



TOWN OF WAYLAND
 MASSACHUSETTS
 01778
BOARD OF APPEALS

TOWN BUILDING
 41 COCHITUATE ROAD
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MINUTES
NOVEMBER 17, 2016

Attending the meeting held at 7pm in the Selectmen's Meeting Room in Wayland Town Building located at 41 Cochituate Rd. Wayland, were members Eric Goldberg, Chair, Aida Gennis, Thomas White, Jonathan Sachs, and Associate Members Jason Drori, Linda Segal and Shaunt Sarian. Audio recorded by WayCam.

Approval of minutes: Motion to approve minutes: September 27, 2016 and October 18, 2016.

Public Comment: No members of the public provided comment.

The Board noted receipt of letter concerning 150 Main Street pertaining to Town Counsel. Eric stated that issue of counsel was previously discussed and felt it was more appropriate to address the letter at the time of the 150 Main Street hearings.

Aida requested update concerning signage at 110 Grill.

Application of **Wayland Housing Authority** for any necessary authorizations to modify a Comprehensive Permit (#80-38) and approvals, findings, special permits and/or variances and/or modifications as may be required by the Zoning Board of Appeals, to add a Smoking Shed within the front yard set-backs under MGL 40B section 21 and the Town of Wayland Zoning By-Laws; Chapter 198 sections 201.1.1, 203, 702.1 and 802 Table of Permitted Uses. The property is located at **106 Main Street** which is in a R-20 Single Residential District. Case #16-06 (cont'd).

Panel: Eric, Aida, Thomas, Shaunt, Linda. Eric will write decision.

Original hearing was held May 10, 2016. Matter was continued to confer with Town Counsel regarding two issues: 1) whether any state or federal regulations or statutes applied entitling residents to accommodations for smokers; and 2) whether G.L. c. 40B controlled application to construct a smoking shed in the front yard setback given that original approval for development was granted under a comprehensive permit.

Eric spoke with Town Counsel, Mark Lanza. Eric reported that Attorney Lanza clarified that no state or federal regulations applied and 40B did not serve to waive applicable zoning regulations

The matter was continued a number of times due to scheduling and other issues, but no substantive testimony was taken until the November 17 hearing.

Applicant explained that the goal of the project was to get people to smoke outside the building and to facilitate that. The Wayland Housing Authority has struggled for a long time about the problem of enforcing the prohibition of smoking indoors.

The Board reviewed the plans and discussed various constraints on where to locate the shed. Eric expressed concern that a smoking shed in the front yard setback along Main Street would derogate from the character of the neighborhood. Thom expressed concern that the location would be less convenient to residents due to difference in grading from location of the current smoking shed to the rear and frustrate the purpose of encouraging them to smoke outside. Aida appreciated the need for a solution but agreed that the proposal would derogate from the character of the neighborhood.

During original hearing, several abutters spoke in opposition to the project. Concerns included the location of the shed in the front streetscape, odor, the impact of smokers congregating in the front of the property along Main Street, and the historical character of the building.

Linda suggested that the Applicant consider withdrawing the application to determine if there might be alternative solutions and avoid a denial which would prevent the filing of a new petition for two years.

After consideration, the Board agreed to allow the Applicant to withdraw the application.

Documents submitted with application: Proposed Location Plan by Steffian Bradley Assoc., Inc., Photographs of Smoking Shelter Plant Palette, Letters from Residents Opposing Smoking Shed.

Application of **John Darack** for any necessary approvals, special permits and/or variances as may be required to modify ZBA decision (case# 15-24) in order to enclose the previously approved carport and construct a garage for one car on a pre-existing non-conforming lot that currently has an accessory use that includes a garage for 3 cars under the Town of Wayland Zoning By-Laws Chapter 198 Sections 104.2, 201, 203, 401.1.2, 401.1.3, 401.1.3.2, Article 8 and 198 Attachment 5 accessory use line #64. The property is located at **55 Lakeshore Drive** which is in a R-20 Single Residence District and Aquifer Protection District. Case #16-31.

The Board took no action on this matter because the Applicant withdrew the application.

Application of **Garrett Larivee** for any necessary approvals, special permits and/or variances as may be required to construct additions (both lateral and 2nd floor) to an existing single family dwelling with a proposed 15.4' side yard setback within a pre-existing, non-conforming lot and increasing the existing the gross floor living area more than 20% under the Town of Wayland Zoning By-Laws Chapter 198 Sections 201, 203, 401.1.2, 401.1.3, 401.1.3.2, 703.2 and 801- Table of Dimensional Requirement. The property is located at **21 White Road** which is in a R-40 Single Residence District. Case #16-32.

Panel: Eric, Aida, Thomas, Shaunt, Jason. Jason will write decision.

Applicants bought the property in 2013. They sought relief to enlarge the house and add a second bathroom to accommodate their growing family. Due to septic constraints to the south and wetlands constraints to the rear, the Applicants had no alternative but to seek a variance to create a new, side yard setback encroachment to the north. The Board reviewed the plans and constraints on the property and found that owing to soil conditions a literal enforcement of the bylaw would create a hardship without the requested variance.

The Board voted unanimously (5-0) to grant a variance subject to the usual conditions outlined in

the Decision and also subject to the condition that any further development of the property would require relief from the Zoning Board.

Documents submitted with application: Certified Site Plan by Drake Associates Inc. dated 8/5/16 and revised 9/21/16, Existing and Proposed Plans A1-A7 by Daniel Architects Inc.

Application of **John Archambault & Christine Moynihan** to appeal the decision of the Building Commissioner specifically that in the absence of building permit that the placement of storage bin/structure as an 'other than temporary' permitted by right accessory residential use in a required setback (R-30/Aquifer Protection District; 30' front yard setback) is a violation of Town zoning under the Town of WAYLAND ZONING By-Laws Chapter 198 Sections 104, 1[198-702 and 1[198-801 Table of Dimensional Requirements. The property is located at **20 Millbrook Road** which is in a SINGLE RESIDENCE DISTRICT16-16 (cont'd).

Panel: Eric, Aida, Jason, Jonathan, and Linda. Eric will write decision.

This matter was continued from August 23, 2016. Petitioners appealed from the decision of the Building Commissioner to issue an enforcement action concerning the presence of an unauthorized storage container on the property. The container was placed on the property in conjunction with a building permit to repair storm damage. However, the bin remained on the property after the building permit had been closed out. Absent an active building permit, the storage contained was an unauthorized structure. The matter had been continued with the hope that the Petitioners might be able to resolve the situation. Unfortunately, the contained remained on the property at the time of the hearing. The Petitioners explained that they were represented by counsel but no attorney appeared on their behalf at the hearing, and no additional materials had been submitted for the Board's review and consideration to support the continuing presence of the storage container on the property.

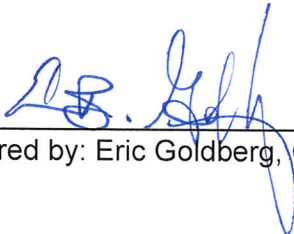
Robert Flannagan of 22 Millbrook Road presented photographs of the container.

The Board unanimously voted (5-0) to affirm the Building Commissioner's determination of a zoning violation.

Document submitted with application for appeal: Photograph of Tree Branch on House, Photographs of Storage Container, Aerial View Photographs of Storage Container and Road.

Meeting adjourned.

April 11, 2017
 Date Minutes Approved


 Prepared by: Eric Goldberg, Chair