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WESTPORT ZONING
BOARD OF APPEALS

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
APRIL 3, 2018**

Members present: Gerald Coutinho, Vice Chairman
Roger Menard
Peter M. Borden
Constance Gee
Barbara Pontolillo

Vice Chairman Coutinho called the Zoning Board of Appeals meeting to order at 6:00 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(f), meeting being recorded.

Vice Chairman Coutinho explained that this hearing was originally scheduled for March 28, 2018, however, the meeting was not properly posted with the Town Clerk within the 48-hour time limit and could not go forward. Therefore, the meeting was rescheduled to tonight. He apologized for any miscommunication that resulted from having to reschedule the hearing.

Vice Chairman Coutinho opened the hearing at 6:05 p.m. with the reading of the Public Hearing Notice and asked that anyone wishing to address the Board on this petition should state their name and address for the record. This hearing is with regard to an application filed by Joan Casey-Amaral, 581F Drift Road, seeking a variance for side yard setback requirement relief as in Article 7, Section 7.6.2. The property is located at 581A, B & C Drift Road and is shown on Assessor's Map 53, Lots 12B and 10J.

Members present: Gerald Coutinho, Vice Chairman, Roger Menard, Peter M. Borden, Constance Gee and Barbara Pontolillo.

Also present: Ralph Souza, Zoning Enforcement Officer, Town of Westport; Attorney John A. Markey, Jr., 50 Homer's Wharf, New Bedford, MA, attorney for the petitioner; and Sean Leach, SITEC Engineering.

There were no abutters present.

Vice Chairman Coutinho stated that no presentation or discussion had occurred thus far with respect to this application and, therefore, all five (5) members, including Ms. Pontolilo, would be hearing the submissions of the presenters for the first time tonight.

Attorney Markey and Mr. Leach addressed the Board and presented the following facts and details supporting the application for a variance as follows:

1. On September 19, 2017, the Westport Planning Board voted to endorse the plan entitled "Approval Not Required Plan of Land in Westport, MA prepared for Joan Casey-Amaral" under Massachusetts General Laws, Chapter 41, Section 81P because the plan depicted a division of land on which two or more substantial buildings were standing when the Subdivision Control Law was promulgated in the Town of Westport.

2. Article 7, Section 7.8 of the Westport Zoning By-Laws states as follows:

Any lot shown on a recorded plan which was endorsed by the Planning Board under General Laws, Chapter 41, Section 81P, because the plan depicted a division of land on which two or more substantial buildings were standing when the Subdivision Control Law went into effect in the Town into separate lots, on each of which one of such buildings remained standing on the date the plan was endorsed, shall hereafter be treated for all purposes hereunder as a lawful, pre-existing, non-conforming lot. No such lot shall hereafter be changed to create a new violation of any provision of these By-Laws.

3. Lots shown as Lot 1 and Lot 2 in the Exhibit are the same as Lots 1 and 2 shown on the plan endorsed by the Planning Board and would be considered lawful, pre-existing, non-conforming lots as permitted in Section 7.8 of the Zoning By-Laws.

4. Section 7.8 of the Zoning By-Laws does not provide zoning relief to structures or uses on the lots.

5. Lot 1 currently has two (2) residential dwellings on it with addresses listed as 581B and 581C Drift Road. As part of the

application for this variance, 581C Drift Road will no longer be used as a residence.

6. Lot 2 currently has one (1) structure located on the property with an address of 581A Drift Road.

7. The northerly side yard setback of 581B Drift Road and the southerly side yard setback of 581A Drift Road do not meet the minimum side yard requirement of ten feet (10') and relief is being requested for both of these setbacks.

8. All three (3) lots will become individual non-conforming lots. Any future owner will be required to return to the Board for further construction (e.g. garage).

9. The hardship shown for this variance request includes the facts that the structures on Lots 1 and 2 existed prior to zoning enforcement and, in fact, were built at the turn of the century. One of the structures had been a barn, but is now a residence; and the driveway originally serviced the house and the barn. Being substantial structures, it would be impractical to move either. They may also have some historical significance.

Mr. Menard made a motion to close the hearing. Motion was seconded by Mr. Borden and the Board voted unanimously in favor.

Discussion ensued. It was noted that:

1. There were no records of Building or Board of Health permits for any of the non-owner-occupied structures that are or have been used as residences.

2. The existing driveway is very close to the existing structures used as residences.

3. Some wells and septic systems are apparently serving more than one residence.

4. There is only about three feet (3') of distance from the residence on Lot 1 to the property boundary, which may not allow for normal maintenance of the structure or the driveway without encroaching on the abutting property.

5. A reciprocal easement is suggested as a way to alleviate this situation for both properties.

6. Given the history of this property, any relief granted by this Board should not be effective until such time as the requirements by the Board of Health are satisfied and the non-complying residence on Lot 1 be eliminated as a residence by the complete removal of the kitchen.

7. The Board determined that it was not necessary to require any particular landscaping features as buffers or otherwise.

Mr. Menard made a motion to approve the requested side setback variances with the following conditions:

1. The structure on Lot 1 identified as 581C Drift Road shall not be used as a residential dwelling; and any and all kitchen facilities must be completely removed and never exist in the future unless legally allowed.

2. There shall be no driveway access or easements to Lot 3 through Lot 1 or Lot 2.

3. A separate driveway shall be provided for access to Lot 1.

4. Wells and septic systems shall be inspected for both lots and upgraded, if the systems do not meet current health requirements.

5. A legal reciprocal easement agreement must be provided at the property boundary between Lot 1 and Lot 2 to reasonably facilitate access for maintenance of structures on Lot 1 and driveway on Lot 2.

6. The finding of hardship is based upon the age and size of the relevant structures, the cost and burden of attempting to move the structures, the possible historic significance, and that these structures existed in their current locations prior to zoning.

Motion was seconded by Ms. Pontolilo, with the conditions noted herein, and the Board voted unanimously in favor.

Vice Chairman Coutinho advised of the 20-day appeal period.

Election of Officers:

Mr. Menard made a motion to nominate Gerald Coutinho as Vice Chairman of the Board. Motion was seconded by Mr. Borden and voted unanimously by the Board.

Mr. Menard made a motion to nominate Constance Gee as Secretary/Clerk of the Board. Motion was seconded by Mr. Borden and voted unanimously by the Board.

Mr. Coutinho made a motion to nominate Roger Menard as Chairperson of the Board. Motion was seconded by Ms. Pontolilo and voted unanimously by the Board.

The Board discussed term limits for regular and associate members.

Other Miscellaneous Matters

1. The Board discussed presenting a gift to Diane Pelland for her assistance after her leaving the Board.

2. There have been applications received by the Board for the position of Principal Clerk, which will be reviewed and interviews scheduled.

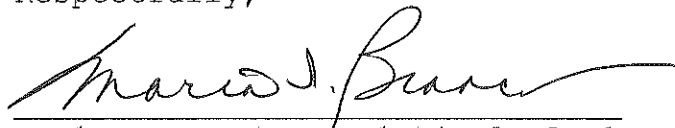
Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting

None.

Motion made by Mr. Menard to adjourn the meeting at 7:45 p.m. The motion was seconded by Ms. Pontolilo and the Board voted unanimously in favor.


Adjournment.

Respectfully,



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

APPROVED:


Roger Menard, Chairman