

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
AUGUST 5, 2020**

RECEIVED
AUG 26 2020
**WESTPORT ZONING
BOARD OF APPEALS**

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

Also present: Ralph Souza, Building Commissioner

Chairman Menard called the Zoning Board of Appeals meeting to order at 6:30 p.m. with the reciting of the Pledge of Allegiance.

Chairman's Announcement - Under MGL Chapter 30A, Section 20(f) - Meeting being recorded.

Governor Charlie Baker's Mandate

Chairman Menard opened the hearing by reading the provisions mandated by Governor Charlie Baker regarding the congregation of people at the Town Hall and the manner in which municipal boards should meet and hear matters on their agenda.

Chairman Menard noted that the meeting was being conducted live, as well as remotely, by accessing Google Meet. Anyone wishing to comment could call into the conference telephone number.

Chairman Menard advised that the Petitioners would present their case first; the Board would ask questions; the public would be provided an opportunity to comment or ask questions; and the meeting would be closed.

1. Chairman Menard read the public hearing notice on the Administrative Appeal filed by Niveria Rodrigues and Jeffrey Rodrigues, appealing the decision of the Building Commissioner that the lots in question are considered a single lot with an existing dwelling. The subject property is located at 45 Pine Street and is shown on Assessor's Map 7, Lots 171-189.

Chairman Menard read the denial letter from Ralph Souza, Building Commissioner and Zoning Enforcement Officer.

Mr. Coutinho stated that, on the plan, frontage is shown on Jiggs Street and President Street.

Attorney Corey said that there is no frontage on President Street, as the street does not exist as it is shown on the plan.

Mr. Coutinho noted that the lot numbers listed on the application and those on the plan are not consistent.

Attorney Corey said the lot numbers were changed by the Assessor's Office many decades ago.

The Board members were concerned that they did not have much information or supporting documents with the application. Chairman Menard asked why the Board was receiving these plans now, as they should have been filed with the original petition. Therefore, the Board would most likely need to consult with Town Counsel as to several issues in this matter prior to making a decision. This matter would need to be continued to a further date for the Board to acquire all pertinent information.

Mr. Coutinho asked for clarification of the language contained in application, under the history of the property use, as long-standing commercial and residential purposes.

Attorney Corey stated that, in the past, one of the buildings was used for a landscaping business, machine shop and farming-related activity. He also said that it is undisputed that Lots 257 through 260 and Lots 275 through 279 are merged. The contention is that the lots that remain unimproved may be improved now and retain buildability.

Attorney Corey said he had not prepared the application and thought the documents had been filed with the petition. He also stated that he was agreeable to a continuance.

Chairman Menard requested that Attorney Corey provide the Board with all plans and documents pertaining to this property, as well as an explanation as to how these lots fall under the purview of Dalbec. These documents are to be provided as soon as possible, so that they may be reviewed by Town Counsel prior to the next meeting date.

Attorney Corey stated that he would forward all documents to the Clerk via e-mail.

Mr. Souza indicated that he believed that the proper relief would be a finding because of the pre-existing non-conforming use and the garage would not encroach any further toward the street.

Mr. Coutinho asked if the petitioner is aware of whether there are other neighbors who have similarly situated houses or garages, which would assist the petitioner here. Mr. Bouchard said he did not believe so, as his is the only house on the street.

Mr. Coutinho suggested that the Board seek legal advice from Town Counsel as to whether or not a variance is required, in light of the fact that the garage would also be constructed outside of the setback requirement (i.e. eight (8') feet) to align with the house. This would increase the non-conformity of the property.

Ms. Gee noted that, perhaps, the Petitioner should consider constructing a one-car garage to comply with the setback requirement. She also raised the issue of a future accessory apartment being constructed.

Chairman Menard said that, because the plan is marked up subsequent to the original plan being designed, the Petitioner would need to resubmit a definitive plan. Also, if a variance is required, a new plan would be required in any event. Chairman Menard also noted that, if a variance is required, the Petitioner must show a hardship for a variance to be granted.

Mr. Coutinho made a motion to continue this hearing to Wednesday, September 2, 2020 at 6:45 p.m. Ms. Gee seconded the motion, which passed by unanimous vote.

Chairman Menard stated that he will contact Town Counsel and advise the Petitioner so that he may prepare the appropriate plans for the next meeting.

The hearing concluded at 7:20 p.m.

Administrative Items

Minutes of July 29, 2020 - Ms. Pontolilo made a motion to approve the minutes. Mr. Elias seconded the motion and the Board voted unanimously to approve the minutes of the July 29, 2020 meeting.

The next meeting of the Board is on Wednesday, August 19, 2020 at 6:30 p.m. at the Town Hall and on Google Meet.

7:22 p.m.

Motion made by Ms. Pontolilo to adjourn the meeting. Mr. Borden seconded the motion to adjourn. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,



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

APPROVED:


Roger Menard, Chairman