



TOWN OF WAYLAND
MASSACHUSETTS
01778
BOARD OF APPEALS

TOWN BUILDING
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Minutes
January 26, 2016

Attending the meeting was Eric Goldberg, Aida Gennis, Michael Connors, Thomas White and Associate Members Linda Segal. Norma Badger was also in attendance to take minutes. Geoff Larsen, Building Commissioner & Zoning Enforcement Officer also attended.

Eric introduced Geof Larsen (Building Commissioner/Zoning Enforcement Officer). Geoff said he wanted to present himself and first said thanks to Norma about introducing past practice until he gets through review the by-law and what the intent and route is. Geoff explained his past work history. The board and Geoff spoke and got familiar with things. Eric said he has been on the board for 14 years and over that period they have been more informal. They try to do the right thing and try to accomplish what the applicants want to do. Eric said speaking for himself at the beginning, he has tried to evolve the BypLaws to try to help the applicant get what they want as far as they are allowed to go. Work within the by-law and where they can appropriate. Eric explained the demolition part of the bylaw has been difficult. Thinks it is their function to help the applicant accomplish what they want. Geoff said from his perspective he tries to keep notes and reference what he has said, that would be the most formal he would be. Eric said the board is not policy makers. Feels sometimes the demolition part brings some homeowners down and is tough. Geoff said the demolition, from other areas the exemption of the main concern of the volumn of the building, a about the bones of the building from his side good building practice requires to rebuild in his estimation it should be facilitate to the point of the zoning. Eric said that there are a lot of old houses in town which people would rather demolish and rebuild instead of putting on a second story and the by-law doesn't care whether it can support a second story and this seems unfortunate that this cannot justify for the damaged or destoryed. Thorn said this is what they struggle with the most. Geoff said this was a strong point in Providence Town and ran into this same situation. 401.1.6. Linda said when they did site visits it was good to have the commissioner there and letter from the commissioner on other subjects. Eric said 4 walls and what is left is a foundation they consider it a demolition. Linda said there are other issues and changes can affect what a town look likes, etc. the piece-meal approach does not work to try to fix them and for three years these by-laws have been taken out, etc. Without an appropriation of funds to have counsel advise the Planning Board on the changes of the by-law. 2004 was really to revisit these issues and it has not been done. These issues have been troubling. Aida also agreed. Some have been revisited but not necessarily have made them better. Aida said also a good index would help also. Linda said there has been a large democratic change and there are people coming into this town and finding it difficult to interpret these by-laws. Eric said what has been helpful, past Commissioners have filled out the applications and made sure of the completeness of the application. Geoff said he make an effort to get more complete applications at the counter. May want to get e-mail addresses to get things in writing. Geoff however, was nervous about "owning" someone's narrative. Geoff understands the need to know what they need on the applications. Eric said most of the applicants are homeowners that do not have counsel and a lot of times they do not know what gross floor area is and the members do not go through the file or come in. Geoff agreed that it is necessary to get this information and to feel comfortable. Michael Connors said he spoke with the commissioner on an application and on the flip side does not want incomplete application as a volunteer. Michael said that this has been the process of the town of Wayland. Thorn said he believes its because of the translation of the by-law. Thorn suggested a cheat

sheet to steer them away . By-law is not articulate. And then check the cheat sheet. Geoff said a review of the application would be helpful. Geoff said it could be a change, does not have a problem with stepping up and saying what has to be done. Geoff said he sees his job is to help the board. Aida said she would like to check what is on the application as far as the square footage. GLA was almost routinely checked and has been a big help to them. Getting the back section filled with the code sections. Geoff asked if he does not agree with the applicants numbers he should get back to them with the reason. They would have to agree to that and facilitate that application. Aida said prior was corrections and then they would point that out to the applicant. Geoff said to reach out to the board for input. Them said in the past the commissioner has reached out through e-mail with their opinion and inputs.

Application of Joseph & Jennifer Choi for any necessary approvals, special permits, variances as may be required to change, alter, extend a pre-existing, non-conforming structure by more than 20%(construct 2 car garage with master suite above and replace rear deck with covered porch) within required side and rear setback under the Town of Wayland Zoning By-Laws Chapter 198 Sections 201, 203, 401.1.2, 401.1.3, 703.1 and 801, Table of Dimensional Requirements. The property is located at 34 Bradford Street which is in a Single Residence District. (15-32)

Panel hearing matter: Eric, Thorn, Aida, Michael and Linda. Michael will write decision.

Linda Segal wanted to begin with the issue she has concerns with. The applicant's attorney on the Zoning Application was presented as Michael Thomas. Linda went to speak with Geoff Larsen the building commissioner because Mr. Thomas resigned from the board not even a year ago and this creates an issue with conflict of interest laws since Mr. Thomas was on case regarding this address when he had been on the board. Eric said the building commissioner spoke with him and flagged it as well, but Michael Thomas is not here tonight. Would think that his name on the application would but not really representing the applicants and since he is not here tonight would this matter. Linda said she is uncomfortable and would not sit on the board with Michael's name on the application. Eric looked over the conflict of interest section IV after leaving municipal employment. Forever band piece (not paid), next section, one year... former municipal are barred for one year for appearing. Eric said he is not appearing before them. Much talk about this section. "Personally Appearing" that is the barr. Linda said she is not comfortable and brought the matter to the commissioner today.

Thorn said he thinks the language "Personally Appearing" is the connection with matters under their authority. Linda said she would prefer not to sit on the panel. Eric said he is respectful of Linda's decision. Told the applicants they now would need a 4-0 vote since it will be a panel of 4 and can still go forward or continue to another day when all members are here. Applicant asked if he could explain Mr. Thomas' involvement in this. Linda said he is representing on paper. Applicant said he is not their attorney and only reviewed the plan and went to him for his knowledge. Not paying him for representation. Eric asked if they were to cross if off and sign it.

Public: Howard Koffman, Shawmut Ave. asked if this is continued will there be assistance of Town Counsel. Eric said it would be continued to have five members. Howard said it sounds like a legal matter. Linda asked the members if they had a problem with Michael Thomas being on the application and the board said they do not because it says "Personally Appearing". Linda said that if they want to delete formally and make the change and clear that for the purposes of conflict of interest. Applicant wrote and signed "no attorney" submitted tonight.

Applicant Joseph Choi explained what they would like to be adding on and based on a previous addition and now limited to 588 sq ft total and the 20% of the footprint of covered space and not exceed that. Replace the existing wood deck with covered porch and unheated. The addition, going to the south in that corner area. The addition will stay within the existing footprint of the home. By demolishing the garage and creating the new addition will make the setbacks better.

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Linda asked about the garage and 20' from the garage doors to the edge of the property and would have to make a right turn to get in the garage, how would they be able to get vehicles in. Applicant said to deal with that issue will put in wider garage doors.

Public: Howard of 29 Shawmut Ave said there is a lot going on that property. Lots of structures and personally feel there is not enough space for open space. Linda said they do have a number of letters from the neighborhood and one is their's.

Chris of 30 Bradford St, asked if they are adding another bedroom. Will keep the same amount of bedrooms they have. They have to move their septic system said the applicant.

Eric motioned that find the proposal is not against the public interest and will not be injurious and grant the special permit with conditions...

Howard Kaufman asked if the 20% ratio was met. Geoff helped the board with the swimming pool definition. Read definition. Swimming pool with article 401.1.3 regards 20% open decks.....and should not be included in gross floor area. Lot coverage.....area yard bulk, pertaining to setbacks....Geoff would said that is an accessory structure would have to meet setback but in lot coverage is not clear. 702.1. Swimming pool is not considered structure in Wayland but accessory use. Eric said if it is not a structure then it is not over the 20%. Lot coverage the pool does not count. Eric said if they just look at the definition of a structure.....Linda said when you install a swimming pool it supports a recreational facility.

Geoff said lot coverage is important....in his estimation in deterring an accessory structure is any sturcutre and if it is; is the 20% being. Eric said an accessory structure is a building structure,question is if it is a structure. If it is not defined in the definition, his read is an exising pool does not meet the definition of structure in by-law. Geoff said it is accessory in gfla but not in lot coverage. Eric said it is not within the perimeter of the walls and is excluded in gross floor area and when you take this all in think they are correct in the original assessment,the application with the new garage does not tip the project over the lot area coverage threshold.

Howard Kaufman asked if legally is their interpretation correct? Eric said they do their best, but cannot answer it anyother way,have considered it,looked at the language and feel it is being interpreted under the by-law and they have a right to appeal. Howard said then there could be an interpretation different with other. Eric said their vote speaks their own mind.

Eric stand by the motion, Thorn seconded the motion. All in favor 5-0. Linda wanted to thank Geoff for pointing out the by-law.

Michael motioned to approve the minutes of October 27, 2015/ Aida and Eric second.

Aida motioned to adjourn, Michael second. All in favor adjourned 8:24 p.m.

March 22, 2016
Date Minutes Approved

Norma Badger
Prepared by: Norma Badger

