

**Town of Westwood  
Zoning Board of Appeals  
Carby Street Municipal Office Building  
Meeting Minutes – February 15, 2017**

**Members Present:** David Krumsiek, Chairman, David Belcher, Doug Stebbins

**Staff Members Present** Sarah Bouchard, Housing & Zoning Agent, Tom McCusker, Town Counsel

Mr. Krumsiek gave a brief description of the proceedings. All those present for the meeting who anticipated giving testimony were sworn in.

**Applications**

**Address: Highland Glen Road # 1105-5419 (formerly known as 1055 High Street**

**Petitioner: BC Highland Glen, LLC & CRHGII Residential LLC**

**Project: Application to modify Comprehensive Permit under § 10.2.2.4 and M.G.L. c. 40B**

Ms. Bouchard introduced the request for continuance submitted by the petitioner on February 14. The petitioner requested to continue the hearing until the ZBA's scheduled March 15, 2017 meeting.

Nancy Maloof Winn, 108 Wildwood Drive, requested to reschedule to another date as she was unavailable on March 15 but wanted the opportunity to speak on this proposal.

*On a motion by Mr. Stebbins which was seconded by Mr. Belcher, it was voted unanimously to continue the hearing until April 26, 2017 at 7:00 pm.*

**Address: 471 East Street**

**Petitioner: Bechara Demien**

**Project: Continuation of application for Special Permit under § 4.5.6**

Mr. Krumsiek read the legal notice pertaining to this application.

Mr. Demien introduced himself and his revised design.

Mr. Stebbins asked if the proposed redesign utilized the same footprint. Mr. Demien confirmed that it did.

Board members deliberated on the proposed height of the addition and its relative impact on adjacent properties.

No one else spoke either in favor of or in opposition to the project.

*On a motion by Mr. Stebbins which was seconded by Mr. Belcher, it was voted unanimously to approve the Special Permit under Section 4.5.6 to construct a second floor addition and to incorporate the conditions submitted by the Board of Health in its memo to ZBA dated 1-10-17.*

**Address: 18 Buckmaster Road**

**Petitioner: Peter & Mary Cuozzo, 17 Sexton Road**

**Appeal: Continuation of application for Appeal under § 10.1.7**

Mr. Krumsiek continued conversation on the application by affirming that the questions before the board are date of construction for the presently existing shed and what statute of limitations on complaints applies.

Mr. McCusker introduced himself and stated that it was his belief that a ten year statute applied to this particular case.

Ms. Cuzzo inquired about the legal cases she submitted to the ZBA for review; Mr. Krumsiek stated that the *Connors v. Annino* case offered by the Building Commissioner was the closest precedent to this case, but it may not apply since the shed did not require a building permit.

Mr. Krumsiek affirmed that the petitioners would have the benefit of 10 years to submit a complaint from the time of the violation and further sought to clarify when the violation occurred. He surmised that since the site plan for the home reconstruction showed a smaller shed, so it must have been constructed after the house was built.

Mr. Cuzzo stated that the building permit for the house wasn't granted until January of 2007, and construction started in April of 2007.

Mr. McCusker reinforced that the shed reconstruction did not require a building permit and therefore reconstruction of the shed on its own did not constitute any violation. The violation, he said, would have been the shed's placement relative to the lot line.

Mr. Cuzzo sought to clarify that when a structure is torn down, the grandfathering protection is lost. Mr. McCusker replied that he did not locate case law to support or refute that.

Mr. Krumsiek affirmed that the appropriate statute of repose is 10 years and asked the Board to determine when the violation occurred. He offered that if the shed placement was a continuing violation since 1996 when the original shed was built, then the 10 years have expired. If the new shed starts the clock over again, then the 10 year would apply.

Ms. Cuzzo stated that she believes it was a complete tear down of the shed.

Ms. Bouchard clarified that the minutes from the February meeting show the homeowner confirmed replacement of the shed after the house was reconstructed in 2007.

Mr. Stebbins stated that if the shed reconstruction did not follow the same footprint as the original shed, or further advanced into the setback, then that would constitute a new violation. Mr. Krumsiek and Mr. Belcher agreed.

Mr. McCusker advised that the only choice before the board is to uphold or overturn Joe's decision, and that if they chose to overturn, the matter would go before Mr. Doyle to investigate.

*On a motion by Mr. Stebbins which was seconded by Mr. Belcher, it was voted unanimously to overturn the decision of the building inspector not to enforce zoning bylaw against homeowners of 18 Buckmaster Road.*

**Address: 11 Stonemeadow Road**

**Petitioner: Innovative Collaborations**

**Appeal: Application for Special Permit under § 4.3.3.2**

Martin Smargiassi from Innovative Collaboration introduced the project, which proposes a 4 car garage.

Mr. Smargiassi stated that the proposal is conforming to all setbacks, and that the design was careful to avoid looking commercial, with garage bays only partially visible from the street.

The Board agreed the proposal would be consistent with the rest of the neighborhood.

*On a motion by Mr. Stebbins which was seconded by Mr. Belcher, it was voted unanimously to approve the Special Permit under Section 4.3.3.2 to construct a private garage at a single family residence to store or park four (4) motor vehicles.*

**Address: 1134 High Street**

**Petitioner: Robert Harrington**

**Appeal: Application for Special Permit under § 4.5.4**

Robert Harrington, the petitioner, introduced his proposal by giving a history of the structure's expansion and variance previously granted by the ZBA. He stated the project will be a simple 8 x 12 covered porch without side setback issues or wetland encroachment. Mr. Harrington stated that the stairs are crumbling due to precipitation from the roof and a porch is needed.

Mr. Krumsiek sought to clarify that the front of the house doesn't face the street. Mr. Harrington confirmed this to be true.

*On a motion by Mr. Stebbins which was seconded by Mr. Belcher, it was voted unanimously to approve the Special Permit under Section 4.5.4 to construct a covered porch on an existing nonconforming single family home within the front setback.*

#### **Proposed Zoning Bylaw Amendment Articles**

The Board discussed each proposed article as submitted by the Planning Board. Proposed edits, revisions and comments were collected to be drafted into a memorandum to the Planning Board by Ms. Bouchard.

#### **Vote to Reschedule April Meeting**

*On a motion by Mr. Stebbins which was seconded by Mr. Belcher, it was voted unanimously to reschedule the April 19 2017 meeting to April 26 2017, location TBD depending on room availability.*

#### **Vote to Approve Minutes**

*On a motion by Mr. Stebbins which was seconded by Mr. Belcher, it was voted unanimously to approve the minutes for the meeting held on January 18, 2017.*

#### **Vote to Adjourn**

*On a motion by Mr. Stebbins which was seconded by Mr. Belcher, it was voted unanimously to adjourn the hearing.*

The hearing adjourned at 9:19 PM.

#### **List of Documents:**

471 East Street

- Zoning Board application; plans and associated attachments
- Building Commissioner's comments

18 Buckmaster Road

- Zoning Board application; plans and associated attachments
- Letter from Ms. Joy Colby, 17 Sexton Road
- Building Commissioner's comments
- Town Counsel's comments

11 Stonemeadow Road

- Zoning Board application; plans and associated attachments

1134 High Street

- Zoning Board application; plans and associated attachments
- Building Commissioner's comments

Zoning Bylaw Amendment

- Memo from Planning Board
- Draft Articles from Planning Board