



TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

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MEETING MINUTES

February 24, 2015

Chairman: John Benson

Members Present: John Benson (Chair), Francis Cahill (Clerk) and Kristina Pedone.

Others Present: David Femia (Associate Member) and Secretary Toby Goldstein.

Members Absent: Jon Meindersma (Vice-Chair), Charles Witkus and Paul Hennessey (Associate Member).

At 7:19 p.m., Mr. Benson called the meeting to order. He read aloud the names of full members and associate members present and absent; David Femia was designated to replace Jon Meindersma this evening. Mr. Benson stated that, before the board this evening, was the matter of the continued public hearing of the petition of Stanley Szczurko, 24 Woodland Heights Drive, for Special Permit (originally scheduled for January 26, continued due to weather). Mr. Benson addressed Mr. Szczurko, asking him if he was requesting the special permit to reconstruct a building with less than the 25-foot setback from the road required by the bylaws, and he replied "yes." Mr. Benson then asked him to step forward and explain why he was requesting the special permit.

Mr. Szczurko then addressed those present to explain the background of his need to file the petition. He described how, as of September 1, 2014, when there was a fire at his home at 24 Woodland Heights Drive, his family had been unable to occupy their home. He continued that he and his wife decided to add a second garage, in order to make a two-car garage, to his single-car garage. He hired an architect, Paul Lieneck, to make a design.

Next, Mr. Lieneck discussed what the plan consisted of. (Mr. Lieneck is of the group Haynes, Lieneck and Smith). He showed the board, on the survey plan that he had on display, the area where the addition will occur; it will be in line with part of the existing living room. It will be within the footprint of the present structure. Mr. Lieneck pointed out the basement, garage, main level, and deck of the existing house, and the excavated area of the existing garage, which has no floor board. Mr. Benson asked if the footprint would change other than the garage area,

and Mr. Lieneck replied that it would not change, the fire reconstruction would be in the same footprint. Responding to a question from Mrs. Pedone regarding the frontage shown at one part of the reconstructed house being 18 feet, Mr. Lieneck explained that the building is not parallel with the road, causing difference in frontage at different points of the building. He pointed out on another drawing that, at the basement level, there would be storage below the new garage, and they would add two garage spaces on the main level and office space above the garage. He clarified that the petitioner is no longer seeking to build an accessory apartment above the garage as was originally included on the special permit petition, due to advice from the Building Inspector, because another special permit would be required for that. Mr. Lund (Building Inspector) advised calling the area above the garage "office space" as that is allowed. Mr. Lieneck also pointed out that, at the front of the building, is the existing garage door, the new garage door and the space up above, and on the other side is the existing living room.

Mr. Femia asked if the office space will occupy the entire garage, and Mr. Lieneck replied that it would occupy all the space available in the upper garage. He added that they tried to keep the scale of it as low as they could, and there will be stairs to go up to it. Mr. Femia also asked about the size of the present garage, and Mr. Lieneck replied that it is about 21' x 13' (wide), and the new garage will be 12 feet wide and two cars deep, enough so that the cars will be inside, but as small as possible, so as to not be detrimental to the neighborhood.

Mr. Benson then asked if there is a right-of-way on the property? Mr. Szczurko replied that he spoke with Kim Hopewell, Town Clerk, and found that there is not a right-of-way any longer. It was eliminated in 1984-85, when the property was sold. He continued that the property is 40,000 square feet now, and the right-of-way was incorporated into that.

Mr. Benson asked about the size of the lot, and Mr. Szczurko replied that it is approximately 23,000 (later changed to 27,726) square feet total. Mr. Benson, referring to the bylaw requirement of 40,000 square feet minimum size, asked if it was a prior non-conforming lot, because Mr. Szczurko is proposing to expand his home on a lot below the 40,000 square foot minimum? Mr. Szczurko responded that sewer and water are not an issue; he mentioned several other homes located around his that were built on smaller lots. Mr. Benson then asked if Mr. Szczurko knew the house size relative to the lot? Mr. Szczurko replied that he did not specifically, but he mentioned other homes with 3 bedrooms and garages, some two-car garages, and opined that he knows the composition of the neighborhood. Mr. Benson asserted that this was a non-conforming lot, but the proposal is to expand the footprint on a lot smaller than what is required.

Mrs. Pedone then remarked that there is not an indication on the site map that the right-of-way was removed. Mr. Femia asked Mr. Szczurko if Stevens Drive was the right-of-way, and if it was adjacent to his property but is now part of it? Mr. Szczurko replied "yes," and that the

Town Clerk said that she would send information to the board showing that the right-of-way did not exist anymore so far as the Assessors' Office is concerned. Mrs. Pedone responded that whatever the ZBA has in its possession still shows that the right-of-way is there. (Ms. Goldstein stated that she did not receive any information from Kim Hopewell other than ownership information regarding the property-this is on file).

Mr. Benson then noted that it appeared that the corner of the addition would be 40 feet from the property line, and asked if that was where the right-of-way would be? Mr. Szczurko replied "yes." Mr. Benson noted Stevens Drive on the plot plan, and asked if it has been blocked off so that it cannot be used, and asked if there are other houses around it? Mr. Szczurko and Mr. Lieneck mentioned a Davidson Road house abutting his, and that a house was built by Ms. Watts on Parcel A. To clarify, Mr. Femia noted that her property abuts the right-of-way, and that she built a house on the property, but asked if Mr. Szczurko bought the right-of-way from her? Mr. Szczurko explained that Parcel A had 3 lots originally; because there were no sewers at that time, the Town enacted the 40,000 square foot minimum, but this property was grandfathered; Mr. Szczurko himself wanted to buy Parcel B. Mr. Lieneck continued that the property was originally greater than 20,000 square feet, and it has been added to since; Mr. Szczurko's addition would be added on to a lot larger than what was originally there.

Mr. Benson then asked Mr. Szczurko how the size of his reconstructed house compares with the size of other houses in the neighborhood? Mr. Szczurko replied that there are some homes constructed within the last 10 years or so that are larger and some that are smaller.

The board, looking at the drawing on display, noticed differences between sizes of the rooms in the house and those on the drawing, that that the house is not perfectly parallel with the plot line. Mr. Lieneck and Mr. Szczurko responded that the drawing was a survey drawing, and the surveying was done before a storm; the Assessors' map, looked at first, showed the house further away from the plot line, and was done before the survey. Mr. Lieneck pointed out the house, garage, dimensions and distance to the lot line (varying from 14.9 feet to 16.3 feet due to the home being not completely parallel to the plot line). He clarified for Mr. Benson that the living room is 16.3 ft. to the lot line, and that there is grass from there to the street; Mr. Szczurko explained that there are no sidewalks, and most of the homeowners in the neighborhood have grass out to the street. Mr. Benson then wanted to clarify that the area above the garage would be only used for office space and that this was not a request for an accessory apartment as was indicated in the petition itself and the board is not considering the issue of an accessory apartment this evening; the accessory apartment would require a second petition. (Mrs. Pedone then brought up a street view of Mr. Szczurko's home on her iPad, so that the board members could look at the lot line). With Mr. Lieneck, Mr. Benson determined that the house would be close to 25 feet from the street aesthetically, as is required by the

bylaws, and Mr. Benson noted that the house would be well over the required 10 feet from the side lots.

Mr. Benson asked if there were any more questions or comments from the board or the petitioner? Mr. Szczurko asserted that his family would be more comfortable in the winter as, having three vehicles, they would be able to house them all in the larger garage and take them off the road, and he hoped that the board would agree to his request to add the garage and storage underneath. Mrs. Pedone asked him if other houses on the street have two-car garages or second floors? Mr. Szczurko described several of them, including the house on Parcel A that was mentioned previously, which expanded to a three-car garage with a second level. Mr. Femia asked if the lot sizes are similar to his, and Mr. Szczurko replied that many are smaller than his and described several of them, and that his lot is one of the largest on the street, and mentioned that many of the smaller ones had failing septic systems.

Mr. Lieneck clarified for Mr. Benson that bylaw 4.2B gave the Building Inspector authority to adjust the required amount of setback if other buildings are as close to the road. Mr. Benson stated that the Building Inspector, Chris Lund, deferred to ZBA in that regard, although according to Mr. Lieneck, the Building Inspector has the authority to request a special Permit through section 1.4B. Mr. Benson ascertained that alteration of a single family, non-conforming structure, would not require a permit from ZBA, but, according to 1.4B, change of non-conforming structure, or section 1.4D, proposal to extend a building, could be granted by the Building Inspector. Mr. Benson opined that section 4.2, the section of the bylaws under which the petition was filed, dimensional requirements, does not address setbacks.

With no abutters present, there were no comments from the audience. Mr. Femia asked Mr. Szczurko if he talked with his neighbors about his plans? Mr. Szczurko replied that he was away but has not heard any objections. Discussing this with the board, Mr. Benson asserted that it would not be a denial if the board does not have authority, and that this situation satisfied the requirement of alteration of a non-conforming structure. With no further comments from the board or anyone else present, Mrs. Pedone moved to close the hearing to public comment. Mr. Cahill seconded. All in favor.

Next, Mr. Benson opened the hearing to deliberation by the board. He discussed that the Planning Board had no issue with the petitioner's request. Mr. Benson opined that the proposed work did not seem substantially detrimental to the neighborhood, and will not be a significant enlargement. In addition, the neighbors do not have issues with the proposal, there are no problems with ingress/egress, and the distance from the side lots is well over the required 10 feet. With no further comments from the board members, Mr. Benson moved to vote on the request. Mrs. Pedone seconded. All in favor. Mr. Benson explained that a "yea"

vote would approve the request for special permit to reduce the setback to 14.9 feet on the northwest corner. There were (4) yea votes, (0) no. The votes were as follows:

Mr. Benson – yea

Mr. Cahill - yea

Mrs. Pedone – yea

Mr. Femia – yea

The special permit was approved, and the board members signed the vote sheet; the decision will follow, copies of both which will be sent out to the abutters.

Minutes of 12/15/14:

After review of the minutes by the board, Mrs. Pedone moved to approve the minutes as submitted. Mr. Cahill seconded. All in favor.

March Meeting Date:

(Mr. Cahill announced to the board and others that he would be resigning his position as a board member). Mr. Benson decided that a meeting date in March would not be decided upon now, as Mr. Cahill will not be returning to the board and there were also no other public hearings scheduled as yet (except possibly the continuation of the 94 North Main Street Administrative Appeal).

With no further business to discuss, Mrs. Pedone moved to adjourn the meeting at 8:34 pm. Mr. Cahill seconded. All in favor.

Respectfully submitted,

Toby S. Goldstein, Secretary

Date Accepted: _____ By: _____