 square feet on the first floor, with no steps to obtain access.

11. The staircase within the structure will give access to utilities on the second floor and are not considered living space.

12. The apartment will be handicapped accessible with wider doorways.

13. There currently exists a step-up to get into the bathroom, which will be removed.

14. The property has an approved septic system and the accessory apartment will be tied into the existing system which is tied into the main house.

Chairman Menard stated that the request for an accessory apartment coincides directly with the intent of the bylaw. He recited Zoning Bylaw 4.0.1.D13, in pertinent part:

"a. . . . The intent of permitting a detached accessory apartment is to:

1. Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.

2. Develop housing units in single family neighborhoods that are appropriate for households at a variety of stages in their life cycle.

3. Provide housing units for persons with disabilities.

b. The detached accessory apartment will be a complete, separate housekeeping unit containing a kitchen/living room, a bathroom and a maximum of one bedroom. Only one accessory apartment may be created within a single-family dwelling or house lot.

c. Detached accessory apartments shall be occupied by no more than 2 persons.

d. The owner(s) of the property in which the detached accessory apartment is created must occupy at least one of the dwelling units. The gross floor area of a detached accessory apartment shall not be greater than seven hundred fifty (750) square feet. The gross floor area shall include the interior finished habitable area to be used exclusively for the accessory apartment.

e. Off-street parking spaces shall meet the requirements of Article V, Section 5.1 of these bylaws.

f. Any new construction shall be in accordance with current height and setback requirements for the district in which it is located.

g. The septic system must meet the requirements of the Westport Board of Health and the State Sanitary Code.

j. In order to encourage the development of housing units for disabled individuals and persons with limited mobility, the Zoning Board may allow reasonable deviation from the dimensional requirements where necessary to install features that facilitate access and mobility."

The petitioners stated that they agree and understand the provisions of the bylaw.

Mr. Coutinho stated that the petitioners might want to consider constructing the apartment with handicapped access and mobility as the Board has authority to allow up to 900 square feet to accommodate such handicapped access and mobility.

Petitioners stated that their intention is to construct the apartment with handicapped access and mobility.

Petitioners said they had not received any comments from the neighbors.

Having no further questions from the Board, Chairman Menard opened the hearing to anyone wishing to comment.

Caroline Unruh, 2 Fairview Avenue stated that the only concern she had was with the possibility of short-term rental of the apartment. She said that, last year, there was an advertisement for an Airbnb.

Petitioners stated that they had rented the structure for one weekend and one week last summer which did not work out well. They have no intention of renting in the future. They now plan to use the structure for elderly parents.

Mr. Coutinho stated that there is a widespread Town concern regarding short-term rentals and the Town is currently working on revising several of the current Zoning Bylaws, one of which will address short-term rentals.

Ms. Unruh said that with the rental option out of the picture, she supported the project.

Chairman Menard read into the record an e-mail that the Board received from Robert Briggs, Bettina Briggs and John Briggs of 1 Fairview Avenue, which expressed a concern with the rental of the structure.

James Hudson, 22 Robbins Street, speaking on behalf of his wife, Janice, and himself, stated that they believed this was a great opportunity to improve the structure and supported the project.

Mr. Coutinho made a motion to close the hearing at 6:55 p.m. Ms. Pontolilo seconded the motion and the Board voted unanimously to close the hearing.

Discussion ensued. Chairman Menard stated that he believed the petitioners had met all the criteria under the Bylaw (i.e. the apartment will not impair the integrity or character of the neighborhood in which it is located, and it will not be detrimental to the abutting properties). He further noted that he supported the granting of a Special Permit.

Ms. Pontolilo agreed.

Mr. Coutinho also agreed, with the provision that there are no short-term rentals in the future.

Mr. Coutinho made a motion, which was seconded by Mr. Elias and the Board voted unanimously to approve the Special Permit with the condition that the livable space is not to exceed 900 square feet to allow for handicapped access and mobility; and the petitioners must comply with Zoning Bylaw 4.0.1.D13.

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

Chairman Menard opened the second hearing at 6:57 p.m. by reading the public notice. The matter before the Board is the petition of Weatherlow Farms LLC for a mixed use to maintain the farm stand's existing use while also selling alcoholic beverages and providing limited number of seats for public consumption, requiring a variance from Zoning Bylaw Article 2, Section 2.4.2.2, at property located at 845 Sodom Road, Westport, MA, shown on Assessor's Map 60, Lot 4D.

Present were Attorney Christopher Alphen from the law offices of Blatman, Bobrowski & Haverty, as well as Ryan Wagner, Petitioner. Attorney Alphen stated that, although there had been a request to continue the hearing, he and his client wished to withdraw the request to continue, and proceed with the hearing this evening.

Mr. Coutinho stated that, relying on the attorney's request to continue the hearing, the Board did not request that Town Counsel be present, and that one of the Board members was not present. Also, the petitioner's written request indicated he was in the process of obtaining counsel who specializes in the ABCC regulations. Therefore, the Board was not prepared to go forward.

Attorney Alphen stated that he understood the Board's situation. He said that, originally, he had a scheduling conflict that would have precluded his attendance at the hearing tonight, which was the basis for the request to continue.

Chairman Menard read the request to continue into the record.

Mr. Coutinho also noted that there were several people in the audience who were attending specifically for this matter and requesting a continuance on the eve of the hearing was not in fairness to them as well as the Board.

Attorney Alphen, speaking on behalf of the petitioner, agreed that the matter be continued to Wednesday, January 29, 2020. He also stipulated that the Board would have 50 days excluded from the time within which it would be required to conduct a hearing in this matter and render a decision, to be extended to March 27, 2020.

Chairman Menard made a motion to grant the request for a continuance. Mr. Coutinho seconded the motion and the Board voted unanimously to grant the request to continue to January 29, 2020 at 6:45 p.m.

Administrative Items

1. Minutes of November 14, 2018 - Ms. Pontolilo made a motion, seconded by Mr. Borden, and the Board voted unanimously to approve the minutes of the November 14, 2018 meeting. Mr. Elias abstained from voting.

2. Minutes of July 18, 2018 - Ms. Pontolilo made a motion, seconded by Mr. Borden, and the Board voted unanimously to approve the minutes of the July 18, 2018 meeting. Mr. Elias abstained from voting.

3. Minutes of September 12, 2018 - Ms. Pontolilo made a motion, seconded by Mr. Borden, and the Board voted unanimously to

approve the minutes of the September 12, 2018 meeting. Mr. Elias abstained from voting.

4. Minutes of November 6, 2019 - Ms. Pontolilo made a motion, seconded by Mr. Elias, and the Board voted unanimously to approve the minutes of the November 6, 2019 meeting.

5. The Board received three (3) requests for comment received from the Planning Board regarding properties being subdivided to accommodate solar projects. After discussion, the Board had no comment to make on the projects.

6. Election of Officers

Having been a year since the last election, Mr. Borden made a motion that the current officers remain for another year. After discussion, Mr. Elias made a motion that Chairman Menard be appointed as Chairman. Mr. Coutinho seconded the motion and the Board voted unanimously.

Chairman Menard made a motion that Mr. Coutinho be appointed as Vice Chairman. Ms. Pontolilo seconded the motion and the Board voted unanimously.

Chairman Menard made a motion that Ms. Pontolilo be appointed as Clerk. Mr. Elias seconded the motion and the Board voted unanimously.

The Board officers are as follows:

Roger Menard, Chairman
Gerald Coutinho, Vice Chairman
Barbara Pontolilo, Clerk

7. Zoning Bylaw Committee

Mr. Coutinho stated that the Committee conducted a meeting last week to discuss recodification of some of the Bylaws, with a focus on refining the language for future legal challenges of the Bylaw. One, in particular, was the word "abandonment" which may be revised to "discontinued." For example, discontinued or closed businesses and storage pods or trailers not utilized for two (2) years. Also, there was a public meeting held at the Library, which was attended by some residents, some of whom had an interest in zoning issues. One concern that was raised was the issue of short-term rentals. The Bylaws that are ready for

acceptance will be presented to Town Meeting in 2020 for approval.

The next hearing for the Board is Wednesday, January 29, 2020 at 6:30 p.m.

Ms. Pontolilo made a motion to adjourn the meeting at 7:21 p.m. Motion was seconded by Chairman Menard and the Board voted unanimously in favor.


Adjournment.

Respectfully submitted,



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

APPROVED:



Roger Menard, Chairman