

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES**

**WEDNESDAY
JULY 18, 2018**

RECEIVED

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**WESTPORT ZONING
BOARD OF APPEALS**

Members Present: Roger Menard, Chairman
Gerald Coutinho
Peter Borden
Constance Gee
Barbara Pontolilo

Chairman Menard called the Zoning Board of Appeals meeting to order at 7:00 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.

Briggs Landing Petition

Opening the meeting at 7:00 p.m., Chairman Menard stated that the first matter before the Board pertained to a letter that the Board received from Paul Cusson, Delphic Associates LLC, representing Briggs Landing LLC, dated June 6, 2018. Mr. Cusson requested that a proposed change to the Briggs Landing Comprehensive Permit be considered insubstantial. In particular, the request is to have the frontage to Lots 89 and 90 be on Grinnell Court rather than on Brownell Avenue.

Mr. Cusson provided the following information regarding Briggs Landing:

1. Briggs Landing a 40B project.
2. When completed, the project will consist of 91 houses, of which 25% have been built. There are 26 affordable units. Of the 26 affordable units, 24 units have been sold and closed, while 2 remain unsold.
3. Lots 89 and 90 face Brownell Avenue. The original plan was to keep the structure that is currently on Lot 90.
4. The property lines of Lots 89 and 90 were originally designed in order to comply with zoning setback regulations.

5. It was later determined that the structure on Lot 90 was not suitable for usage and would have to be completely razed.

6. Since the property lines no longer need to abide by setback regulations, changing the layout of Lots 89 and 90 would result in lot dimensions similar to the other lots.

7. The request is to change the properties to face Grinnell Court. The front doors of both houses would be facing Grinnell Court.

8. The lots would be renamed 89A and 90A. The lots would basically contain the same square footage as present.

9. This change has already been approved by the Planning Board.

10. Under Chapter 40B, if there are any additional changes, they must be approved by the Zoning Board.

11. The request is that the Board identify the proposed changes as insubstantial and include in its decision that the affordable lot will be renamed from Lot 90 to Lot 90A.

12. If the Board approves the change as insubstantial, the plans will be updated. The Board will then need to sign the new plans, which will then be recorded with the Registry of Deeds.

Discussion by the Board

Chairman Menard noted that, looking at the plans, it makes more sense to have the properties square rather than the original long and thin.

Ms. Pontolilo questioned if there is any negativity of the proposed changes to the Town. Mr. Cusson indicated that there would be no negative impact.

Determination

A motion was made by Mr. Coutinho that the Board find that the proposed change is insubstantial, with the following provisions:

1. The house structure currently on Lot 90 will be demolished and not replaced on the same footprint.

2. Lot 90 affordable unit will be replaced by Lot 90A as affordable unit.

3. An engineered plan indicating the changes will be submitted to the Board for the Board's endorsement and will then be recorded at the Registry of Deeds.

The motion was seconded by Mr. Borden and the Board voted unanimously voted to approve the project..

The hearing concluded at 7:14 p.m.

Gillespie Petition

Chairman Menard opened the hearing on the second matter before the Board at 7:15 p.m. with the reading of the Public Hearing Notice regarding the application of Priscilla Gillespie for a Special Permit authorizing the installation and use of a detached accessory apartment in a detached structure on a lot containing a single-family dwelling, located at 1634 Main Road. The property is shown on Assessor's Map 57, Lot 10.

Also Present: Priscilla Gay Gillespie (petitioner)
Tim Gillespie

Ms. Gillespie addressed the Board, stating that:

1. She has been in this home since 1977.
2. The original owners of the property built a small house on the property measuring 12 feet by 26 feet, in which they lived while the main house was being built. Later, they added a kitchen, a bath, a small bedroom off of the back of the smaller house, along with a screened porch. With those additions, the structure size is about 557 square feet.
3. She has had family, friends and, at times, renters use the house.
4. She is requesting that she be allowed to either demolish the existing house or move it to a neighbor's property.
5. She stated that she would like to rebuild and have the house be a year-round structure such that she could rent and also be available for her children..
6. She intends to live either in the new structure or in the main house on the property.

7. The current structure already has its own septic system.

Tim Gillespie addressed the Board, stating that:

1. He will be the contractor on this project.
2. The new structure would meet all setback requirements and no variances will be required.
3. The new house would be 30 feet by 18 feet or 540 square feet.

Mr. Coutinho indicated that under the Zoning Bylaws, the detached house must be under 750 square feet. He also commented that if the Board approves the Special Permit, he suggests that they approve up to 750 square feet in order to allow for flexibility. He further noted that the Board may allow the house to exceed 750 square feet by special permit to accommodate a disability.

Mr. Coutinho moved to close the hearing and Ms. Gee seconded and the Board voted unanimously to close the hearing.

Discussion by the Board

Mr. Menard started the discussion by indicating that he is always concerned about conforming to all building and zoning codes, but as this is a new project, the owner will have to submit plans to the building inspector, who will approve the plans. Also, the petitioner will probably have to get approval from other boards such as Board of Health and Conservation Commission.

Decision

Mr. Borden made a motion to approve the Special Permit to construct a detached accessory apartment with the following conditions:

1. Must comply with all provisions of Article 4.13.
2. The accessory apartment is not to exceed 750 square feet.
3. The accessory apartment shall meet all required setback requirements.

The motion was seconded by Ms. Gee and the board voted unanimously to approve the special permit.

The hearing concluded at 7:38 p.m.

Vasconcellos Petition

Chairman Menard opened the hearing on the third matter before the Board at 7:39 p.m. with the reading of the Public Hearing Notice regarding the application of Paul Vasconcellos for a variance from Article 7, Intensity Regulation pertaining to property located at 8 Lawton Lane, Westport, MA and shown on Assessor's Map 61, Lot 15G.

Also present: Paul Vasconcellos, Petitioner
Keith Pelletier, Abutter

Mr. Pelletier presented some background, stating that:

1. He purchased 10 Lawton Lane in 1995.
2. There were a total of 140 acres of pasture on one side and 20 acres to the north.
3. He originally had planned to purchase the land that bordered 10 Lawton Lane on the north and south.
4. Once the property was surveyed, he was asked that a portion of his land be divided and added to the land north of the stone wall because the land between the stone walls was greater than 2 acres, in order that there be 5 lots of at least 60,000 square feet each.
5. He agreed to the adjustment of the property with the caveat that a deed restriction be put in place, such that the stone walls would not be removed in any way without the approval by the sellers.
6. He currently has a deed restriction for a triangular portion of land on the south side of the stone wall that is actually owned by the petitioner.
7. The variance, if granted, would transfer ownership of the triangular-shaped property from Mr. Vasconcellos to himself.

Paul Vasconcellos, Petitioner, addressed the Board, stating that he is currently attempting to sell the property; however, prospective buyers are hesitant to purchase because of the

current easement. He said that the fact that the property includes land that cannot be accessed from his property, north of the stone wall, is an issue due to potential liability concerns.

Chairman Menard commented that he had visited the property and, with Mr. Vasconcellos' consent, took photographs of the stone wall. He shared the photographs with the Board. It was clear that the land in question, for all practical purposes, is Mr. Pelletier's back yard, even though it is owned by Mr. Vasconcellos. There is a stone wall that runs straight down Mr. Vasconcellos' property, but some of the land on the south side of the stone wall is also owned by Mr. Vasconcellos. Chairman Menard further noted that there is a four-foot drop on the other side of the stone wall.

Mr. Coutinho stated that he had also viewed the property, as well as the surrounding lots, and noticed that all of the lots have the same type of massive tall stone walls. The walls are very high and differ from most farm field stone walls in Westport. He said that the stone walls are a unique feature of the property.

Chairman Menard stated that the hardship is the stone wall and the steep drop-off on the Pelletier side of the stone wall. Mr. Coutinho agreed that the hardship is the unique nature of the stone wall and that the proposed variance does not go against the intent of the zoning regulations.

Mr. Vasconcellos advised the Board that the stone wall has been in place for many decades and, in fact, may be a historic monument in that it was used by American forces while in war against the British.

Motion was made by Chairman Menard to close the hearing. Mr. Coutinho seconded the motion and the Board voted unanimously to close the hearing.

Discussion by the Board

Chairman Menard began the discussion by noting that the variance made sense. He also commented that the Board does not typically make decisions that will cause lots to become non-conforming; however, this lot has never been conforming. The Pelletiers have owned the land and the proposed variance would not go against the intent of the Zoning Bylaws. The stone wall between the properties is an obvious border.

Mr. Coutinho stated that the stone walls are very unique, not only to this property, but to the entire neighborhood.

Decision

Ms. Pontolilo made a motion to grant the variance, denoting the lot to go from conforming to a non-conforming lot. The hardship is the unique tall stone wall without any openings between the properties. The variance would not go against the intent of the Zoning Bylaws and would keep the historic nature of the stone walls. The variance also allows the transfer of ownership of the Vasconcellos property south of the stone wall to the Pelletiers, even though this would reduce the Vasconcellos property and resulting in a non-conforming lot because of its insufficient lot size. Ms. Gee seconded the motion and the Board voted unanimously to grant the variance.

The hearing concluded at 8:15 p.m.

Action Items

1. Mr. Coutinho stated that, the night before (July 17, 2018), he received a letter dated July 10, 2018 via e-mail from the Westport River Watershed Alliance (WRWA). This matter had not been placed on the agenda because the agenda had already been posted. The e-mail was read into the record. In summary, the WRWA advised the Board that it had changed its planned configuration at the Head Landing (a/k/a River Center) and that, due to a protracted permit schedule and higher costs of construction, would be foregoing the building of an addition on constructing at the east elevation. WRWA further stated that the change in plans would not have an effect on the original site plan originally presented. The only difference would be more space for parking and walking by the River. Chairman Menard noted that, having been to all the prior meetings on this project, he understood the east side was the most contentious among abutters and neighbors. The Board discussed whether the WRWA would be required to come before the Board with its new plan. Although the change may be a positive change and may not be insubstantial, it would nevertheless require further approval by the Board of the new plan and, therefore, require the WRWA to attend a meeting for approval. The Board voted unanimously to notify the WRWA that it must appear before the Board at an informal meeting to address the changes it intends to make to the original plan; or it could wait until the plans are firm and then request to come before the Board for approval.

2. Discussion ensued regarding the vacant Principal Clerk position, the duties of the position, and drafting of minutes and decisions by the prospective clerk.

3. The Board further discussed various procedures that the Board should adopt in the future regarding filing of applications, and submission of plans and other documents at hearings.

9:04 p.m.

Motion made by Mr. Borden to adjourn the meeting. Seconded by Mr. Coutinho. The Board voted unanimously in favor.

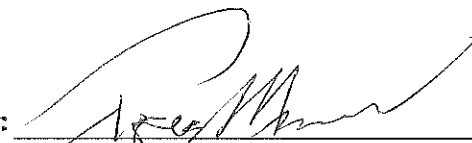
Adjournment.

Respectfully submitted,



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

APPROVED:



Roger Menard, Chairman