



TOWN OF WAYLAND
MASSACHUSETTS
01778
BOARD OF APPEALS

TOWN BUILDING
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April 14, 2015
Minutes

Attending the hearing was Eric Goldberg (Acting Chair), Thomas White, Aida Gennis, Michael Connors and Linda Segal. Jay Abelli, Building Commissioner was in attendance. Norma Badger was in attendance to take minutes. Hearing started at 8:20 p.m.

Application of ROBERT and CAROLINE HIGGINS 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% (construct second story addition) under the Town of Wayland Zoning By-Laws Chapter 198 Sections 201, 203, 401.1.2, 401.1.3,. The property is located at 26 PARKLAND DRIVE which is in a SINGLE RESIDENCE DISTRICT (15-04).

CONTINUED FROM 3/24/15 – NO QUORUM THAT DATE – NO PANEL SET

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

Steve Commoli the builder represented the applicants. They would like to stay within the roofline take the roof off and build a partial second story and go one inch one direction. Staying within the footprint. Linda asked about the percentage of the increase of the living area? Steve Commoli said it was over the 20% which is 28 or 29% did not have the exact percentage. Will be squaring off of the structure which will increase a little more.

Public Comment: No one spoke.

Michael Connors moved to make a finding that although it willThom second, all in favor 5-0. Michael Connors moved to grant the special permit and not out of character and not dangerous to public health to conditions with plans presented and applicant shall obtain all other necessary approvals. Aida second. All in favor 5-0.

Application of WAYLAND SWIMMING & TENNIS CLUB, INC. for any necessary approvals, modifications, special permits, variances and/or amendments as may be required to modify previous Z.B.A. Decisions including but not limited to Decision Nos. 94-5, 97-21, 01-51, 03-09, 04-16, 05-21, 06-32, 10-16, 11-34 and 12-09 (extend term of special permit for 5 years and amend condition #9 to add limited adult morning lap swimming) under the Town of Wayland Zoning By-laws Chapter 198 Sections 201, 203 and 802 – Table of Permitted Uses by District (Use #21). The property is located at 228 GLEZEN LANE which is in a SINGLE RESIDENCE DISTRICT and AQUIFER PROTECTION DISTRICT. (15-06)

Panel hearing matter: Eric Goldberg, Aida Gennis, Michael Connors and Linda Segal. Thomas White excused himself since he is a member of the club. Eric Goldberg will write the decision. Brian Levey, Attorney represented the applicant. Lisa Flathers from club and the current President, Julie Raines, of Wayland Swim and Tennis Club spoke for the club. Attorney Levey explained how

long this club has been in existence and that the permits have been renewed and the club has added some things along the years. Have 18 memberships for neighbors in the club area (neighborhood) May 1 through October 1. There is a cap on the parking. Now request to extending their permit for 5 years, have been going strong for 53 years, the club is an asset for the town and residents. Eric Goldberg asked Brian Levey why they would not ask for 10 years and Brian said in the past he was always told 5 years but would love to go for 10 years. Eric opened it up for discussion for the board and said if this operation has been going on for so many years, he does not see why they could not have a 10 year request. Linda Segal mentioned that years back there were people in the neighborhood who have had concerns and given the sensitivity of Glezen Lane that is why the board has chosen to keep it at 5 years giving the neighborhood and the club a chance to communicate on how things are going. Brian Levey explained the second item they are also here for is the adult swim; 2 hours earlier in the morning, no more than 10 swimmers, no diving board, no music. Eric asked what the adult age is. The president of the club said this was suggested by many of their older members who have children that go swimming at 9:00 and some members would like to go swimming before that time. Eric Goldberg suggested addressing the extension of years first and opening it to the public.

Permit extension comments: Public:

William Cantor, 15 Autumn Lane questioned the premise of the statement, it has been better in recent years, saying that there has been a constant pushing of the limits. So these hearings help to keep the discussion open to the neighborhood.

David Birkner of 233 Glezen Lane, mentioned that the intention of the five years was to be able to have time to air any issues. Bob Cramer of 19 Autumn Lane, the only reason for 5 years is for the people not acting in the scope of work. Zoning Member, Michael Connors mentioned that the advertisement said 5 years so therefore the board should go with the 5 year renewal.

Request to allow adult lap starting earlier 6 days a week:

Public: David Birkner of 233 Glezen Lane, has concerns about lifeguards, applicant said there will be. Eric also mentioned that it does say it in the conditions.

Steve Geiger of 21 Hickory Hill Road, said he has started swimming and started at the town pool in the winter but would like to consider doing this at the Wayland Swim and Tennis.

Eric asked about the demand of people showing up. The applicant said it would only be a handful and there was a small group asking and the Club looked from it at a stand point of how the town looks at what time it allows noise to start, such as associating it with the starting of construction at 7:00 a.m. Want to make sure they are serving all the members of club.

Donald Schuler of 3 Peartree Lane – His wife goes swimming and would enjoy it and feels it is a good idea and does not see many people there, does not think it would be a problem

Bill Cantor – Would like to know how we control this and what if there are more than 10 people and screaming and playing Marco Polo. He knows the club goes out of their way to restrict parking but how will we enforce this. Eric said there must be a system in place to report to the club and the other way to report is to the Building Commissioner who is the enforcement officer and you can bring it up to him. Linda Segal asked Jay Abelli, Building Commissioner if they have any record of violations and

Jay Abelli said no. Bill Cantor said it does happen on the weekends and no one is around from the Town to file a complaint to. Eric said he would hope there is a level of respect among the membership to adhere to the rules and regulations and the proper enforcement piece will be there.

Aida Gennis said there is a neighborhood liaison which is Bob Cramer of 19 Autumn Lane and asked if he does meet with the neighbors occasionally. He said he has met with them once and maybe twice a year, at the opening and closing of the Club (summer). Eric said this is a much lesser effect of an activity. This is a pretty low impact.

Steve Geiger of 21 Hickory Hill, it is something that the club takes seriously with these conditions. The club has made every bit of (effort to deal with)overflow parking, have hired police detail, put signs up and every intent has been made.

Carol Birkner of 233 Glezen Lane, does not have a problem with 10 swimmers, but the problem is the club is extending the condition to just a small part of the club now and she has a concern that perhaps they would eventually ask to open up the Club at 7:00 a.m. (for all activities) and the enforcement with the club has been in some need.....

Bob Cramer: Concerned about some things....why wouldn't 8:00 a.m. be sufficient and etc.

Brian Levey said he has been doing this for 25 years, and with all the neighbors it has gotten much better. The Club has spent many times trying to enforce and if Bill has a list of things he doesn't want he should speak with the club's staff. There is a way to address these things and he can deal with issues through the club. There is some benefit that the club has showed they try to make these neighbors happy and stay within their conditions. They(the Club) know if they want to change they know they have to come back to the ZBA board.

Linda Segal said she hears this, but on Saturday it says it opens at 10:00 a.m. and now they want to open at 7:00 a.m. and maybe talk about doing this during the week days.

Bob Cramer does think week day would be better than weekends. Also a trial period would be good.

Eric Goldberg said this one item strikes him as some adults being able to behave themselves and would not impact much, but on the other hand some trial run would make sense instead of waiting for 5 years. Maybe 8:00 a.m. on Saturday instead of 7:00 a.m. Brian Levey asked to leave it at 7:00 a.m. during the week and 8:00 a.m. on Saturday.

26 Jeffrey Road – Sarah Greenaway stated that there is not a lot of talking during lap swimming (she does it a lot) it is a very quiet time and is a very quiet time of day.

The president of the Club said to stick with 7:00 a.m. and there are only 2 or 3 of the same neighbors that do come to complain and they (the neighbors) would still have to prove this (their concerns).

Bill Cantor said there are only 2 in opposition but there are more which could not make it. The hours have been expanded in the past and this is the creeping expansion. There has been an expansion of the tennis club program, there is a tent which is white, and named off a few things that have been added. Eric Goldberg stopped anyone else from commenting because he did not want to turn this into a time to

criticize and should stay focused on what is in front of them. Bill Cantor opened his computer and played the noise of what he hears on his deck at night, does not want this noise at 7:00 a.m., not enjoyable for him and now this will be a new activity.

Mitchell Shields of 11 White Road, seems like there is a part of the neighborhood is unhappy and there is a process set in place for complaints.

Bill Cantor, believes this is the (ZBA) board's requirement to listen to the renewal part and expansion concerns and both should be considered (by the ZBA).

Eric Goldberg closed public hearing.

Board discussing: Eric, yes this is an expansion that may creep a little, but it also strikes him as a low impact, but at the same time he is not opposed to allow the times requested for the week days but hesitant on Saturday. Favor of extending the renewal for the 5 years.

Two parts: Renewal

Eric moved to grant the application for the Wayland Swim to extend the existing special permit for general operation for 5 years and this is independent to the morning lap swim...Michael Connors second all in favor. 4-0.

Aida Gennis stated that asfor the expansion of hours, she understands that for the neighborhood to have another use added in their area it would make it important for an organization to take care of the neighbors regardless if they are a member or not. They (the neighbors) should express their concerns to the club and town. Aida emphasized to the public that she encourages people to write to the building department about their concerns and also to be confident enough that it is ok to do this. It is necessary to understand that these neighbors do not move away from the club they live here are always there, so they have to experience these situations on a daily basis and their concerns should not be minimized. Expansion of 2 hours 5 days a week and then 1 on Saturday. Typical is for one year and then come back to see how things are working out. Perhaps we should not have the Saturday morning. Linda said she would be comfortable with the weekdays and not Saturday and come back in a year. Michael Connors felt the same way for the neighbors' accommodations. Could not support a Saturday with the issues brought up with the neighbors.

Eric said based on the view of majority, would suggest to modify the proposed paragraph to read morning 21 years of age to open at 7:00 a.m. Monday to Friday and excluding Saturday and Sunday with no additional noise and term to allow 1 year.

Vote: 4-0 for the M-F swimming and come back in 1 year to review and 5 years for extension of the club itself...

8:35 p.m. Application of SAMUEL and DEANA HANNA for any necessary approvals, special permits and/or variances as may be required to change, alter, extend a pre-existing, non-conforming structure by more than 20% (demolish existing garage and construct a two story addition) within required front yard under the Town of Wayland Zoning By-Laws Chapter 198 Sections 201, 203, 401.1.2, 401.1.3,

702.1, and 801 – Table of Dimensional Requirements (front yard) The property is located at 19 AMEY ROAD which is in a SINGLE RESIDENCE DISTRICT. (15-05)

Members read letter submitted by Jay from a 2002 decision regarding Amey Road and private way issues.

Hearing started at 9:15 a.m.

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

Paul Townsend represented the applicant (designer of addition). To add to the letter he showed a plot plan of the area and in 2012 has an easement and Amey Road. Showed the projected streets and to call it not buildable showed why and it is very steep behind the house.

Showed the house as it is today, and the layout. Plan is to expand it, first floor, garage removed and breezeway and then new garage and L shaped addition. Showed the second floor of the L shape portion. Showed elevations. Linda asked what the percentage of increase would be. Jay Abelli said he had figured it as 54%. What is being proposed and demolished. 863 ft of increase.

Eric said the real problem is the setback. Eric did research on this of the paper road and setbacks. What he found was that for zoning purposes it demands on abandonment and the fact that it is unusable does not mean that there is no right to use it. What concerns him is that you put aside the paper road you are still proposing to come in closer to a lot line by 7' and typically they never allow that. Linda asked about the research and what relationship that the easement and the owner has to this proposal. Eric said they are beyond that, the issue is the zoning. Front yard, rear yard. Very substantial encroachment to setback.

Paul Townsend said they are only increasing by 5'. Linda said the fact is increasing into more nonconformity. Paul said the septic system has to be located there due to the soil. Eric understands that but the problem is historically they don't allow a substantial encroachment. The placement of septic is not the sort of hardship that would drive the encroachment. The paper road is an issue but the real issue is the encroachment and setback and then the paper road. Thom agreed with Eric on that. Typically they analyze the encroachment and if it already exists it's a different situation but when it encroaches even more then they don't agree. Could see the same encroachment as it exists now but not more encroaching. Existing is now 13.9 and would look at an addition that stays at that. Linda said the construction of it, how much fill and the bylaw regulations. Mr. Townsend said no fill would be involved.

John Townsend, the geometry of the lot and relationship of septic to the addition. Showed the current cesspool and BOH needed this brought up to today's standards.

Eric asked what would prevent them if they are constructing a septic what would stop them from pulling forward, have plenty of room to pull something forward and something to the side yard. John Townsend said just the area and foliage and driveway and access to second floor. Aida asked about going straight across and forward. John said because of second floor access there is more head height. Thom showed what he meant, and how the addition could be shaped and be within setback or existing setback. Just about the design configuration. Eric felt that the board was not prepared to vote in favor because it runs counter to what they historically have approved. It seems there could be a different way without running

so far in the setbacks and if another member feels the same way the applicant should alter the design that respects the existing setback and does not encroach more.

Jay agreed with Thom's suggestions. Michael Connors said another suggestion would be to withdraw without prejudice if it takes a while.

Paul said he would suggest continuing and then redrawing it and come back.

No one from the public was here to comment.

Continued to May 26, 2015 at 8:20 p.m.

Other Matters: Minutes of 2/24/15 and 3/24/15 Michael motioned to accept, Thom second. All in favor.

Aida said with the sudden resignation of the Chair, the board should discuss appointing a Chair and have a conversation to support a chair in a better way. Part of it being the start time and writing decisions. 8:20 was for the last Chair. Open to discussion.

Eric agreed with the earlier start time and maybe about 7:00 p.m.

Reorganization issues at next hearing. In other matters.

Michael Connors motioned to adjourn, Eric second....all in favor.

June 23, 2015
Date Minutes Approved

Norma Badger
Prepared By