



TOWN OF WAYLAND
MASSACHUSETTS
01778
BOARD OF APPEALS

TOWN BUILDING
41 COCHITUATE ROAD
TELEPHONE: (508) 358-3600
FAX: (508) 358-3606

MINUTES
MAY 12, 2015

Attending the meeting was Eric Goldberg, acting chair, Thomas White, Michael Connors, and associate members Shaunt Sarian, Linda Segal and Argie Shapiro. Norma Badger was also in attendance to take minutes. Meeting started at 8:20 p.m.

Application of JUDY DION and BENJAMIN NICHOLSON for any necessary approvals, special permit, variance as may be required to amend Special Permit #02-06 dated April 9, 2002 (condition #5), to finish loft space and to allow a home occupation (paintings conservation studio) under the Town of Wayland Zoning By-Laws Chapter 198 Sections 201, 203, 901.1.2 and 804-Table of Permitted Accessory Uses by Districts (Use #62). The property is located at 5 STANTON STREET which is in a SINGLE RESIDENCE DISTRICT. (15-08)

Panel hearing the matter: Eric Goldberg, Thomas White, Michael Connors, Linda Segal and Shaunt Sarian. Thom will write the decision.

Judy Dion represented herself and explained to the board what her profession (painting conservation) is and that they moved here recently and that she would like to go into private practice. She thought the unfinished space above the garage would be a good place to practice. 8:00 a.m. – 6:00 p.m. She would expect to see occasional clients maybe 2-3 a week and the same for deliveries. Spoke with neighbors on the street and they have no problem with this. Submitted 2 supporting letters from the closet abutting neighbors.

Eric said they have to run through the criteria of the profession. Linda said what constitutes a home occupation? And this is the first time she has seen this type of occupation. Linda credited her for her application submittal, very complete and detailed. Linda compared the occupation to somewhat of the Yankee Craftsman Shop.

Eric said customary home occupation in the by-law is very broad and it does include crafts, and studio for craftsman. Under 901.1.2 the first criteria.....and read out loud and the under 500 sq ft and under the 25% square footage. Eric asked about ventilation and would there be need. Judy said she does use solvents but not enough to necessitate ventilation.

Linda asked about the materials and for her safety and everyone else's safety. Linda asked about the snow removal and how emergency vehicles would enter if needed. Judy said their driveway is 2 car and have a clear lane that goes back to the garage door for access. Linda said she would have greater comfort if the Fire Department looked at it. Thom said he did not agree, and there is a cabinet for solvents and fire department would not have anything to say about it. Linda said it was just a question of the fire department if they were to be called out there at least they would know what they could expect when they show up. Thom said the fire department would only have it when it goes above what the code allows. Argie asked about storing the solvents and how many would she have in the cabinet. Judy said that she

would maintain less than 10 gallons of the solvents (combined). Just puts in small amounts in cabinets to store. Judy said she wouldn't mind talking to the fire department about disaster recovery procedure. Thom told her to raise the issue at the time of submitting the building department.

Eric continued with the criteria....seems to meet all the criteria. Argie asked about the amount of rooms listed on the Board of Health approval. Judy said they were not going to have any plumbing in the garage.

Nobody, other than the Petitioner, attended the hearing in favor or opposed.

Michael Connors motioned to grant a special permit to the home occupation as submitted conditioned on the criteria in the by-law. Thom wanted to know if it would be an amendment to a special permit or will it be a new permit or another condition. Eric said to make it a new decision and amend the condition in the new decision. Reference the earlier decision. Make a motion to amend condition #5 and a motion for the occupation. Michael Connors made a motion for the occupation, Thom second. All in favor 5-0 Michael Connors said to amend condition and make a finding that although.....Eric second, motion to grant special permit.....move to grant special permit to the following conditions...the condition #5 of 2002 and use the accessory building of the second floor to the home occupation and those conditions. Linda second the motion. All in favor 5-0

Application of CAROLYN and RICH ROSS 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% (construct front entry) 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 32 AQUEDUCT ROAD which is in a SINGLE RESIDENCE DISTRICT. (15-09)

Linda Segal mentioned she would recuse herself from the hearing since she is an abutter.

Panel hearing the matter: Eric Goldberg, Thomas White, Michael Connors, Shaunt Sarian and Argie Shapiro. Michael Connors will write the decision.

Eric explained to the applicants that before they get explaining their project, Eric said he spoke with Jay to explain the project. As Eric understands this application is to ask for approval for a porch piece encroaching into the setback. It is a conforming lot and what the applicants are asking to do is to create an new encroachment and cannot do that unless they grant a variance and as a board they do not have the authority to grant through a special permit but would have to do that through a variance with a brand new encroachment. The only way to get the variance is shape, size and topography of the lot and the applicants would have to convince them of that.

Eric said he does not mean to speak for all of the board members but the likeliness of this project would not go through. Michael Connors mentioned that the shape, size and topography is from Mass General Law and they have to abide by that. Eric said the hardship would not work, don't come close to the criteria.

Rich Ross said their understanding is that things that are exempt are roof eaves, landings, etc. What they are proposing is essentially 2 pillars to hold up a roof and not even a porch, a covered section of the stairs. Roof supported by 2 pillars. Eric said he understood (from Jay) that what they are proposing to do with the pillars is creating a structure. The applicant said this is not what they were told by the building department and feel they would have not gone through with this but had been informed by the building department that people have done it before in the past and they could ask. Eric explained to the applicants that sometimes with nonconforming lots they could have granted encroachments that already exists and have said no to many other encroachments and if it is a variance they need it is a very tough criteria and even if it was a special permit Eric would have a difficult time granting this. Eric said even though the applicants are doing very small structure type with a small encroachment that would not qualify for the reason. Thom said he

has a slightly different opinion..he would not agree that it is a porch. Eric explained that it was the structural element and this creates the problem. Its not just an overhang and a set of stairs and that is creating the issue for the Commissioner. Eric said Jay was focusing on the column elements. Eric asked if the overhang could be supported without the columns. Thom said they cannot make a nonconformity on a conforming lot and would need a variance. Eric said the connective tissue is the problem and the plans before them create the problematic piece of tissue and Eric does not see it differently. Its no waste of time and sometime issues come up and sometimes they agree with the commissioner or they don't. The columns themselves are viewed as an element. Stairs, overhang and plus and it is the plus part that puts them in a variance. Thom read the definition of structure and then structure is crossed referenced in setback. The critical piece is the columns. The applicant said they could push the columns back but they didn't think it would be comfortable like that and would like it to be an entrance way with the spacing that they had proposed.

Eric said they could render a decision which would not go in favor, withdraw the application, or submit something else. Eric said in his view, it would make sense to withdraw, Michael said he would support the motion. Applicants wanted to withdraw. Michael Connors made a motion to withdraw without prejudice and if they are to come back to the board they would waive the filing fees.

Michael Connors motioned to vote Eric in as Chair. Thom second all in favor 5-0. Eric suggested to meet at 7:00 p.m. and wanted to know if it works for everyone. Vote all in favor to start at 7:00 p.m. Eric also mentioned about writing the decisions and would like to make a way to have a schedule a decision writing. Board members spoke about having the applicants' attorney write decisions. Board members spoke about writing decisions. Linda said before they would write the decision and send it to the Chair and had her back when she was first learning. Eric said he would not mind reviewing. Linda wanted to remind that if they vote on a Chair they should vote on a Clerk. Eric motioned to reappoint Linda as a Clerk, Shaunt second...all in favor.

Motion to approve March 10, 2015 minutes. Michael Connors made a motion to approve minutes that Thom reviewed, Eric second all in favor.

Michael motioned to ajourn at 9:35, Shaunt second all in favor.

June 23, 2015
Date Minutes Approved

Norma Badger
Prepared by: Norma Badger