

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
JUNE 22, 2022**

RECEIVED
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**WESTPORT ZONING
BOARD OF APPEALS**

Members Present: Roger Menard, Chair
Constance Gee
Barbara Pontolilo
Raymond Elias
James Watterson
Cynthia Kozakiewicz

Absent was Gerald Coutinho, Vice-Chair and Ralph Souza, Building Commissioner.

Chair Menard called the meeting of the Zoning Board of Appeals meeting to order at 6:33 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 explained the procedure that would be followed at this hearing, namely: the petitioners would present their evidence; the 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.

1. The first matter on the agenda is the petition of is the continued hearing on the application of Capeway Roofing Systems, Inc. and Dion Calheta for a finding that the existing office and construction of an addition of fewer than 1,000 square feet at 664 Sanford Road will not be substantially more detrimental than the existing non-conforming use, as mandated by Recodified Zoning Bylaw 5.2.3. and is shown on Assessor's Map 30, Lot 36.

No one was present on behalf of the petitioner. Chair Menard telephoned Mr. Calheta and left a voice message. The Clerk confirmed that she had not heard from Mr. Calheta that he would not be attending the hearing or needed a further continuance.

Chair Menard placed this matter at the end of the agenda to give the petitioner time to appear at the hearing or call.

2. The next matter on the agenda is the application of Christopher C. Hart and Jennifer Koningisor for a Special Permit to convert the existing detached structure, abutting the rear of the garage, into a detached one-bedroom accessory apartment, containing no more than 750 square feet, as allowed by Zoning Bylaw Article 9, Section 9.5.2. The subject property is located at 698 Pine Hill Road, Westport MA and is shown on Assessor's Map 43, Lot 4.

Chair Menard explained the procedure that would be followed at this hearing, namely: the Applicants would present their evidence; the 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 then deliberate and render a determination.

Chair Menard stated that the members voting on this matter would be Constance Gee, Barbara Pontolilo, Ray Elias, Cynthia Kozakiewicz and, himself, Roger Menard.

Christopher Hart and Jennifer Koningisor addressed the Board, stating that:

1. They purchased the subject property containing about five (5) acres (formerly known as Figueredo's Greenhouses) almost 4 years ago.

2. They have been residing in the detached structure, which was formerly used as an accessory apartment, until their son was born.

3. They now wish to move to the main dwelling and proceed with converting the existing detached into a legal accessory apartment.

4. The main house is currently being renovated.

5. The apartment will be constructed with an open concept with a closet near the bedroom, kitchen, living room and bathroom.

6. The apartment will be occupied by the child's caregivers and/or parents of the Applicants.

7. The Applicants have worked diligently to clean up all the debris on the property left by the abandoned business, already having utilized at least 30 dumpsters of debris removal.

Chair Menard read the letter from the Building Commissioner denying the construction of an accessory apartment, stating that:

"After a recent site visit to the property I viewed the existing accessory apartment with a kitchen and bath already in place. In order to live there while the existing single family is being renovated, you would need a Special Permit issued by the Board of Appeals as per the Westport Zoning By-Laws Article 9.5.2, Detached Accessory Apartment . . ."

Chair Menard also reviewed Sections (a) through (j) of the bylaw that had been approved at Town Meeting on May 3, 2022, noting, among other things, that the detached accessory apartment may contain up to 900 square feet. The Applicants agreed to comply with these provisions.

Chair Menard stated that he went to the property and viewed the site. He also noted that the Board may impose conditions to the Special Permit, namely that the apartment contain only one (1) bedroom and the owners must reside in either the main dwelling or the accessory apartment. Chair Menard explained that, in the past, there have been issues with owners moving elsewhere and renting out both the house and the apartment, which is contrary to the intent of the bylaw.

Mr. Hart said that he did not understand what the deed restriction would be and would need to seek legal advice.

Ms. Gee asked about the home in the rear of the property. Mr. Hart said that a trailer currently exists there, and no one is living in the trailer. Mr. Hart also stated that he had discussed the existence of the trailer with Ralph Souza, the Building Commissioner, who was agreeable to the trailer being placed there.

As to no further subdividing of the property should the Special Permit be granted, Mr. Hart said that, if in the future, he intends to subdivide the property, he will demolish the accessory apartment in order to be allowed to do so.

Chair Menard again reiterated that the Board is concerned with the accessory apartment having only one (1) bedroom, and the owners residing on the property, should the property be sold in the future.

Ms. Kozakiewicz noted that the Special Permit becomes part of the property records when it is recorded and anyone conducting a title examination of the property will be able to review the document.

Mr. Hart stated that he and his wife moved to Westport to raise a family and has no intentions of leaving anytime in the near future.

Chair Menard said he had no issue with the conversion of the detached structure to an accessory apartment.

Ms. Pontolilo praised the Applicants for requesting the Special Permit and making it an official apartment.

Ms. Gee also commended the Applicants for taking on such a substantial project. She did mention that she is concerned with the trailer being on the property, although the trailer is on wheels and can be removed at any time.

Mr. Hart stated that, down the road from the property, there are hundreds of recreational vehicles stored for the winter.

Ms. Kozakiewicz stated that, in Westport, residents are allowed one (1) unregistered vehicle on the property.

Mr. Watterson said that the Planning Board has attempted to review the bylaw pertaining to trailers, but has not yet passed.

Chair Menard asked if anyone in the audience would like to make a comment.

Jeff Bull, 149 Horseneck Road, Westport, MA said that he has observed numerous dumpsters of debris removed from the property and appreciates the time and effort of the Applicants. He also said that he believes the owners would reside on the 5-acre property.

Mr. Hart said that the prior business had been abandoned for several years; most of the greenhouses collapsed and he has only one (1) working greenhouse at this time. He also stated that he plans to keep bees on the property, producing honey, and grow fruit trees and other perennial agriculture.

Mr. Hart said that, currently, Ms. Koningisor is employed full-time and he is a stay-at-home Dad.

Chair Menard suggested that, if the Applicants need to seek legal advice regarding the deed restriction, this hearing may need to be continued.

Ms. Pontolilo made a motion to close the hearing at 7:13 p.m. Chair Menard stated that the hearing cannot be closed at this time because the issue of the deed restriction is unresolved.

Mr. Hart said he and his wife would consult with an attorney. He submitted a motion to continue this matter to Wednesday, July 20, 2022 at 6:30 p.m.

Ms. Pontolilo made a motion to grant the Applicants' request for a continuance of the hearing. Mr. Elias seconded the motion, which was voted unanimously.

3. The next matter on the agenda is the application of Westport River Watershed Alliance, tenant, and the Westport Landing Commission, owner, for a finding that the relief requested is not substantially more detrimental to the neighborhood as mandated by Zoning Bylaw Article 5, Section 5.2.3; and for a special permit as required by Article 6, Section 6.2.4C. Specifically, the Applicants are seeking a revision to the previous decision of the Zoning Board of Appeals dated September 23, 2016, Section II, 8.v, to allow the parking of one (1) WRWA vehicle overnight on the premises. The subject property is located at 493 Old County Road, Westport, MA and is shown on Assessor's Map 39, Lot 1A.

Members voting on this application were Roger Menard, Chair, Constance Gee, Barbara Pontolilo, Ray Elias and James Watterson.

Chair Menard explained the process by which the hearing would be conducted, namely, that the applicants would present their evidence to the Board, the Board would ask questions and discuss, the public would be asked to make a comment, the Board would then close the hearing, deliberate and make a decision.

Addressing the Board were Michael Sullivan, President of the WRWA, Deborah Weaver, Executive Director of the WRWA, and Jeff Bull, Chair of the Landing Commission. They stated that:

1. The WRWA utilizes a truck on a daily basis, which has been parked overnight at the Westport Senior Center with permission.

2. The WRWA has abided by the prior decision of the Board and has had two (2) parking spaces assigned to it by the Landing Commission pursuant to their lease.

3. The WRWA is requesting that one (1) vehicle (truck), displaying the WRWA logo, be permitted to park overnight at the property.

4. The WRWA's truck, being mindful to the neighbors who reside nearby, as well as the businesses in the area, will be parked wherever designated by the Landing Commission.

Chair Menard read a letter into the record that the Board had received that day from Joseph E. Ingoldsby of 471 Old County Road, Westport, MA, stating that he supports the application of the WRWA to park its truck on the site, with the request that the truck not block access to the neighboring properties and parked in the rear of the building, where it is less visible to abutters.

Mr. Sullivan stated that the abutters on the east side access their garage by coming onto the landing by an easement granted by the Town to access their property, where there is no parking. He agreed that parking the vehicle in the rear of the building would work well.

Mr. Bull stated that the Landing Commission manages the property. He said that the Commission conducted a meeting to discuss this request. Originally, the two (2) spaces allotted to the WRWA were designed to accommodate compact cars. The truck is typically parked on the south side of the building. However, during boating

season, the Landing Commission may require that the truck be parked elsewhere from Friday through Saturday evening. Mr. Bull also noted that he is concerned that groups of people will hang out there and other vehicles will be parked on the site.

Mr. Sullivan said that he consulted with Fire Chief Brian Legendre, who visited the site and advised that the truck be parked in the rear of the building.

Ms. Gee said that she believed this to be a reasonable request.

Hearing no further comments, Ms. Pontolilo made a motion to close the hearing. Mr. Elias seconded the motion and the Board voted unanimously to close the hearing at 7:32 p.m.

Chair Menard stated that he supports the request with a condition that the truck be parked in the rear of the building.

Other members agreed.

Ms. Gee made a motion, seconded by Mr. Elias and voted unanimously by the Board to grant the finding that the relief requested is not substantially more detrimental to the neighborhood as mandated by Zoning Bylaw Article 5, Section 5.2.3; and for a special permit as required by Article 6, Section 6.2.4C. Specifically, the applicants are seeking a revision to the previous decision of the Zoning Board of Appeals dated September 23, 2016, Section II, 8.v, to allow the parking of one (1) WRWA vehicle overnight at the rear of the premises. The parking spaces shown on the plans shall only be used for daily parking of vehicles and shall not be used for any storage or display purpose of any type, which means that there shall be no parking or storage of boats or boat trailers. Parking of one (1) WRWA-marked vehicle to be allowed overnight. Tenant to be cognizant of busy weekend periods in the boating months and responsive to the Landing Commission requests to make other parking arrangements.

Chair Menard advised of the 20-day appeal period from the date of filing the decision with the Town Clerk.

Capeway Roofing Systems.

Chair Menard noted that no one had yet appeared regarding the first matter on the agenda, namely: Capeway Roofing Systems, Inc.

and Dion Calheta. He noted that the Board could reject or deny the application or continue to a further date. Ms. Pontolilo made a motion to continue this matter to Wednesday, July 20, 2022 at 6:30 p.m. Mr. Elias seconded the motion, which was voted unanimously.

There being no further matters before the Board, Ms. Pontolilo made a motion to enter into Executive Session at 7:43 p.m. to discuss pending litigation. Chair Menard also noted that the Board would not return to the open meeting for the sole purpose of adjournment. Ms. Kozakiewicz seconded the motion, which was voted unanimously by the Board with a roll call vote: Ray Elias, Barbara Pontolilo, Roger Menard, Constance Gee, James Watterson and Cynthia Kozakiewicz all voting aye.

Administrative Item:

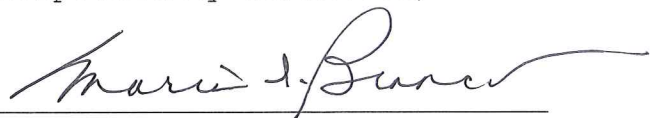
1. Approval of the minutes of the regular meeting of May 11, 2022. Chair Menard made a motion to approve the minutes of the regular meeting of May 11, 2022. Ms. Pontolilo seconded the motion and the Board voted unanimously to approve the minutes of the May 11, 2022 regular meeting.

The Board then convened into Executive Session.

The next meeting at the Town Hall is scheduled for July 20, 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