

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
CITY COUNCIL CHAMBERS- CITY HALL
Wednesday, October 5th, 2011 at 7:00 p.m.**

MINUTES

Call to Order: The meeting was called to order at 7:03 p.m.

- Salute to the Flag**
- Roll Call**

Present: Chuck Farmer, Don Gagnon, Kathlene Fleckenstein, Floyd Sargent, Marty Russo and Planning and Zoning Administrator Richard Lewis.

Absent: Donna Tully.

Chair Farmer seated Member Gagnon for absent voting member Donna Tully.

- Approval of Minutes: September 7th, 2011 Zoning Board Meeting**

MOTION: Member Russo moved and Member Sargent seconded to approve the minutes of the September 7th, 2011 Zoning Board regular meeting. All were in favor and the motion passed.

New Business

- Z11-08:** Sylvester One Family Trust, Danny A. and Renee Sylvester- Trustees, Owners/Applicants, request a Special Exception for the creation of a family apartment, to be constructed 26' x 22' on the back of the home and will meet all setback requirements, on property located at 51 Woodrow Avenue, Tax Map/Lot # 133-060-00, RS Zone (Single Family Residential District). This family apartment meets the requirements as set by Section 305-29.8 of the Franklin Zoning Ordinance.

Mr. Dan Sylvester was present to speak. He stated that his house is located at 51 Woodrow Avenue. He indicated he is looking at building a family apartment 26' x 22' on the back of the house. He stated that his wife's parents, who are almost 80, will be residing within the apartment, as there house is not big enough. The lot is a corner lot and this addition would only affect one neighbor. He stated his builder has checked the setbacks and they are all met.

Member Russo asked if there was sufficient parking. Mr. Sylvester stated that there is; however, they will be gravelling an additional area off to the side of the existing parking space for additional space. He stated his son currently parks in this area of the yard.

Member Russo asked where the exit from the outside would be and Mr. Sylvester stated the exit will be on the side, and there will be entrance into the apartment through the kitchen of the main house.

Member Sargent asked if they were going to have to walk all the way around the house to get to the outside entrance. Mr. Sylvester stated that he believes what Mr. Sargent is looking at is the door into the main house from the apartment and stated that from the parking, they would just walk to the right side of the addition.

Member Sargent asked what the layout would be and Mr. Sylvester indicated that it is a kitchen, bedroom, living area and bath.

Richard Lewis asked the applicant if they were aware of the restrictive covenants. Mr. Sylvester indicated that he understands that this needs to be recorded. He stated he also understands that in that document there needs to be

wording that if the house is sold the buyer would need to acquire their own approvals to continue using it. He stated that if his wife's parents moved out, they would use it for another family member or would renovate it by removing the apartment components and just make it living area on the existing house.

Public Comment

There was no one from the public present to speak.

Board Discussion

Richard Lewis stated he gave the board an approval motion that references the approval document. He stated originally there were questions about the setbacks, but a plan from the original subdivision was found, that had the house marked out on the lot and the setbacks are met.

MOTION: Member Sargent moved and Member Fleckenstein seconded that the Zoning Board of Adjustment approve the special exception application request by Sylvester One Family Trust, Danny A. and Renee Sylvester- Trustees, Owners/Applicants, for the creation of a family apartment, to be constructed in a 26' x 22' addition on the back of the home and will meet all setback requirements, on property located at 51 Woodrow Avenue, Tax Map/Lot # 133-060-00, RS Zone (Single Family Residential District). This family apartment meets the requirements as set by Section 305-29.8 of the Franklin Zoning Ordinance as outlined in the detailed draft decision reviewed and approved by the Board.

All were in favor and the motion passed.

Decision to Approve: I move that the Zoning Board of Adjustment approve the special exception application request by Sylvester One Family Trust, Danny A. and Renee Sylvester- Trustees, Owners/Applicants, Special Exception for the creation of a family apartment, to be constructed 26' x 22' on the back of the home and will meet all setback requirements, on property located at 51 Woodrow Avenue, Tax Map/Lot # 133-060-00, RS Zone (Single Family Residential District). The Board finds that the application satisfies the requirements as set by Section 305-29.8 of the Franklin Zoning Ordinance, or is appropriately conditioned, in that:

- A. The dwelling is owner occupied.
- B. The owner will be related to the persons living in the proposed family apartment.
- C. The owner **shall** prepare and record with the Registry of Deeds a Restrictive Covenant regarding the occupancy requirements as outlined in criteria A, B, J, O, and P of section 305-29.8 of the Ordinance. The cost of recording this document is the responsibility of the owner. A draft of this document shall be submitted to the Planning Office for review and approval prior to recording the document.
- D. The proposed addition will meet the setback requirements in the Ordinance.
- E. This criterion does not apply.
- F. This criterion does not apply.
- G. The design, appearance and access issues shall apply to this proposed addition and the details of these issues shall be detailed in the building permit application and be approved by the Planning and Zoning Administrator.
- H. The approved family apartment **shall** be the only one allowed in this dwelling.
- I. The proposed addition and the family apartment meet the living area requirements of this criterion.
- J. This criterion **shall** apply and **shall** be included in the Covenant described in item "C" above.
- K. The plan demonstrates that the required off street parking will be available.
- L. This proposed family apartment will be located in the proposed addition to the existing dwelling.
- M. The owner **shall** obtain a building permit for this proposed addition.
- N. This criterion does not apply since the property has city water and sewer.
- O. The Occupancy requirements contained in this criterion **shall** be addressed in the Covenant described in item "C" above.

- P. The Occupancy requirements contained in this criterion **shall** be addressed in the Covenant described in item “C” above.
- **Z11-09:** Douglas E. and Eileen K. Miller, Applicants/Owners, request a Variance to remove their existing home and build a replacement home where the roofline will be raised ten (10) inches and the living area will be increased from 844 square feet to 1748 square feet (with the addition of living space in the basement area of the home), on property located at 107 Webster Avenue, Tax Map/Lot # 076-108-00, LP Zone (Lake Protection District).

Angela Carey indicated that on the board members desks this evening was put the copy of the original floor plan. On this floor plan the correct square footage was 1808, which is different from what was on the public hearing notice; however, the plan was not amended, the numbers were just calculated incorrectly for the notice and have currently be recalculated accordingly.

Doug Miller was present to speak. He stated they are looking at replacing their existing house on the same footprint, creating additional living area in the basement. The house will remain 3 bedrooms, and as it is within the shoreland area, they have received a wetlands permit and a new septic plan for a new septic system. He stated that based on code requirements, the height of the house will be changed 10”.

Member Russo asked if the house would be four season after and Mr. Miller stated that it would remain seasonal. Member Russo asked if trees would be removed and Mr. Miller stated that two would be removed for the new septic system.

Member Gagnon stated that on the map it shows an area of temporary disturbance and asked about this. Mr. Miller stated that it is an area that will be impacted during construction, but this will be temporary and it will be brought back to how it is now after the work is done. Member Gagnon asked if it would be turned back into lawn and Mr. Miller stated it would be.

Member Russo asked if they were on City water and Mr. Miller stated they are. Acting Chair Farmer asked if Mr. Miller indicated a new septic was being put in and Mr. Miller stated one is. Richard Lewis stated that it is a condition of the septic approval that the house remains seasonal.

Member Fleckenstein asked what is located below the deck. Mr. Miller stated it storage.

The septic plan was pulled to show where the septic would be going and where the trees would be removed.

Public Comment

Wendy Griffith, an abutter whose house is located directly behind this house, indicated that she is the most effected due to her view of the lake. She stated they have a two story house and she doesn’t want her view affected. She stated that the owner did change his plans at the beginning when she raised concerns about the height changing. She stated the only reason the height is changing now is due to code and she appreciates the owner working with her. She stated this will be a good change for the neighborhood and the city.

Mr. Lewis then read into the record the email that was received from Susan Kilroy showing her agreement with the proposal. It was indicated that other letters were in the packet for the board from other neighbors, supporting these changes.

There was no one further to speak from the public.

Board Discussion

MOTION: Member Fleckenstein moved and Member Sargent seconded that the Zoning Board of Adjustment approve the variance application request by Douglas E. and Eileen K. Miller,

Applicants/Owners, request a Variance to remove their existing home and build a replacement home where the roofline will be raised ten (10) inches and the living area will be increased (with the addition of living space in the basement area of the home), on property located at 107 Webster Avenue, Tax Map/Lot # 076-108-00, LP Zone (Lake Protection District). The application is referenced as Z11-09. The Board finds that the application request meets the tests and criteria necessary for the granting of a Variance as spelled out in the draft Decision of Approval which has been reviewed and approved, including any modifications, by the Board.

All were in favor and the motion passed.

Decision of Approval

I move that the Zoning Board of Adjustment approve the variance application request by Douglas E. and Eileen K. Miller, Applicants/Owners for a variance to remove their existing home and build a replacement home where the roofline will be raised ten (10) inches and the living area will be increased (with the addition of living space in the basement area of the home), on property located at 107 Webster Avenue, Tax Map/Lot # 076-108-00, LP Zone (Lake Protection District). The application is referenced as Z11-09. The Board finds that the application request meets the tests and criteria necessary for the granting of a Variance in that:

- a. The Variance will not be contrary to the Public Interest due to the fact that the proposed improvements will be constructed within the existing footprint of the existing house. Further, the use and its intensity [residential dwelling with 3 bedrooms] will remain the same.
- b. The Spirit of the Ordinance is observed due to the fact that the existing structure is a single family house that is allowed in the LP zoning district and the proposed use will not change.
- c. Substantial Justice is done due, and the values of the surrounding properties are not diminished due to the fact that the requested uses are intended to allow for the continued use of the property within its existing footprint and no significant impacts to any abutter will be created, and the proposed dwelling will replace an older and outdated structure that is in need of significant repairs, thus the values of other properties will be enhanced.
- d. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:
 - (A) Unnecessary hardship mean that, owing to the special conditions of the property that distinguish it from other properties in the area, then: i) No fair and substantial relationship exists between the general purpose of the ordinance provision and the specific application of that provision to the property; and ii) the proposed use is a reasonable one. This criterion is satisfied due to the fact that the house is located on a sloped lot that creates a natural walk-out design; further, the establishment of the living space on the lower level is a common alteration of a structure; additionally, to deny the variance would deny the owner of a reasonable and appropriate use of the structure and land.
 - (B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. Since the provisions of criterion “d.A” are satisfied this criterion option is not needed.

This approval is subject to the following conditions:

1. The applicant or their designee shall obtain the necessary demo/building permits for the proposed work and a Certificate of Occupancy once the work is completed.

2. The maximum additional height that is allowed is the ten (10") to the peak of the structure. The builder shall provide a certification to the Planning and Zoning office that the completed structure fulfills this condition.

Old Business: None.

Other Business:

- **Nomination of:**
 - Chair
 - Vice Chair
 - Secretary

The board has indicated that they will continue with things the way they are currently, with Chuck Farmer as the acting Chair, and will do nominations in January.

Planner's Update:

Richard Lewis indicated that he has received notification from the Attorney for Nawoj and a rehearing request is being submitted, which the office should receive tomorrow, regarding this. He stated the rehearing will be on the agenda for November 2, 2011.

Members Farmer, Sargent and Gagnon asked for Hard copies of the land use and planning books.

Public Comment: None.

Adjournment

MOTION: Member Sargent moved and Member Gagnon seconded to adjourn the October 5th, 2011 meeting of the Zoning Board of Adjustment, at 7:42 p.m. All were in favor and the motion passed.

Respectfully submitted,

Angela M. Carey
Planning and Zoning Administrator