



TOWN OF WAYLAND
MASSACHUSETTS
01778
BOARD OF APPEALS

TOWN BUILDING
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MINUTES
AUGUST 26, 2014

Attending the hearing were Eric Goldberg, acting Chair, Aida Gennis, Thomas White, Michael Connors, and Associate Members, Linda Segal and Arjie Shaprio. Norma Badger was in attendance to take minutes. Building Commissioner, Jay Abelli also attended.

Application of DANA and TATIANA TANIMOTO for any necessary approvals, special permit, and/or variance as may be required to change, alter, extend a pre-existing non-conforming structure by more than 20% (demolish existing carport and construct new one-car garage) within required front yard and side yard setback under the Town of Wayland Zoning By-Laws Chapter 198 Sections 201, 203, 401.1.2, 401.1.3, 702, 702.1, 703.2, and 801-Table of Dimensional Requirements (front and side yard). The property is located at 2 MELVILLE PLACE which is in a SINGLE RESIDENCE DISTRICT. (14-20)

Panel hearing the matter: Eric Goldberg, Thomas White, Aida Gennis, Michael Connors and Linda Segal. Thomas White will write the decision.

Continued from July 22, 2014

The applicant Dana Tanimoto apologized to the board for not attending the last hearing. He explained to the board that he and his wife bought the house a year ago in order to down size. They would like to add a small one car garage to this smaller house. The house is on a non-conforming lot. There is an existing carport now, when they bought the house they enlarged and demolished the one car garage and converted it into living space. Now they would like to make the carport into garage which would encroach on the side yard and front yard. Thom asked if the garage would be in the same exact spot as the existing carport. Dana said it is not; it would be brought forward and less impact on the side abutter. Thom asked about the carport on the existing plot plan, and Dana said it did not show it. The carport setback is 10.7. So increasing both setbacks. Linda asked when they purchased the house it did have a garage and now was that changed into living space? Applicant explained they did change into living space and repaired the carport, but now the carport can't be repaired. Eric asked Jay Abelli about the permit for the carport going up. Jay said it was renovation and was not much of a carport structurally. Eric asked if the structure itself creates a setback. Jay said yes it would have to conform to the setback. Jay said it was there for a long time. Dana explained the carport issue. Michael Connors pointed out that the plan incorrectly shows a new nonconformity. There was talk amongst the members regarding the existing and proposed setbacks of the existing carport and then the proposed garage. Eric explained to the applicant part of the confusion is that if there is an existing carport there the new structure should match and now the new structure as proposed is not matching and there is a new encroachment and this is a difficult situation since if it is new this application would have to be a variance. Dana said the plot plan he has shows the carport at 10.9. Linda said she drove around the neighborhood and could see where people had filled in garages and had garages added but did not see them come closer to the street. Eric said the carport is being pushed further toward the street which, so wouldn't it encroach more, Thom asked. Both Eric and Thom said that does not show on the plot plan. Dana explained the carport. Thom said there is some discrepancies on the plot plans with the old one the applicant has and the new one that was submitted with the garage on it.. Applicant said he wanted to slide the garage forward for less impact on the side. Aida asked how much wider was the carport than the garage...Thom said 6" Jay said the plot plan in the building folder showed how big the carport was. Eric said if the existing carport encroached then they can allow it now by special permit to be the same encroachment, but on the pace of

the plot plan it is now going to be 10.7 which is to be negligent. The application is showing 18.9 but is really 10.9 to 10.7. Applicant asked if he could slide it more to the street to stay within that existing side setback. Thom explained that this creates a variance.

No one from public commented.

Linda asked the standard garage Jay. Jay 20-22' long said Jay.

Motion to decide if special permit and the front is encroaching 4.8'. Both setbacks are non-conforming. Members spoke about the plans and on last page about what it will look like, jetting out.

Michael Connors motioned that though the proposal will increase the nonconformity it will not be more detrimental..Linda seconded Vote: all in favor 5-0.

Michael Connors motioned to grant special permit it is not against the public or more detrimental and not injurious to public health or safety.....Thom White seconded the motion. All in favor 5-0. Linda commented on correcting the application of the correct setback.

Michael Connors conditioned on the plans submitted and make note of the old plot plan and any other departments approvals. Thom second. All in favor of the comments.

8:50 p.m. – MEETING WITH PLANNING BOARD FOR ZONING BY-LAW REVISIONS

See attached List of Zoning By-Law Revisions by ZBA; Planning Board and Zoning Board introduced eachother. Colleen, the chair thanked the board for letting them get together.

Colleen said the goal is to reach out to other boards for input on zoning by-law revisions. When there is questions between boards, would like to create a long term plan on the by-laws which are troublesome to boards. Last time was the clean up Phase I and Phase II would like to work on now.

Linda Segal explained her thoughts about the budget and Pat Cantor. And in order to be able to move forward substantially she thought this should be looked over. Eric Goldberg said he feels this is an important exercise but feels concerned that to interpret the by-laws and since the Zoning Board is not a policy making board he can only say what is problematic or confusing. It should work the other way, if they are the policy makers. Linda mentioned the list they made are specific sections in the by-law which are difficult to interpret, which would need to be cleaned up or rewritten. Just things in the past that has caused them some trouble. Aida said #5 and 6 would add to ease of their work, and for the public. #6 and have to comply with all other bodies in town for applicant to have some kind of fashion of which way to approach first. Colleen asked about the last two items and budget. Sarkis, Town Planner said it does have an affect as they would have to budget it for someone to do, someone may volunteer on the Planning Board. Eric explained Brookline's procedure about how they go to Planning Board first and last to Zoning. Eric explained about times when they are the site plan approval body and other times they are not. Sarkis spoke about the procedure of the site plan. Linda said she would like to give credit to the staff that they do communicate amongst themselves but it does come down to the boards. Eric commented that one of big problems he has with the by-law is the demolition part and feels it provides no guidance. Some applications are more obvious than others for the demolition part. But from a policy standpoint, can't understand the purpose of the by-law to preserve the look, but at the same time he wonders why property owners can not tear down a house if they want and what harm is that and just put something up to conform to neighborhood. It just makes it very difficult for them to know how much to be persuaded that the house has to be taken down. Aida said #1 is a problem the definitions, the list in the by-law is not a dedicated list in home occupation which they were challenged at one time. What business, only what is listed there?

Linda asked about the Aquifer protection district and is a large part of the town and densely populated. Thom said there is a subsection of that and the impervious surface %, two different ways you could interpret it. Linda said this could be a project for budget purposes and residences also and maybe before Town Meeting. They could be helpful for the drafting if it goes to Town Meeting. Colleen also agreed that it is the drafting they are looking for. Eric

asked about the floor ratio and would be a way to medicate for the demolition / and constraint to rebuild to ratio that is not over and you avoid replacing a starter house with McMansion. Colleen said this is definitely a long term project and will keep informed.

9:20 p.m. back into zoning hearings

Application of ROBERT J. ANDREWS and MEREDITH STEWART-ANDREWS for any necessary approvals, special permits, and/or variances as may be required to demolish a pre-existing non-conforming single family dwelling and construct a new single family dwelling within required front yard, and rear yard setbacks under the Town of Wayland Zoning By-Laws Chapter 198 Sections 201, 203, 401.1.2, 401.1.6, 702, 702.1, 703.1, 705.1.2, and 801-Table of Dimensional Requirements (rear yard and front yard). The property is located at 2 GAGE ROAD, which is in a SINGLE RESIDENCE DISTRICT. (14-21)

Panel hearing matter: Eric Goldberg, Aida Gennis, Thomas White, Michael Connors, Linda Segal. Eric Goldberg will write the decision.

Eric explained to the applicants they look at this application in two phases: Can they satisfy the demo part of the by-law first and then look at the structure at a secondary part. In the past what they do is halt the proceeding and book a site visit so they can have a first hand look at the structure. However there has been one other case of destroyed by fire and it was so obvious they did not need a site visit. Eric asked the board members if they were here at this same point and do they think they need to schedule a formal site visit. Would like to ask the members how they feel. Michael Connors motioned to waive the site visit and go straight to discussion as to what is being rebuilt. Linda said this is a substantial application and there is pieces they do not see, as a report from the fire department. The applicant, Bob Andrews said this is his first time doing this and he literally fell into this. Linda said she was wondering about the fire department or board of health condemning it. Eric said they don't have to be persuaded with the Fire Department report and most times it has been houses that no one has occupied. There is no dispute this is a Fire Damaged house. Just wonder if they don't need it here because this house just fits the bill.

Applicant said he is glad to summarize....As soon as you drive up the driveway you can smell the smoke, the burnt smell, it started in the basement in 2012 and worked its way up. Surprised the abutters haven't complained to the town about the smell. Cannot mitigate that smell by cleaning things up and the material is the final structure. Argie asked if they could leave the house (frame). Applicant said you have to remove everything right down to the foundation and the reason is because of the death in the house people have a tendency not to want the house. Also the water had been shut off for at least 6 years before the fire, so there was no sanitation or water. Michael Connors said he did not know if this was necessary and under the by-law it does mention fire with a fatality. Eric agrees with Michael and presents itself as damaged or destroyed. Thom agreed also and is different than other cases for demolition. Aida agrees also, but would like to ask Jay. Jay said he has not been in the house but has walked around the house and it was unkept.

Eric said they have in the past taken a vote for the demolition but on the strength move forward to the proposal and take a vote in the end.

Applicant said in his application, it was filed prior to the site plan and did not have the survey before he filled out the application, so would have to look exactly on the plan and not the application. Explained the new setbacks new one 17.1 / side yard and front yard, conforming street lines little shy on the center line, closer to 50 than 55, right side is no closer than the old footprint and you can see in the front it is a quite bit conforming, the rear that is shown is 1.7' of compliance. Tried to do better than what was there and make it less nonconforming.

Linda asked about the trees and what are the plans. Applicant said most of trees in front are over mature and too close to existing structure. Also the back yard septic would have to. Would have to have tree company come in and take the trees down piece by piece and do not have a problem putting in landscaping once the house is there, fencing, stone work, etc. Don't want to overbuild the neighborhood would like to maximize what he can. Everything trying to propose would be an improvement.

Applicant: Staying within the 1.75 stories and do not want the height to be too high and not the house to be too big.

Public:

Steve Fugarrazzo, 17 Maguire Road, abutter northwest corner of Maguire Road. Demolition part has question, was built in the 50's and questions the asbestos and lead paint and is concerned that this does not get spread when demo. Want to know specifics about the septic and where it is proposed to be located. Lastly, heavy equipment concerns and making sure when trucks come in, no damage, safety of neighborhood. Applicant thanked Steve and will make this a point to talk to his contractors. The asbestos issue, he had to have a company come in and take extensive samples. He hired a professional to come in and take care of the asbestos issue and this was a requirement. Lead Paint has not been tested, but not a requirement for the BOH which he has already got approval for.

Carol Brennan, 27 Fuller Road, concerned about the height of the house and how it compares to the existing structure and how much higher will it be. It would be nice to save some trees and not too high and otherwise can see why he is doing. Thom said the height is 25.7 and by-law is 35. Eric explained that it is determined by mean grade and it is well within the by-law requirements.

Linda asked on tab 4 did a neighborhood comparison with the 1.75 story and 2 story and there is a mix. Linda also commented she would like to see some of the trees stay.

It was stated that there were support cards from abutters which they received. Two had concerns and one was the modular type home and was concerned about that. The applicant said the quality of the modular home, will have hardwood through the house in kitchen, tile in mudroom entry and then entire second floor will be hardwood. Going a little bit above / like the kitchen appliances. Want the house to sell and have a product that someone would like to buy.

Linda asked if the proposal is going to bring back the deck to 30', would like to have the option of 28. But would be happy to comply. Wanted the deck to have access to dining room and . Eric said the new house is decreasing some of the new conformities and not concerned with it and Thom said decks are a bit visually different and will be closer to ground.

Michael Connors made a motion that although the new house , the old house being substantially damaged by fire, will be nonconforming it will not be more detrimental.... That the proposal is not against the public or detrimental or inhabit and meet conditions of by-law and grant special permit with condition of the plans and the applicant shall maintain any other approvals from boards, and reasonable measures to protect the neighborhood of all construction and equipment. Put in the decision for the applicant will notify his abutters as to when the tree work, and cranes, and construction of modular. Linda suggested to tag the trees that would be saved so no one cuts them down incorrectly. The board did not want to constraint the applicant on the tree.

Eric motioned to grant, Thom second. Vote all in favor.

Other Matters:

Eric moved to approve minutes of June 24, 2014 and July 22, 2014. Thom second all in favor.

Michael Connors motioned to adjourn, Thom seconded. All in favor to adjourn at 10:12

December 9, 2014
Approved by ZBA


Signed by: