

**ZONING BOARD OF APPEALS  
REGULAR MEETING MINUTES  
WEDNESDAY  
FEBRUARY 22, 2023**

**RECEIVED**

**MAR 29 2023**

**WESTPORT ZONING  
BOARD OF APPEALS**

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

Absent: Gerald Coutinho

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. 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.

At the outset, Chair Menard noted that he had tendered his resignation a couple of weeks ago to the Select Board; however, the Select Board had not acted on it and, therefore, he would Chair this meeting.

1. The first matter on the agenda was the petition of John Foran, Applicant, and Rebecca Collins, Owner, for a finding that the demolition of the current structure and new construction of a 2-story, single-family dwelling containing 2,108 square feet, shall not be substantially more detrimental than the existing non-conforming use to the neighborhood, as mandated by Zoning Bylaw Article 5, Section 5.2.3. The subject property is located at 217-Z Tickle Road and is shown on Assessor's Map 21A, Lots 35 and 45.

Chair Menard explained the process by which the hearing would be conducted, namely, that the Applicant and Owner would address the Board, the Board would ask questions and, then, the audience would have an opportunity to ask questions.

Chair Menard then explained the standard under which the Board must rule in approving or denying a finding, namely, that the proposed demolition and new construction "shall not be substantially more detrimental than the existing non-conforming use to the neighborhood." A few of those reasons may be safety, traffic, substantial issues, rather than just architectural. He also noted that for a finding to be granted, three (3) of the five (5) Board members would need to vote in favor.

Chair Menard stated that the members voting on this petition would be Constance Gee, Barbara Pontolilo, Ray Elias, Cynthia Kozakiewicz and himself, Chair Roger Menard. He also noted that a majority of the Board (3 out of 5 members) must vote in the affirmative in order for the finding to be approved.

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:

*"This office has received and reviewed the building permit application to demolish and remove the existing single family dwelling at 217 Z Tickle Road.*

*. . . .*

*Pre-existing, non-conforming structures or uses 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. . . ."*

Members noted that they had driven by the property, but were unable to identify which of the structures was 217-Z Tickle Road.

John Foran, Ironwood Studio, 11 Weeden Road, Fairhaven, MA, and Rebecca Collins, owner, addressed the Board.

1. Mr. Foran was hired as the contractor by the owner, Rebecca Collins for this project.

2. After assessing the required repairs for the existing structure, it was determined that the repairs would be too extensive and the decision was made to demolish the structure and reconstruct a new home.

3. The property was situated on deck piers and concrete blocks, all of which contributed to the decline of the structure.

4. The deck will be constructed on piers, although the property is not located in a flood zone.

5. Several photographs were submitting, showing considerable need of repairs in various areas of inside and outside of the existing structure.

6. The new structure will be pushed forward with the back of the deck lining up with the house.

7. The new structure will be slightly larger than the existing house. The new house will not encroach on any setback requirements -- 10'3" on the right, 10'4" on the left, 45' on the front and 24' at the rear.

8. The new structure will have two (2) bedrooms and two (2) bathrooms.

9. Leonard Potter, who is installing the approved septic system, has been before the Conservation Commission and is awaiting the Order of Conditions.

10. The new structure will have a crawl space, not a full basement, to allow for any flooding with no adverse effect to the neighbors.

11. Ms. Collins currently resides in Fall River and will primarily use the new home during the summer season. The home will have a heating system, thereby making it a full-season home.

12. The new home's second floor will include two (2) bedrooms with 7-foot ceilings.

13. The lot across the street will be used for parking.

Chair Menard said that, even if it is determined that the house must be placed on pilings, the Zoning Board's decision to approve the finding will not affect decisions made by any other Town department. He also stated that the new house will fit nicely on the lot without violating any other zoning requirements; the new house will compliment and improvement to the neighborhood.

Chair Menard opened up the discussion to the audience and asked if anyone would like to comment.

Cathy Deneault, 217-Y Tickle Road asked whether the existing structure contains asbestos.

Mr. Foran said there was an asbestos inspection and none was found. Also, a pest control inspection that found the structure to be free of insects as well.

Hearing no further comments, Mr. Elias made a motion to close the hearing. Ms. Pontolilo seconded the motion and the Board voted unanimously to close the hearing at 6:49 p.m.

Mr. Elias said he has no problem with the project.

Chair Menard said he has no issue with the new construction of a two-bedroom summer home, that it will be an improvement to the neighborhood, and that there will be no effect on safety and traffic. The Town has many older structures that are being reformed.

Ms. Pontolilo agreed and said that she thought it was a good project in an ever-changing neighborhood.

Ms. Gee made a motion to grant the finding that the demolition of the current structure and new construction of a 2-story, single-family dwelling containing 2,108 square feet, shall not be substantially more detrimental than the existing non-conforming use to the neighborhood, as mandated by Zoning Bylaw Article 5, Section 5.2.3. Chair Menard added that the finding shall be with the condition that the construction shall conform with the site plan dated November 14, 2022 and construction plan dated October 18, 2022 that were submitted to the Board at the hearing, as well as the testimony given before the Board.

Mr. Elias seconded the motion, which was voted unanimously by the Board.

Chair Menard advised of the 20-day appeal period from the date of filing the decision with the Town Clerk.  
The hearing concluded at 6:52 p.m.

2. The next matter on the agenda was the petition of Domagoj Coric for a finding that the demolition of the existing non-conforming structure and new construction of a single-family dwelling in compliance with setback and flood zone requirements shall not be substantially more detrimental than the existing non-conforming use to the neighborhood, as mandated by Zoning Bylaw Article 5, Section 5.2.3. The subject property is located at 2 Atlantic Avenue and is shown on Assessor's Map 88, Lot 143.

Chair Menard said that the Applicant would address the Board, the Board would ask questions and, then, the audience would have an opportunity to ask questions.

Chair Menard explained the standard under which the Board must rule in approving or denying a finding, namely, that the proposed demolition and new construction "shall not be substantially more detrimental than the existing non-conforming use to the neighborhood." A few of those reasons may be safety, traffic, substantial issues, rather than just architectural. He also noted that for a finding to be granted, three (3) of the five (5) Board members would need to vote in favor.

Members present and voting on this petition were Roger Menard, Chair, Constance Gee, Barbara Pontolilo, Raymond Elias and Cynthia Kozakiewicz.

Chair Menard said that the Petitioner is before the Board as a result of a denial of a building permit by the Building Commissioner.

Attorney Peter A. Saulino, 550 Locust Street, Fall River, MA stated that:

1. He represents the Petitioner in this matter.
2. The property was purchased in 2012 by the Corics. Mr. Coric is originally from Portsmouth, Rhode Island and Mrs. Coric is originally from Westport.
3. The existing structure will be demolished with a new home that will be reconstructed within the zoning setbacks and flood zone requirements.

4. The inside of the home will have handicap accessibility for future use.

Andrew P. DiGiammo, Compass Group Architecture LLC, 4 Causeway Road, Assonet, MA addressed the Board. He stated that:

1. He is the engineer and architect for the project.

2. The existing structure contains zero-tolerance mold and, therefore, requires demolition.

3. The garage space will remain underneath the new structure and used mainly for storage. The entrance to the home will also remain the same with driveway under the house and an elevator for access to the home.

4. It is not possible to lift the existing house and place it on pilings and, therefore, demolition and reconstruction is required.

5. New construction will comply with all zoning requirements and will cover just under 32% of the lot.

6. The new house will have broad overhangs.

7. The new house will contain four (4) bedrooms.

8. The Board of Health is in the process of considering the septic system and whether a denitrification septic system will be required. The existing system has passed Title V requirements.

9. The height of the new home will be 34 feet, under the maximum height allowed.

10. The structure will be in a Zone V flood zone, and will be constructed pursuant to flood zone requirements.

Chair Menard said that this is a substantial undertaking.

Mr. DiGiammo explained the elevation measurements. He also said that the entire project will most likely take a year to complete.

Chair Menard stated that he visited the site and noticed that there are other homes that have been raised as a result of the flood zone.

Chair Menard opened up the discussion to the audience and asked if anyone would like to comment.

Paul O'Connor, 278 Howland Road stated that his home is north of 2 Atlantic Avenue. Mr. O'Connor submitted a photograph, showing the manner in which the sun sets and his concern that his house will be in full shade. He also inquired about the placement of the propane tank.

Ms. Pontolilo said that the Board does not have discretion to compel a change in construction plans because the new house will affect the neighbor's view of the water or the sunset.

Mr. DiGiammo stated that the new construction will not affect the sun shining to Mr. O'Connor's home and, in fact, because of the manner in which the new roof line is being constructed, the sunset and water view for Mr. O'Connor will improve.

Mr. Coric agreed to enclose or screen in the propane tank.

Mr. Elias noted that there is no zoning bylaw that takes a view of the water or sun into consideration.

Hearing no further comments, Mr. Elias made a motion to close the hearing. Ms. Pontolilo seconded the motion and the Board voted unanimously to close the hearing at 7:21 p.m.

Chair Menard said that the new construction will be a good addition to the neighborhood, and that there will be no effect on safety and traffic. Pilings will be required by flood zone requirements.

Ms. Kozakiewicz noted that the driveway will be placed in the same spot under the house.

Mr. Elias made a motion to grant the finding that the demolition of the existing non-conforming structure and new construction of a single-family dwelling in compliance with setback and flood zone requirements shall not be substantially more detrimental than the existing non-conforming use to the neighborhood, as mandated by

Zoning Bylaw Article 5, Section 5.2.3. Construction shall comply with the plans submitted to the Board dated November 28, 2022 and the testimony before the Board at this hearing. Ms. Pontolilo seconded the motion, which was voted unanimously by the Board.

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

The hearing concluded at 7:23 p.m.

**Administrative Items:**

1. Approval of the minutes of the regular meeting of December 7, 2022. Chair Menard made a motion to approve the minutes of the regular meeting of December 7, 2022. Ms. Gee seconded the motion, which was voted unanimously to approve the minutes of the December 7, 2022 regular meeting.

2. The Board discussed the reclassification of the Principal Clerk's position to Zoning Board Administrator with an increase in the hourly rate. Chair Menard said that Town Meeting will need to approve the reclassification and salary.

3. The Board discussed a request from the Planning Board to comment on the Stoneridge project on Main Road. After discussion, the Board had no comment.

4. Chair Menard said that he had e-mailed revisions to the Rules and Regulations to everyone for review. This matter was not on the agenda and, therefore, will be discussed at the next meeting on March 29, 2023.

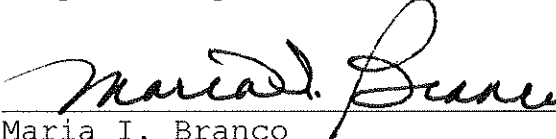
The next meeting scheduled for the Zoning Board is Wednesday, March 29, 2023 at 6:30 p.m.



There being no further matters before the Board, Ms. Pontolilo made a motion to adjourn the meeting at 7:34 p.m. Ms. Gee seconded the motion, which was passed unanimously.

**Adjournment.**

Respectfully submitted,

  
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Maria I. Branco  
Zoning Board Administrator

APPROVED:   
\_\_\_\_\_  
Roger Menard, Chair