

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
OCTOBER 12, 2022**

RECEIVED
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**WESTPORT ZONING
BOARD OF APPEALS**

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

Also present was Ralph Souza, Building Commissioner.

Chair Menard called the meeting of the Zoning Board of Appeals meeting to order at 6:35 p.m. with the reciting of the Pledge of Allegiance. He stated that the meeting is being conducted with a quorum present.

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

1. The first matter on the agenda was the petition of Stanley R. Sylvia for a finding that demolishing the existing dwelling and replacing with a two-level dwelling, elevated above flood elevation, shall not be substantially more detrimental to the neighborhood than the existing non-conforming use, as mandated by Zoning Bylaw Article 5, Section 5.2.3. The subject property is located at 28 Second Street and is shown on Assessor's Map 76, Lot 34.

Chair Menard read the letter from Ralph Souza, the Building Commissioner/Zoning Enforcement Officer, which prompted the filing of the application for a finding. The letter read, in pertinent part:

"After review of the submitted building permit application to demolish and remove the existing 7500 square foot dwelling and to reconstruct a two (2) level, 2708 square foot dwelling, including deck, on the site, the application is denied . . . may be altered provided there is a finding by the Board of Appeals that such alteration shall not be substantially more detrimental

than the existing non-conforming use to the neighborhood."

Chair Menard stated that the members voting on this petition would be Vice-Chair Gerald Coutinho, Constance Gee, Barbara Pontolilo, Ray Elias and himself, Chair Roger Menard. He also noted that the approval of a finding requires a majority vote of the members -- three (3) members must vote in the affirmative.

Mark A. Rodrigues of Analysis and Design Engineering, 767 Meridian Street, Fall River, MA addressed the Board. He stated that:

1. He is the site design engineer for this project and represents the owners, Stanley R. Sylvia and Joann C. Sylvia.

2. He corrected typographical errors in the Building Commissioner's letter, namely that the lot, not the dwelling, consists of 7,500 square feet and the new dwelling will consist of 2,024 square feet. The current footprint of the existing dwelling -- not accounting for the deck -- is 816 square feet.

3. Elevation above flood plain will be nineteen (19') feet.

4. The proposed structure will comply with all setback requirements, that is: 26' at the front; 10.5' at the sides; and approximately 48' at the rear.

5. There are no known wetland areas within one hundred (100') foot buffer zone.

6. If a finding is granted by the Board, the Petitioner will submit a plan for a new onsite sewage disposal system that will then require approval from the Board of Health.

7. The well currently existing on the lot will be reused for the new project.

Vice-Chair Coutinho inquired about the proposed deck.

Mr. Rodrigues said the proposed deck extends eight (8') feet to the west of the property and ten (10') to the south.

Mr. Watterson asked what the finish to the outside will be.

Eric Pavao, 279 Cedar Avenue, Swansea, MA addressed the Board. He said that he is the contractor for the project. He will install asphalt architect shingles on the roof with cedar impression vinyl shingle siding on the outside of the house. The deck will be Azek material with cable rail system railings, which are typically used near salt water areas. Harvey vinyl windows, fiberglass doors and vinyl sliding glass doors will also be installed.

Mr. Watterson asked the Building Commissioner if there were any regulations regarding wind.

Mr. Souza indicated that there is no requirement for type of windows and asphalt shingles on the roof are appropriate.

Chair Menard asked if the structure will be eight (8') feet off the ground.

Mr. Pavao noted that was correct; with twelve (12") concrete footings and eight-foot pilings on top of the footings.

Chair Menard said that he visited the site to determine the impact of the new structure to the neighborhood, if any. Formerly, the structure was an old cottage, typically used in the summer. He also said that there were other homes in the area that had two (2) stories. Chair Menard said that the new structure complies with all setback requirements and he saw no issue with granting a finding.

Chair Menard stated that the purpose of this hearing is to determine whether the new structure would be substantially more detrimental to the neighborhood. If the Board approves the finding, the owners must get approvals from the Building Commissioner, the Board of Health and the Conservation Commission.

Ms. Pontolilo asked about the height of the structure once finished. Mr. Pavao said the height is 32.7', which is below the maximum height requirement.

Mr. Elias said that this proposal has a height lower than some other houses in the area.

Ms. Gee stated that any future renovations or construction on the non-conforming lots in the area will be similar to this one and others that have been built.

Mr. Souza noted that, if the cost of the renovations exceeds 50% of the value of the structure, then the house must be placed on pilings to conform with FEMA and state flood plain regulations.

Vice-Chair Coutinho stated that all setbacks meet the requirements; new septic system will be installed; and there will generate more tax revenue to the Town.

Chair Menard opened the meeting up to the public for comment.

Zoe Boza, 26 Second Street asked about the height of the stilts and whether the stilts will be directly visible from her home.

Mr. Pavao said that the pilings are eight (8') feet tall and the septic system will be placed

Mr. Rodrigues said that the first eight (8') feet will be seen clear through with windows and wall on the side of the house.

John Boza, 26 Second Street, asked who determines whether the house has an impact on the neighborhood and that the stilts are an eyesore. Mr. Boza also said that the marsh prevents the water from building up on Second Street. He noted that there have been two major hurricanes and neither caused significant damage. He questioned the need for the stilts.

Chair Menard responded that the house in question is in a flood zone and state law requires the house be elevated. The Zoning board of Appeals cannot over-ride state law.

Chair Menard also stated that the Zoning Board of Appeals determines whether the new construction will be substantially more detrimental than the existing use.

Ms. Gee said she agreed with Mr. Boza about the pilings; however, after Hurricane Katrina, the federal government issued new regulations regarding structures built in flood zones and you are unable to obtain flood insurance unless you comply with those regulations.

Ben Singer, 23 Second Street asked for confirmation that the new structure would contain two (2) bedrooms and that the maximum height is forty (40') feet from grade.

Mr. Pavao confirmed that to be correct.

Hearing no further comments, Vice-Chair Coutinho made a motion to close the hearing. Mr. Elias seconded the motion and the Board voted unanimously to close the hearing at 7:02 p.m.

Chair Menard said properties are required to be on pilings pursuant to state regulations. After touring the site, he noticed other two-floor houses in the area. The septic system will be improved and sees no negative impact to the neighborhood.

Mr. Watterson said that other houses in the area will most likely also be on pilings in the future.

Motion made by Vice-Chair Coutinho to approve the finding that the proposed project is not substantially more detrimental to the neighborhood than the existing non-conforming use with the condition that the project be constructed pursuant to the plans dated August 19, 2022 that were submitted by the Petitioner, as well as the testimony provided to the Board this evening. Mr. Elias seconded the motion and the Board voted unanimously to grant the finding.

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

The hearing concluded at 7:07 p.m.

Chair Menard said there was no further old business tonight.

Vice-Chair Coutinho stated that he had forwarded several questions to Town Counsel Jeffrey Blake, who had not yet responded.

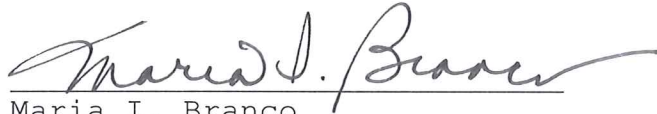
Chair Menard noted that, although he was not at the hearing on September 28, 2022, he may be eligible to vote at the next hearing on October 26, 2022, so long as he reads all of the documentary evidence, reads the minutes of the meeting, and watches the video of the hearing. As such, Chair Menard stated that he would anticipate that the five (5) regular members of the Board would be voting on the matters on the agenda on October 26, 2022.

There being no further matters before the Board, Ms. Pontolilo made a motion to adjourn at 7:12 p.m. Mr. Elias seconded the motion, which was voted unanimously by the Board.

The next regular meeting of the Board is scheduled for October 26, 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