

**ZONING BOARD OF APPEALS  
REGULAR MEETING MINUTES  
WEDNESDAY  
JULY 19, 2023**

RECEIVED

AUG 23 2023

WESTPORT ZONING  
BOARD OF APPEALS

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

Absent was: George Stelljes

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.

1. The first matter on the agenda is a hearing on the petition of Carmen Legato and Amy S. Grutzner for a finding that the demolition of the existing non-conforming structure to the foundation and new construction of a single-family dwelling in compliance with setback 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 131 Pettey Lane, Westport, MA and is shown on Assessor's Map 73, Lots 20, 21 and 22.

At the outset, Vice-Chair Coutinho stated that, because he is a double-abutter to the subject property, he would recuse himself from hearing and deliberating in this matter.

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

Chair Menard advised that the process of the hearing would be that the Petitioners would present their submissions; the audience would be given an opportunity to comment; the Board would close the hearing to deliberate; and, then, the Board would render its decision.

Chair Menard said that the reason why the Petitioners are before the Board today is as a result of a letter from the Building Commissioner, which states, in pertinent part, that:

*"After review of the proposed building plans to add and alter the existing family dwelling at 131 Pettey Lane, as per the Westport Zoning By-Laws Article 5.2.3, Alteration, 'Pre-existing nonconforming 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 nonconforming use to the neighborhood.'*

*The addition/alteration of the structure must be in compliance with 780 CMR 9th edition 1 & 2 family building code."*

Chair Menard noted that Town Counsel has made clear the grounds that need to be found if the finding were to be denied. For example, the Board would be required to find that the new construction poses a safety issue to the neighborhood or that it will cause more traffic concerns, not architectural issues.

Carmen Legato, 131 Pettey Lane, Westport, MA, (mailing address: 6005 Manor Oak Way, Bethesda, MD 20814) submitted photographs of the existing structure, construction photographs and photographs of other properties in the neighborhood. Mr. Legato addressed the Board stating that:

1. He and his wife, Petitioner, Amy Grutzner, currently reside in Maryland and are planning to list the house on the market for sale.

2. The Petitioners will be living in a rental in Westport until the subject property is constructed and, then, will move permanently into their new home.

3. The structure will be demolished, with the foundation remaining in place.

4. The existing house was built in the 1930s, pre-dating zoning codes. It contains three (3) small bedrooms, one (1) bathroom, and a failed septic system. A new three-bedroom, denitrification septic system by AdvanTex will be installed.

5. The existing house has no insulation or drywall.

6. The new house will be built on the same foundation, excavating to install a two-car garage and basement; one (1) bedroom on the second story; approximately 2,500 square feet with two (2) bedrooms in the main house and a sleeper sofa in the recreation room in the basement.

7. The new house will comply with all zoning requirements. The deck measures 31'3" x 17'; with the height of the structure to be 33'; road frontage of 125'; and compliance with setback requirements.

8. The leaching field will be located at the top of the hill.

9. The Conservation Commission has approved a landscaping plan, with removal of invasive plants, to be replaced with native plantings. The Conservation Commission has issued an RDA (Request for Determination of Applicability).

10. Boulders will be placed on the hill to control waterflow.

11. Four (4) cisterns -- 1,000 gallons each -- will be placed above ground behind the garage and out of view. These will catch rain water and to conserve the aquifer to use for irrigation for the plantings and roof water runoff. The recharge area will contain the overflow from the cisterns.

12. Plenty of drainage located near and around the house.

13. The subject property and three (3) other properties share the same portion of the road. The entrance to the property will be from the east.

14. The wells for ground source heat pump will be installed for utilities with possible zero net energy.

15. An existing bulkhead will be removed.

Chair Menard said that if the Board grants the finding, it will be in accordance with the plans that have been submitted and reviewed by the Board.

Mr. Legato said that the only possible change would be on the second level by eliminating the overhang. Currently, the plan

shows cupola, however, that may not be installed. The footprint would not be changed.

Chair Menard read a letter from Brian and Patricia Tomlinson, 133 Pettey Lane, direct abutter, who support the project.

Chair Menard said that he drove by the site and viewed the existing house and neighboring houses. He said that he noticed that many of the houses had been renovated and there were houses that would most likely be renovated in the future.

Mr. Legato said that there will be plenty of off-street parking (two-car garage, driveway and side parking area), which will not interfere with other neighbors' properties. He also stated that the intent is to obtain a building permit by October 1, 2023 and move into the new home in May 2024.

Chair Menard asked if there were any comments from the audience.

Gerald Coutinho, 110C Pettey Lane, stated that he owns two (2) properties on Pettey Lane and is an abutter to the subject property. Mr. Coutinho said that he strongly supports the project.

#### **Motion to Close the Hearing**

There being no further discussion, Mr. Elias made a motion to close the hearing at 7:00 p.m. Ms. Pontolilo seconded the motion, which was voted unanimously.

Chair Menard said that he believes the project will be a vast improvement to the neighborhood.

Mr. Elias said that the project seems straightforward and he has no issue with the project.

Ms. Pontolilo and Ms. Kozakiewicz agreed.

Motion made by Chair Menard to grant the finding that the demolition of the existing non-conforming structure to the foundation and new construction of a single-family dwelling in compliance with setback 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 131 Pettey Lane, Westport, MA and is shown on Assessor's Map 73, Lots 20, 21 and 22, with the condition that the project comports with the plans

that have been submitted and reviewed by the Board, prepared by BelVeder Design Build, LLC dated May 14, 2023.

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

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

The hearing concluded at 7:04 p.m.

**Administrative Items:**

3. Chair Menard stated that a subcommittee has been formed by the Planning Board and Zoning Board to conduct meetings, discuss and draft Zoning Bylaw regarding short-term rentals. Two (2) members of the Zoning Board must be appointed to the subcommittee. Chair Menard said that Vice-Chair Coutinho and he had served on a prior committee and he was asking for volunteers to sit on this subcommittee. Mr. Elias made a motion to nominate Chair Menard and Vice-Chair Coutinho to the subcommittee on short-term rentals. Ms. Kozakiewicz seconded the motion, which was voted unanimously. The Board also agreed that any other topics addressed during the meetings may be discussed by Chair Menard and Vice-Chair Coutinho.

1. Approval of the revised minutes of the regular meeting of May 17, 2023. Vice-Chair Coutinho made a motion to approve the revised minutes of the regular meeting of May 17, 2023. Ms. Pontolilo seconded the motion, which was voted unanimously to approve the revised minutes of the May 17, 2023 regular meeting.

2. Approval of the minutes of the regular meeting of June 21, 2023. Chair Menard made a motion to approve the minutes of the regular meeting of June 21, 2023. Mr. Elias seconded the motion, which was voted unanimously to approve the minutes of the June 21, 2023 regular meeting.

4. Chair Menard stated that the Planning Board had submitted a plan regarding Highridge Road and was requesting comment or approval by the Zoning Board. It was decided that the Zoning Board would have no comment on the project.

5. Vice-Chair Coutinho noted that, at the last meeting, there was discussion regarding matters that have previously been before the Zoning Board but not resolved. It was noted that one of those matters would be heard at the next meeting of the

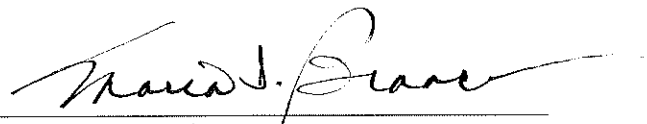
Zoning Board (Casey Amaral) and that the Wetherlow Farms matter would be addressed with Town Counsel at the next meeting as well.

The next meeting is scheduled for Wednesday, August 23, 2023.

There being no further matters before the Board, Ms. Kozakiewicz made a motion to adjourn the meeting at 7:21 p.m. M. Pontolilo seconded the motion, which was passed unanimously.

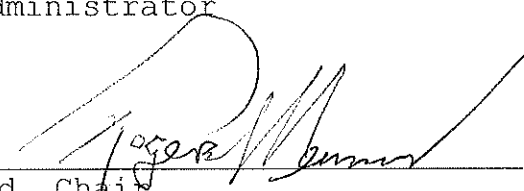
**Adjournment.**

Respectfully submitted,



Maria I. Branco  
Zoning Board Administrator

APPROVED: \_\_\_\_\_



Roger Menard, Chair