

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

Members Present: David Krumsiek, Chairman, John Lally, Douglas Stebbins
Staff Members Present Sarah Bouchard, Housing & Zoning Agent

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

Applications

Address: 409 Blue Hill Drive

Petitioner: Jeff Keohane & Jennifer Gray

Project: Application for Special Permit under §6.3.10

Mr. Krumsiek read the legal notice into the record.

Jeff Keohane, homeowner, introduced the proposal. Due to the position of the home and adjacent property on an incline, he stated that the fence will resolve a privacy issue.

Ms. Kathy Lamb, 218 Whitewood Road, stated her support of the fence as the adjacent neighbor.

Mr. Stebbins inquired about whether additional natural screening is proposed for the property line. Mr. Keohane confirmed that nearly a half dozen flowering pears and plums were recently planted, which will eventually provide screening. He stated his belief that an extra 2 feet on fence height will improve privacy.

Mr. Keohane reviewed the photos of the property submitted with the application.

Mr. Lally asked if the fence were to be placed in the exact location of the former fence. Mr. Keohane confirmed that it was.

Mr. Krumsiek opened the hearing to the public for comment. Hearing none, the Board moved to a vote.

On a motion by Mr. Lally which was seconded by Mr. Stebbins, it was voted unanimously to approve the special permit for 409 Blue Hill Drive under Section 6.3.10.

Address: 90 Church Street

Petitioner: Todd Sullivan Construction

Project: Application for Special Permit under §4.5.3.3

Mr. Krumsiek read the legal notice into the record.

Mr. Brian Kelly, homeowner, introduced the proposal to renovate single family residence of 26 years. He stated primary concerns motivating the renovation. The porch is in disrepair and was not built correctly and must be removed due to mold and instability. The basement stairs are steep and unsafe, and the stairs leading out of the home are prone to ice and are also unsafe. He stated his interest in remaining in the home.

Architect for the proposal, Rich Levy, described the project in detail. He showed large scale prints of the plans and photos of existing house. He described the difficulty of expanding into the available space on the opposite side of home due to the existing floor plans, mature trees and ledge outcropping. Mr. Levy stated that the proposal would resolve the safety and access issues described by Mr. Kelly.

Mr. Krumsiek described the statutory criteria required by variances and asked the applicant to describe the uniqueness of the property, particularly given its size relative to others in the neighborhood.

Mr. Levy responded that the master bedroom would be compromised by additions on the vacant part of the property, and the ledge outcropping is unique.

Mr. Krumsiek asked if there was additional documentation supporting the presence of a ledge outcropping.

Mr. Levy indicated boulders in the photos before the Board.

Todd Sullivan, contractor, stated that he had not done testing but that there are multiple outcroppings.

Mr. Krumsiek asked about square footage of the proposal. Mr. Levy stated that the proposal adds 1K sq. ft. of livable space for a total of 3K sq. ft. He stated the proposal includes an office necessary for the homeowner to work from home.

Mr. Kelly stated that the space above the garage was negotiable but an attached garage was most important.

Mr. Sullivan stated that although the Bylaw allows for a detached garage much closer to the lot line, it would not be aesthetically pleasing. He stated that the proposal would be an asset to the neighborhood and enjoyed the support of multiple abutters.

Mr. Krumsiek opened the hearing to the public for comment.

Brad Francis, attorney, stated opposition to the proposal on behalf of Gerry and Tina Collins, direct abutters on Bonney Street. He stated that the proposed addition would add more than a third of the structure to come within a distance of 6.7 feet from the lot line. He stated that the proposal does not meet the statutory requirements for a variance. He stated that the petitioners have not demonstrated uniqueness or hardship. Mr. Francis stated that the Bylaw's 30 foot setback is intended to give neighbors privacy, and the proposal denigrates from that intent.

Mr. Collins stated his opposition to the proposal based on a loss of privacy and potential devaluation of his own lot.

Derek Curley, 30 Bonney Street, stated his support of the proposal based on his preference to see an attached garage versus the detached garage that could be built by right.

Pat Ahearn, 103 Church Street, stated his support of the proposal. He stated that black ice is a hardship throughout the neighborhood and the attached garage would increase safety.

Mr. Francis stated that hardship must be related to the uniqueness of the lot, and a lack of garage is not unique.

Mr. Krumsiek agreed, stating that while the Board is sympathetic, the petitioner has not established uniqueness hardship relative to the bylaws.

Mr. Kelly questioned the intent of the Bylaw.

Mr. Krumsiek stated that the Board is tasked with application of a statute, and cannot decide petitions on a macro level. Special permits allow the Board to exercise discretion, but a variance does not.

Jill Goldberg, 21 Ellis Street, spoke in support of the proposal, concurring with the issue of ice in the neighborhood and expressing her support of the design.

Mr. Stebbins stated that although the proposal may be aesthetically pleasing, the variance requirements make it difficult to approve. He stated that there are other ways to design an addition that stay within this lot's setbacks, and the Board cannot pass proposals that create new nonconformities.

Mr. Kelly argued that the other side of the lot contains a hill, trees, and ledge outcropping. He stated that expanding on that side would destroy it, and felt that to be an unnecessary action required by the Bylaw.

Mr. Krumsiek stated that Mr. Kelly's arguments are more appropriate for a special permit, where a variance does not allow for these arguments. He stated that the proposal does not meet the threshold for a variance, and relief cannot be given whimsically.

Mr. Stebbins stated that a proposal within 6 feet of a lot line where a setback is defined as 30 feet is contentious.

Mr. Kelly argued that building a detached garage 3 feet from the lot line, by right, doesn't make sense.

Mr. Levy offered to compromise the plan by reducing overall height and adding an additional 3 feet from the setback.

Mr. Krumsiek stated that the compromise would be a fine proposal in a special permit review, but it still does not meet the specific findings required by a variance, which allows less discretion.

Mr. Krumsiek recommended that the petitioner create a proposal that abides by the Bylaw.

Mr. Sullivan asked what would happen if they documented the ledge outcropping. Mr. Krumsiek answered that he wouldn't recommend that the petitioners incur additional costs if they are unlikely to meet the threshold requirements.

Mr. Sullivan argued that the corner lot makes the setback requirement a hardship.

Mr. Stebbins responded that every lot has a rear setback, and the hardship argument was not relevant.

Hearing no additional public comment, Mr. Krumsiek closed the hearing to public comment.

Mr. Krumsiek stated that a withdrawal of the petition may be appropriate. Ms. Bouchard stated that the Board limits repetitive petitions, but advised that a petition could be withdrawn without prejudice.

Mr. Kelly requested to withdraw the petition for 90 Church Street.

On a motion by Mr. Lally which was seconded by Mr. Stebbins, it was voted unanimously to grant leave to withdraw the petition for 90 Church Street without prejudice.

Vote to Approve Minutes

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

Other Business

Ms. Bouchard gave a presentation on digital meeting files and email addresses for the Board.

Vote to Adjourn

On a motion by Mr. Lally which was seconded by Mr. Krumsiek, it was voted unanimously to adjourn the hearing.

The hearing adjourned at 8:32 PM.

List of Documents:

409 Blue Hill Drive

- Zoning Board application; plans and associated attachments

90 Church Street

- Zoning Board applications; plans and associated attachments