

RECEIVED

MAR 9 2022

WESTPORT ZONING
BOARD OF APPEALS

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
FEBRUARY 2, 2022**

Members Present: Roger Menard, Chair
Gerald Coutinho, Vice-Chair
Barbara Pontolilo, Secretary
Constance Gee
Raymond Elias
James Watterson
Cynthia Kozakiewicz

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

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

Chair 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. Note: The Select Board, at the request of the Board of Health, recently mandated that all meetings were to be held remotely until February 18, 2022. However, the matters that are the subject of this hearing had previously been published as to be held in person. Therefore, these hearings are being conducted in person at the Town Hall.

1. The first matter on the agenda is the continued hearing on the petition of Steven Gianlorenzo for a finding and administrative appeal that the lot located at 6 Beaulieu Street a/k/a 0 Beaulieu Street, Westport, MA may be built upon and utilized for a single-family residential structure; and that the Board find that the lot is grandfathered as a matter of right as mandated by Recodified Zoning Bylaws 7.0-7.8 and is shown on Assessor's Map 14, Lot 47.

Chair Menard called the hearing to order with the reading of the public hearing notice.

Chair Menard stated that the members voting on this matter would be Gerald Coutinho, Barbara Pontolilo, Constance Gee, Raymond Elias, and himself, Roger Menard.

Chair Menard read a letter from Ralph Souza, the Zoning Enforcement Officer. The letter stated that "Lot 47 of Assessor's Map 14 contains 10,170 square feet with 100 feet frontage on William Street. The Town of Westport Zoning By-Laws Article 7 requires a minimum of 20,000 square feet of area with 100 feet frontage. Therefore this lot does not meet the area requirement and is not considered a buildable lot."

Chair Menard explained the procedure that would be followed at this hearing, namely: the petitioner would present its evidence; Board would ask questions and discuss the information submitted; the Board would open up the hearing to the public for comment or questions; the Board would close the hearing; and the Board would deliberate and render a determination.

Chair Menard also stated that Attorney Jeffrey Blake, Town Counsel, was present at the hearing to assist the Board with this petition.

At the outset, the Board Clerk notified the Board that the documents they were receiving this evening had been submitted by Attorney Corey subsequent to the time requested by the Board and, therefore, the Board, nor Town Counsel, were able to review the documents prior to tonight's hearing.

Attorney Brian R. Corey, Jr., 519 American Legion Highway, Westport, MA addressed the Board, stating that:

1. He represents Steven Gianlorenzo, the owner of the subject property.
2. The documents he submitted this evening included copies of deeds of all transfers of the property since 1946.
3. The lot contains 10,170 square feet.
4. Section 7 of the Zoning Bylaws allows grandfathering of lots.
5. He relies on the Land Court decision in Dalbec as precedent for lots in existence prior to 1957 as being grandfathered for purposes of being buildable lots.

6. The petitioner is requesting a finding of reversal of the Building Commissioner's decision.

7. The Assessor's records show the property as Map 14, Lot 27; however, on the subdivision plan, it is noted as Lot 34.

8. Installation of the septic system may be an issue due to the small size of the lot.

9. Complying with setback bylaws may also be an issue due to the non-conformity of the lot.

Ms. Gee stated that the subdivision plan that was submitted is difficult to read. She said she drove by the property and was unable to determine which lot was the subject property.

Other Board members agreed, that when they drove by the property, it was not clear as to which lot was the petitioner's.

Mr. Coutinho asked about the letter that was written by the former Building Inspector, stating that the lots were merged.

Attorney Corey said that the Dalbec decision reversed that determination.

Ms. Kozakiewicz said she interprets Dalbec differently and did not agree with Attorney Corey's version of the decision, in that she did not believe that petitioners have grandfather eligibility.

Town Counsel Blake stated that, even if purchased after Dalbec was decided, unless there are boundary changes, the lot is grandfather and does not change with a new owner. Each lot is individually buildable. Attorney Blake also said that he could not properly advise the Board, since the documents were submitted only this evening and he had not had an opportunity to review them.

Attorney Corey said that his client would not be opposed to the Board's continuing this hearing so that Town Counsel may be able to review the documents.

Chair Menard said that, even though the hearing most likely would be continued, he thought it proper to invite comments or questions from the public.

Patrick Paquette, 26 Pauline Street, Westport, MA, a direct abutter, stated that he owns Lots 41 and 48, which he recently purchased in July 2021. He believed that the subject lot was unbuildable and had looked into purchasing the lot himself. He asked the Board to continue this hearing so that the members can review the documents. He also noted that installation of the septic system would be an issue, as well as complying with setback requirements.

Virginia Keating, 26 Pauline Street, Westport, MA, a tenant at her son's house, inquired about the possibility of building on the adjoining lots, as well as anyone else in the area to be in a position build. Chair Menard stated each situation could be different and that each owner would be required to apply for a building permit and possibly apply to the Zoning Board for a determination. Mr. Coutinho also noted that the Board of Health would need to approve a septic system prior to a building permit being issued.

Fran Chaves, 29 Beaulieu Street, Westport, MA, said he has known the petitioner for about 40 years. He supports a house being built on the lot because, as of now, the lot is covered with leaves, trees and other debris thrown on the lot and a house on that lot would enhance the neighborhood.

Attorney Corey submitted a written motion to continue the hearing to Wednesday, March 30, 2022 at 6:30 p.m. and assented to a waiver of statutory time limits for the Board to render its decision.

Robert Carpenter, 27 Pauline Street, Westport, MA, expressed a concern as to whether the owner will be living in the house because of problems recently with renters causing major issues in the neighborhood.

Mr. Coutinho stated that it is beyond the control of the Board as to whether the owner will be renting out the house, although Attorney Corey represented to the Board that the petitioner intended to use the home as his retirement home.

Steven Gianlorenzo, the petitioner, addressed Mr. Silvia's concerns. He said that he purchased the property 30 years ago; he does not intend to rent the house; he or his family will be living there.

Chair Menard made a motion to grant the petitioner's motion to continue this hearing to Wednesday, March 30, 2022 at 6:30 p.m.

at the Town Hall. As of now, the hearing will be held in-person, unless otherwise mandated by the Select Board. If the hearing is to be held virtually, the information will be posted on the Zoning Board's web page of the Town's web site. Ms. Pontolilo seconded the motion, which was passed unanimously by the seated members.

2. Chair Menard began the continued hearing on the petition of Ronald C. Richard of 129 Sanford Road, Westport, MA by reading the public notice. ~~He also stated that the members voting on this matter would be Gerald Coutinho, Barbara Pontolilo, Raymond Elias, Cynthia Kozakiewicz and himself, Roger Menard.~~

Ronald Richard, owner and petitioner, presented revised plans for the detached accessory apartment, stating that he wanted to be considered for 900 square feet. He said the first floor would be 867 square feet with the sunroom and foyer being unheated areas.

Chair Menard stated that the Board had conducted a site visit at 129 Sanford Road on Saturday, January 22, 2022.

Mr. Coutinho said that the Board met with Mr. Richard's girlfriend to view the structure. He said that the Board was provided with a one-page plan that was insufficient for the Board to review. The Board asked that revised plans be submitted for review at this hearing. Mr. Coutinho also stated that the site visit was informative, in that the Board was able to see some of the areas that were not outlined in the plans (i.e. sunken floor, stairway).

Mr. Richard stated that the covered porch and the foyer would not be heated and, therefore, not counted as livable space, totaling 867 square feet. He asked whether the Board would be considering changing the Zoning Bylaw to increase the area to 900 square feet.

Chair Menard explained that that decision is not made by the Board. There is a proposed article to be submitted to Town Meeting in May 2022, whereby the maximum square footage for a detached accessory apartment of 750 square feet would be increased to 900 square feet. This increase would allow the Board more flexibility in deciding special permits for detached accessory apartments that are being considered within existing

structures. He also said that there is no guarantee that this Bylaw will be approved by Town Meeting. Chair Menard stated that the petitioner could wait until after Town Meeting and, if the Bylaw is passed, he could then come before the Board with a new application for a Special Permit, with revised plans, requesting the increased square footage.

The Board discussed that, in the past, it has had to consider detached accessory apartments in existing buildings and the square footage must comply with the Bylaw, and some of the space would be uninhabitable and unheated.

Mr. Coutinho said that any area that is heated is considered livable space and, therefore, counted for purposes of square footage. Also, any unheated and uninhabitable areas should be delineated on the plans as such.

Chair Menard noted the options that the petitioner had at this point: (1) the Board could vote to grant/reject the petition; (2) if rejected, the petitioner could reapply, however, could not do so for at least two (2) years; or (3) the petitioner could withdraw the current petition without prejudice and re-file a new petition with new plans, once Town Meeting approves or rejects the revised Bylaw.

Mr. Richard said that the plan, at this time, does not allow for handicap accessibility and he would wait until after Town Meeting.

Mr. Coutinho suggested that the petitioner attend the hearings that are being conducted by the Planning Board on this proposed Bylaw so he could comment and discuss the increase of square footage.

Mr. Watterson inquired as to whether this matter could be continued until after Town Meeting. Mr. Coutinho said that the application and plans being considered at this time are for 750 square feet only.

Chair Menard also discussed Sections (a) through (j) of the Zoning Bylaw with which the petitioner must comply; and the second floor is to remain uninhabitable and unheated. The petitioner should also consider areas converted for handicap accessibility and mobility.

Mr. Richard filed a motion to withdraw the petition for a detached accessory apartment without prejudice.

Chair Menard made a motion to grant the motion to withdraw without prejudice. Ms. Pontolilo seconded the motion, which was voted unanimously by the seated members.

The Board made suggestions as to future plans to be filed, such as stating distinctly on the plans what the uninhabitable and ~~unheated areas will be; as well as a stairway to the second floor (i.e. a pull-down staircase).~~

Voting on the motion to withdraw without prejudice: Menard, Coutinho, Pontolilo, Elias and Kozakiewicz.

3. Chair Menard began the next hearing by reading the public notice as to the petition of Capeway Roofing Systems, Inc. and Dion Calheta for a finding that the renovation of the existing office and construction of an addition of fewer than 1,000 square feet will not be substantially more detrimental than the existing non-conforming use, as mandated by Recodified Zoning Bylaw 5.2.3 as to the property located at 664 Sanford Road, Westport, MA and shown on Assessor's Map 30, Lot 36.

The petition was not present for the hearing. Chair Menard telephoned Mr. Calheta to determine why he was not at the hearing. Mr. Calheta apologized and said he thought the hearing was next week. Accordingly, the petitioner made a motion to continue the hearing to Wednesday, March 30, 2022 at 6:30 p.m. and agreed to an extension of the deadline for the Board to render its decision. Chair Menard asked that Mr. Calheta send a written request for a continuance to the Board Clerk for the file.

Mr. Coutinho made a motion to grant the petitioner's request for a continuance to Wednesday, March 30, 2022 at 6:30 p.m. Mr. Elias seconded the motion, which was voted unanimously by the Board.

Administrative Items:

1. Approval of the minutes of the regular meeting on January 5, 2022. Mr. Elias made a motion to approve the minutes of the regular meeting on January 5, 2022. Ms. Pontolilo seconded the

motion and the Board voted unanimously to approve the minutes of the January 5, 2022 meeting.

2. Approval of the minutes of the Executive Session on January 5, 2022. Mr. Elias made a motion to approve the minutes of the Executive Session on January 5, 2022. Ms. Pontolilo seconded the motion and the Board voted unanimously to approve the minutes of the January 5, 2022 meeting.

3. The Board discussed the Planning Board's request for comment regarding a site plan as to the Assisted and Independent Living Facility located at Chabot Street by Westport Horizons Development Corporation. The Board determined it had no comment on this project.

4. Chair Menard stated that he had finalized the Procedural Rules and Regulations, with the change that the petitioner must file one (1) original and ten (10) copies of the application and documents. There was also discussion as to filing the applications with the Town Clerk or with the Board Clerk. If the applications are filed with the Board Clerk, he/she will review the documents for completeness and file with the Town Clerk. Ms. Pontolilo made a motion to approve the final draft of the Zoning Board of Appeals' Procedural Rules and Regulations. Mr. Coutinho seconded the motion, which was voted unanimously by the Board.

There being no further matters before the Board, Chair Menard made a motion to enter into Executive Session at 8:18 p.m. to discuss pending litigation. Chair Menard also noted that the Board will return to the open meeting for the sole purpose of adjournment. Ms. Pontolilo seconded the motion, which was voted unanimously by the Board.

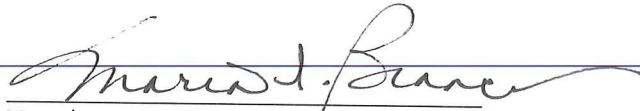
The Board then convened into Executive Session.

At 8:55 p.m., the Board reconvened into the regular session, at which time, Ms. Pontolilo made a motion to adjourn the meeting. The motion was seconded by Ms. Gee, and the Board voted unanimously in favor.

The next meeting at the Town Hall is scheduled for March 9, 2022 at 6:30 p.m., and will be conducted in person, unless otherwise determined.

Adjournment.

Respectfully submitted,



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

APPROVED:



Roger Menard, Chair