

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
NOVEMBER 18, 2020
(Conducted via Google Meet)**

RECEIVED

JAN 26 2021

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 6:37 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 dated March 20, 2020 regarding the congregation of people at the Town Hall and the manner in which municipal boards should meet and hear matters on their agenda. The Board of Selectmen had, a week ago, distributed a memorandum to all Town Departments and Boards that the Town Hall would be closed to the public as of Monday, November 16, 2020 and, therefore, this hearing would be conducted remotely.

Chairman Menard also noted that Town Departments and Boards had received a recent mandate from the Governor regarding deadlines within which the Board would be required to make determinations as to land use applications.

Chairman Menard noted that the meeting was being conducted remotely by accessing Google Meet. The Board would receive information and documents from the petitioners and, then, accept comments from anyone in attendance before closing the hearing and making a decision.

1. Stating that this matter was on for a continued hearing, 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 stated that the Board had not received the information and documentation it had requested several weeks ago from the Petitioners and, therefore, this matter would need to be continued further.

Mr. Coutinho made a motion to continue this hearing to Wednesday, January 13, 2021 at 6:30 p.m. Ms. Pontolilo seconded the motion, which passed by unanimous vote with each individual member of the Board voting aye in a roll call.

2. Chairman Menard read the public hearing notice regarding the application of David Reny for a Special Permit to construct an accessory apartment within a detached garage, to include two (2) bathrooms, and exceeding the allowed amount of square footage to facilitate access and mobility for long-term care of its occupants, as mandated by Zoning Bylaw Article 4, Section 4.0.1.D.13. The subject property is located at 539 River Road and is shown on Assessor's Map 87, Lot 33.

Chairman Menard asked the Petitioner to address the Board, providing as much information as possible so that the Board can make an informed decision on his request for a Special Permit.

David Reny, Petitioner, addressed the Board, stating that:

1. The main house and detached garage were built in 1988. At the time, the garage remained unfinished.

2. The accessory apartment will be constructed on the second floor of the detached garage and occupied by Mr. Reny's daughter, who has some medical disabilities.

3. The apartment will include two (2) bathrooms, one for his daughter to have access through the bedroom, and the other to be used by visitors or health care workers required to service his daughter's overall medical needs.

4. The structure will allow for handicapped accessibility, and will contain 751 square feet, in accordance with the plan submitted to the Board dated October 27, 2020. (Note: This plan

shows a total of 791 square feet and, also, does not indicate allowance for a second egress as required by the Building Code. This issue will be resolved by the Building Commissioner after discussion with the Petitioner and his architect.)

5. The main house and the detached garage are not visible from the roadway, in that a corn field exists at the entrance to the property. The property consists of 4.25 acres.

6. Mr. Reny has contacted the Health dept and has approval for a new septic system to be installed on the property.

7. There is ample parking in the driveway and in front of the garage to accommodate several vehicles.

8. There will be four (4) windows, skylights and a door installed to allow for extra light into the apartment.

9. The washer and dryer are located on the first floor of the garage, as well as access to the utilities.

10. There is no deed restriction as to construction of an accessory apartment.

11. It is possible that he and his wife may occupy the apartment in the future.

There was discussion regarding square footage being requested over and above the maximum of 750 square feet. It was determined that the plan called for 751 square feet of livable space.

Chairman Menard recited the requirements mandated by Zoning Bylaw 4.0.1.13.D, which must be complied with by the Petitioners, as follows:

1. The purpose and intent of permitting an accessory apartment is to: provide older homeowners with a means of obtaining rental income, companionship, security; develop housing units that are appropriate for households at a variety of stages in their life cycle; provide housing for persons with disabilities; or protect stability, property values and the residential character of the neighborhood.

2. The detached accessory apartment will be complete with a kitchen/living room, a bathroom, and a maximum of one (1) bedroom.
3. There shall be no more than two (2) persons residing in the accessory apartment.
4. The owner must occupy one of the two dwelling units.
5. Off-street parking shall meet the zoning requirements.
6. Any new construction shall be in accordance with current height and setback requirements.
7. The septic system must meet the requirements of the Board of Health and State Sanitary Code.
8. The property shall not be further divided unless all zoning requirements are met.
9. The detached accessory apartment will not impair the integrity or character of the neighborhood.
10. There shall be no more than one accessory apartment on the property.

Mr. Reny acknowledged all requirements under the Bylaw will be complied with.

Ralph Souza, Building Commissioner and Zoning Enforcement Officer, stated that the plan shows 751 square feet of livable space. He also said that the only issue was that the Building Code requires two (2) separate egresses from the apartment and the plans show only one. There was discussion as to various options (e.g., door, double sliding doors). Mr. Souza asked that Mr. Reny have his architect contact him to discuss options. Since this is a Building Code and not a zoning issue, the Board need not be concerned that the second egress is not on the original plan.

Mr. Coutinho stated his only concern was with the square footage as calculated as 751 square feet. The area on the plan consisted of 24 x 38 feet, which is more than 900 square feet. He said that he does not necessarily disagree with the excess in square footage because, if the Board approves the additional square footage, it does not necessarily constrict to the exact measurements. Mr. Reny stated that the architect did not

consider space that is not livable. Therefore, 751 square feet was the determination made by architect.

Chairman Menard stated that rather than mandate a specific square footage, it would be advantageous to simply include the submitted plans in the final decision.

Hearing no further comments from the Board or the public, Ms. Gee made a motion to close the hearing at 7:20 p.m. Mr. Borden seconded the motion, which passed by unanimous vote with each member of the Board voting aye in a roll call.

Chairman Menard commented that the plans are specific as to the construction of the apartment; that Mr. Reny should be applauded for accommodating his daughter; the apartment meets the intent of the Bylaw; he sees no downside to this project. Chairman Menard also stated that he visited the property and he sees no adverse effect to the neighborhood.

Ms. Pontolilo agreed, saying that she saw no problem with the petition and that it was a great project. Ms. Gee also agreed.

Ms. Gee made a motion to approve the plan as submitted to the Board dated October 27, 2020; that the Petitioner and his architect are to consult with the Building Commissioner regarding the second egress from the apartment to comply with the Building Code; and the Petitioner is to comply with all requirements mandated by Zoning Bylaw Article 4, Section 4.0.1.D.13. Ms. Pontolilo seconded the motion with Peter Borden voting aye, Constance Gee voting aye, Barbara Pontolilo voting aye, Gerald Coutinho voting aye and Roger Menard voting aye. Mr. Coutinho also stated that the Petitioner must comply with other Town Departments' requirements (e.g., Board of Health, Conservation Commission). The motion passed by unanimous vote.

Chairman Menard advised the Petitioner of the 20-day appeal process.

Mr. Reny expressed his appreciation of the Board's decision to go forward with this matter, even though it was accomplished via Google Meet.

The hearing closed at 7:27 p.m.

Administrative Items

Minutes of September 30, 2020 - Ms. Pontolilo made a motion to approve the minutes. Mr. Borden seconded the motion and the Board voted unanimously to approve the minutes of the September 30, 2020 meeting, with each member voting aye on a roll call.

Mr. Coutinho inquired of the Building Commissioner regarding zoning requirements for child care centers. Mr. Souza stated that child care facilities are allowed in all districts and are considered in the same context as educational facilities.

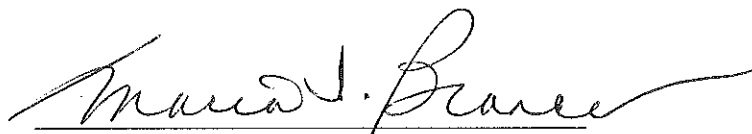
The next meeting of the Board is on Wednesday, January 13, 2021 at 6:30 p.m. at the Town Hall and/or on Google Meet.

7:30 p.m.

Motion made by Ms. Pontolilo to adjourn the meeting. Seconded by Mr. Coutinho, with each member voting aye on a roll call. The Board voted unanimously in favor.

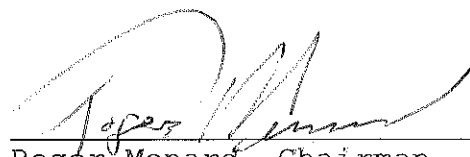
Adjournment.

Respectfully submitted,



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

APPROVED:



Roger Menard, Chairman