

ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
AUGUST 25, 2021

RECEIVED
SEP 30 2021
WESTPORT ZONING
BOARD OF APPEALS

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

Absent was Peter Borden.

Also present was Ralph Souza, Building Commissioner and Zoning Enforcement Officer.

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.

Chairman Menard advised that the Board would be conducting in-person meetings in accordance with the Board of Health's mandate that all persons entering Town of Westport buildings must wear masks or face coverings.

Chairman Menard stated that the members voting on these petitions would be Roger Menard, Gerald Coutinho, Constance Gee, Barbara Pontolilo and Raymond Elias.

Chairman Menard explained the process by which the Board would be conducting the meeting, that is, the Board would consider all evidence, ask questions, open the meeting to the public for comment and, then, close the hearing and render a decision.

The first matter on the agenda was the petition of Arlene F. Cloutier for a special permit to build a detached accessory apartment behind and attached to an existing 2-car garage, pursuant to Recodified Zoning Bylaw, Article 9, Section 9.5.2, on the property located at 1635 Drift Road, Westport, MA, shown on Assessor's Map 57, Lot 31A.

Ms. Cloutier addressed the Board, stating that:

1. She has been living at the property for about 48 years.
2. She would like to construct an accessory apartment behind the garage and rent the house to a relative or someone with whom she is familiar.
3. She has been searching for another home in Westport, but has been unsuccessful.
4. She does not want to leave the neighborhood and the area.
5. She is asking that the apartment contain greater than the 750 square feet allowed by the bylaw, namely 896 square feet.
6. The size of the newly-constructed apartment will be 28' by 32' and contain one (1) bedroom.
7. She replaced the septic system about 8 years ago.
8. The house is currently being heated by oil, but she anticipates switching to natural gas.
9. She submitted two (2) letters from neighbors (Bruce and Sarah Gifford, 1645 Drift Road and Linda Tripp, 1625 Drift Road), who have no objection to the project.
10. The doorways are 36" wide to accommodate any future handicap mobility.
11. The apartment will consist of one (1) bedroom, one (1) bathroom, living room and kitchen. Also, in the apartment will be a hallway, which she will utilize as a hobby room and storage.
12. The two-car garage will accommodate the person renting the house and herself.
13. The shed will be demolished and a tree will be removed.
14. Paul Zuber of Westport will be the contractor.

15. The apartment will not be seen from the road.

16. The tankless hot water heater will be installed in the unheated part of the structure.

17. There will be a door leading to a patio on the west side of the structure with awning.

18. She anticipates completion of the apartment by next Spring.

Chairman Menard asked Ms. Cloutier if she has read the zoning bylaw, in particular, the conditions that must be met when constructing an accessory apartment. Ms. Cloutier acknowledged that she had read the conditions and will fully comply with section 9.5.3a through 9.5.2j with the noted exception of the square footage of the apartment. She said that she intends to live in the apartment alone. Ms. Cloutier also agreed that there would be no further subdividing or additional apartments on the property.

There was much discussion regarding the calculation of livable space and whether the measurement of the 896 square feet is accurate, as well as accommodating for future handicap mobility.

Mr. Coutinho asked whether there will be a full basement. Ms. Cloutier said there will be a four-foot crawl space to accommodate radiant heat. Access to the crawl space will be by a bulkhead, with no walk-in access.

Mr. Coutinho also noted that the excess amount of square footage is concerning and must be justified. Chairman Menard also stated that there would be a concern as to whether the extra room could later be made into a second bedroom.

Mr. Cloutier stated that the entryway -- 7-1/2' by 11' -- will be used for extra space and to hang coats, could be considered a mud room, where she can sit and read or enjoy crafts or a hobby.

Mr. Souza stated that the entryway will accommodate a wheelchair and is not considered habitable space. Noting that the dimensions

of the structure are correct, he said that the livable space is most likely closer to 800 square feet.

Ms. Pontolilo stated that, in that event, there is an excess of 50 square feet.

Mr. Coutinho said that, typically, the Board supports extra square footage to allow for handicap mobility; and that a wheelchair would need room to move around the furniture. He also said that he would not object to the extra square footage as it does not affect the neighborhood.

Ms. Pontolilo agreed and suggested that changing a wall to increase mobility in the future would justify the extra livable space.

Chairman Menard stated that in this case the petitioner is building a new structure and therefore should abide by the 750 square foot regulation. He also noted that the square foot regulation refers to living space, not exterior dimensions. By removing even two (2) feet from the structure the petitioner could meet the zoning requirement. He provided some options to the petitioner: (1) 4 of 5 members of the Board must vote to grant the special permit, or, if denied, the petitioner would not be eligible to re-file for two (2) years; (2) the petitioner could withdraw the petition and re-file with a revised plan; or (3) the petitioner could request a continuation of the hearing for further review of a revised plan, noting that the square footage in the plan must comport with the decision.

Mr. Elias suggested that the revised plan outline the handicapped accessibility areas.

Ms. Cloutier requested that the hearing be continued to September 22, 2021 at 6:30 p.m. and agreed to extend the deadline for the Board to make a decision.

Mr. Coutinho made a motion to grant the continuance to Wednesday, September 22, 2021 at 6:30 p.m. The motion was seconded by Mr. Elias and the Board voted unanimously to continue the hearing.

The hearing concluded at 7:30 p.m.

Chairman Menard stated that the second matter on the agenda is the application of Janet Kinnane and Conrad Smith for a finding that the new proposed home on the lot is not substantially more detrimental to the neighborhood than the existing house on the lot as mandated by Recodified Zoning Bylaw Article 5, Section 5.2.3, as to property located at 325 Brayton Point Road, Westport, MA and shown on Assessor's Map 88, Lot 58.

Chairman Menard stated that the members voting on these petitions would be Roger Menard, Gerald Coutinho, Constance Gee, Barbara Pontolilo and Raymond Elias.

Conrad Smith, one of the petitioners, addressed the Board, stating that:

1. He stated that he and his wife live in Pittsburgh, Pennsylvania and own the property at 325 Brayton Point Road.

2. The home will be utilized as a summer home.

3. The plan is to demolish the current structure and rebuild, conforming to all setback requirements.

4. The septic system has already been approved by the Board of Health.

5. The lot is non-conforming, similar to other houses in the neighborhood.

6. There is a shared driveway, where part of the driveway is located on his property and on his neighbor's property. The neighbor has agreed to the configuration of the driveway.

Erin Hunter, 202 Park Street, Stoneham, MA, is the architect for the project. She stated that:

1. The new home will consist of 2,300 square feet, with two (2) bedrooms and the design will be similar to that of other homes in the neighborhood.

2. The height of the structure will be 28 feet.

3. Leonard Potter has been issued a permit to install a foundation.

4. A portion to the right of the existing driveway will be eliminated and expanded on the left side.

5. A new well will be installed.

Mr. Coutinho asked whether there are any surveyed markers on the property that would show the location of the driveway.

Ms. Hunter stated that Sean Leach surveyed the property in 2008 and he will re-stake so that the driveway can be easily located. She said that the left side of the driveway is on 325 Brayton Point Road and the goal is to create enough of a driveway to eliminate the issue to the right of the driveway that may encroach on the neighbor's property. She also noted that the neighbor has a fence that is up to the property line.

Chairman Menard said he sees no issue with granting a finding as to the house, as it will improve the property and the neighborhood.

Mr. Coutinho agreed, however, expressing a concern as to the common driveway on the left side of the house.

Paul Kinnane, 327 Brayton Point Road, Westport, MA stated that he is the neighbor to the left of the subject property and he supports the project. He said his driveway is partially on 325 Brayton Point Road. The driveways have existed in this manner for the past 60 years.

Ms. Gee asked about the use of the shed.

Ms. Hunter said that the shed will be used for storage of bicycles. There will also be an uncovered shower, bulkhead to the basement, which will house the mechanicals.

Mr. Souza stated that there is no issue with the enclosed sunroom being constructed mainly with glass as it has no closet.

Mr. Smith stated that the sunroom will be on the east side, the front of the house, and used as an office.

There was discussion regarding the common or shared driveways, which should be outlined clearly on the plans, as well as visible markers on the property. Since there are shared driveways on both sides of the property, the plans should identify any changes to the driveways and both abutters should be involved.

Chairman Menard stated that the petitioners have options: (1) they can withdraw the application without prejudice and re-file with revised plans; (2) the Board could vote and, if denied, there would be a 2-year waiting period before the petitioners could re-file a new application; or (3) the petitioners could request a continuance and return to the Board with amended plans that outline clearly the property lines, as well as the shared/common driveways.

Mr. Smith requested that the hearing be continued to September 22, 2021 at 6:35 p.m., as well as extending the decision deadline.

Ms. Pontolilo made a motion to grant the request to continue the hearing. Mr. Coutinho seconded the motion, which was voted unanimously by the Board.

The hearing concluded at 8:06 p.m.

Administrative Items:

1. Minutes of August 4, 2021 - Ms. Gee made a motion to approve the minutes. Mr. Elias seconded the motion and the Board voted unanimously to approve the minutes of the August 4, 2021 meeting, with Chairman Menard, Mr. Coutinho, Ms. Gee and Mr. Elias voting aye. Ms. Pontolilo abstained from voting as she was not present for the August 4, 2021 meeting.

2. The Board discussed revisions to the application form, specifically, that the property address be located on the first page of the form, at the top. There will also be a paragraph added to advise the applicant that, if a consultant is requested by the Board, the cost may be borne by the applicant. Town Counsel has provided Chairman Menard with some language to put on the form.

3. The Rules and Regulations of the Zoning Board will be reviewed by the members, in anticipation of further review and possible revisions. One rule that Chairman Menard discussed was that, if only 4 members attend a hearing, the petitioner is given the option of going forward with the 4 members, where all members must vote unanimously, or continue to a future date.

4. Mr. Coutinho stated he appreciated that the Board received positive comments regarding the manner in which the Board conducted the cell tower hearings.

5. Regarding 581 Drift Road, Mr. Souza stated that he went to the property, but the curtains in the windows prohibited him from being able to see inside the structure.

Next meeting is scheduled for September 22, 2021 at 6:30 p.m.

8:19 p.m.

Motion made by Ms. Pontolilo to adjourn the meeting. The motion was seconded by Ms. Gee, and the Board voted unanimously in favor.

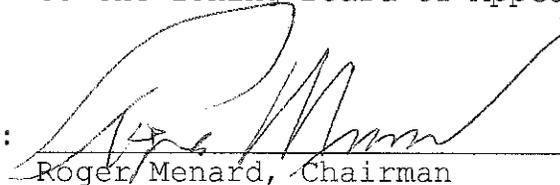
Adjournment.

Respectfully submitted,



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

APPROVED:



Roger Menard, Chairman