

**Town of Westwood
Zoning Board of Appeals
Remote Participation, Zoom Video Conference Call
Meeting Minutes – February 24, 2021**

Members Present: Jack Lally, Doug Stebbins, Dave Belcher

Staff Members Present: Sarah Bouchard, Housing & Zoning Agent

Mr. Lally gave a brief description of the proceedings, including a description of instruction for remote participation by the public. All those present for the meeting who anticipated giving testimony were sworn in.

Applications

Address: 438 Pond Street

Petitioner: David and Lisa Staaf, Peter Zahka Esq.

Project: Appeal, Application for Special Permit under 4.5.3.2 and Variance under 4.5.3.3

Mr. Peter Zahka, Esq. introduced the homeowners David and Lisa Staaf and their civil engineer Scott Henderson. He described 438 Pond Street as a corner lot at Pond and Reservoir Road. He described the dimensional requirements and history of conformity to bylaw requirements relative to the date the existing single family structure was built. He stated that the homeowners wish to age in place and so propose to demolish the home and construct a new residence with greater accessibility and space for live in family for care. He stated if the frontage is applied on Reservoir as advanced by the Building Commissioner, the lot would not render a buildable space sufficient for a reasonably sized home, nor would it be buildable for the current structure.

Mr. Henderson showed the two plans comparing legal frontage. The one with frontage on Reservoir Road has a building envelope that is narrow, with the narrowest part at 15 feet. The existing structure would be nonconforming, as would the proposed structure. The plan with frontage on Pond has a more standard building envelope. Existing home would still be nonconforming in the side yard.

Mr. Zahka stated that homeowners or their family have owned the property since 1955, and the address and driveway have always been off of Pond Street. The bylaw defines frontage as providing safe access to the home, and Reservoir as a secondary roadway does not achieve that. Mr. Zahka also introduced the subdivision plan for the neighborhood to establish compliance with frontage requirements on Pond Street at the time of construction.

Mr. Zahka also submitted letters from 3 abutters supporting the request for relief.

Mr. Lally stated the lot is nonconforming on area. Structure presently is nonconforming. Reviewed definitions of lot and frontage. He described the situation as unique due to angle of the lot.

Mr. Stebbins asked if Reservoir Road is a town road. Mr. Henderson replied that his understanding that it was not improved to the point where it is plowed or maintained by the town and is more of a driveway to serve the rear two abutters.

Mr. Stebbins asked where the new front door will be facing. Mr. Henderson replied that the design is aimed at a narrow footprint to achieve the closest compliance with the setbacks. In that case, the resulting front door could be oriented to Pond Street. The existing curb cut off Pond is proposed to stay.

Mr. Stebbins stated that nonconforming lots and structures are not unique to that neighborhood, however difficult.

Mr. Belcher asked if the development described in the subdivision plan is around Reservoir road. Mr. Zahka replied that the full road was never laid down as proposed, and although the lots were identified on the subdivision plan, many never came to fruition due to wetlands. Mr. Henderson described Reservoir as largely a paper street.

Mr. Belcher asked if neighbors on Reservoir were asked for the support. Mr. Zahka replied that the abutters approached were those on Pond Street but are the closest abutters.

Mr. Belcher remarked that the research into the history of the zoning is demonstrative of intent. He discussed the location of the driveway and front door and that relationship to frontage.

Mr. Lally asked about the frontage of the house across Reservoir on the opposite corner. Mr. Henderson stated that the frontage had been similarly reapplied to Reservoir on that property but that since that lot is wider, the addition proposed by that homeowner could be built within the new setbacks.

Mr. Zahka argued that if the Board upholds the decision of the Building Commissioner, applying frontage on Reservoir, then a special permit and variance request would be appropriate due to the history and unique nature of the conformity on the lot.

Mr. Belcher asked about the timing of the request and the building permit application. Ms. Bouchard replied that a permit application is not necessary for an appeal, but under the ZBA's regulations it is necessary for a special permit or variance.

No comments from the public.

Mr. Lally says that regardless of where frontage is, relief will likely need to be granted to allow for a home replacement. He stated that he does not believe that relief would derogate from the intent of the bylaw.

Mr. Belcher agrees with frontage on Pond Street due to reasons of history of zoning, address on Pond Street, frontage was smaller back then. Relief at this stage may or may not be necessary, but that question is not appropriately before us. He stated that he would support an appeal.

Mr. Stebbins stated that he supports the appeal due to the unique situation of the existing structure on the lot. He says it lends itself well to establishing the intent of the frontage at the time it was built. Variances may be a high hurdle, but he supports the appeal.

On a motion by Mr. Belcher and seconded by Mr. Stebbins, the Board voted unanimously via roll call to reverse the decision of the Building Commissioner and henceforth apply lot frontage for the property along Pond Street.

Mr. Zahka submitted a request to withdraw applications for special permit and variance.

On a motion by Mr. Belcher and seconded by Mr. Stebbins, the Board voted unanimously via roll call to approve the request to withdraw the special permit and variance applications without prejudice.

Address: 31 Abbey Road

Petitioner: Dan Green, Green Company

Project: Application for Special Permit Extension Section §4.1.7.4 [Other Uses; Temporary]

Mr. Lally read the legal notice into the record.

Dan Green, applicant, introduced request for extension of special permit for temporary use of a single family home to be used as design and sales office. Home sales expect to continue through 2023. He stated that Covid policies are restricting sales visits to appointment only, minimizing impact of the temporary use to the neighborhood.

Mr. Green asked if a two year extension was appropriate. Mr. Lally replied that bylaw limited extensions to one year.

Mr. Lally opened the hearing for public comment. Hearing none, the Board proceeded to a vote.

On a motion by Mr. Stebbins and seconded by Mr. Belcher, the Board voted unanimously via roll call to approve a one year extension of the special permit for 31 Abbey Road.

Address: 493 Gay Street

Petitioner: Isaksen Solar

Project: Application for Special Permit Under §4.3.2.7 (continued from 1/20/21)

Mr. Sly reviewed changes to application. He described the feasibility study that establishes suitability of current location, particularly respective to tree removal and Conservation Commission requirements involved with relocation of ground mount to other side of the home. He stated that the number of panels could fit on the roof, but given the location of trees on neighbors side and position to the sun would reduce efficiency to a point where financial possibility would not work.

Mr. Lally asked about screening. Mr. Sly replied to the natural border with Green Giant Arborvitaes: 8 along street side and 3 along each shorter side facing neighbors directly abutting. Mr. Lally asked about the dark green fence proposed by the neighbor. Mr. Sly replied that the fence as proposed would be more expensive. The fence that would be workable would be a black mesh directly around the edges of the system. Mr. Lally asked about the weather durability of that fence material. Mr. Sly says its tested to be hardy in New England weather and has a 20 year warranty.

Mr. Stebbins asked if the roof mount was half as productive as the ground mount. Mr. Sly stated that all panels on the ground would be perfectly south facing and produce the most amount of energy. The roof is large, but has a number of features (skylights, vents, nearby trees) that would prevent placement facing south. The system costs the same amount but produces half the amount of power on the roof. Mr. Stebbins questioned the assessment and asked why the panels on the largest, generally south facing portion of the roof would not produce more than half of the power. Mr. Sly states that the roof does not

support the placement and number of panels that would be necessary to generate the same amount of power on the ground. Mr. Sly used his software to demonstrate.

Mr. Stebbins stated that he prefers to see panels on the roof due to aesthetic reasons and that it seems unlikely that the roof of a house that size would not produce the energy the homeowners need. Mr. Sly replied that the costs are prohibitive to generate the amount of power on the roof; the ground mount in this case is very efficient.

Mr. Stebbins asked about the height of the panels. Mr. Sly says the system has a max system height of 10 feet or less, which is standard for all designs.

Mr. Stebbins asked about the tilt of the panels. Mr. Sly replied with the technical specifications.

Mr. Stebbins stated that solar is important, and some residential properties could support ground mounted solar, but he is skeptical that this property has to go that route, and if it must, how to make it most palatable to neighbors.

Mr. Sly proposed showing photos of existing installations.

Mr. Belcher asked about production numbers: will homeowners generate all energy they consume? Mr. Sly reviewed feasibility study showing system size and annual production in kWh and dollars. Mr. Belcher asks how much a home consumes. Mr. Sly says it varies.

Mr. Belcher asked if homeowners wanted to trim trees in the future to maximize energy generation, would that be desirable? Mr. Sly said it would be minimal, and many of those trees are on neighbor's parcels anyway.

Mr. Belcher stated that he is concerned about the prevalence of ground mounted solar on residential properties, but that this property is different because it is wooded and not visible from the street for 9 months of the year.

Mr. Belcher asked Ms. Bouchard if there were other ground mounted solar installation on residential parcels. Ms. Bouchard replied that none had been permitted by ZBA in recent years.

Mr. Stebbins stated that many roof mounts have been installed and disputed the feasibility of why ground mounted is the only option.

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

Ms. Bouchard read Planning Board's memo into record and introduced a letter submitted by abutter Mr. Greppin.

Claire Galkowski, 321 Dover Rd, spoke in support of the project.

No further comment from the public was made.

Mr. Lally spoke in support of the proposal with screening and mitigation.

Mr. Stebbins said he would like to see photos of installations before making a final determination, conduct site inspections of comparable installations.

Mr. Belcher stated that former applications before the Board had significant abutter opposition. He stated that he would ultimately support this proposal with screening as the homeowners have a right to utilize land use but the Bylaw says special permit conditions apply, should be deliberate in review of application.

Jan Galkowski entered public comment about MGL 40A and the zoning bylaw, pointing out the Board's limitation on unduly restricting solar installation.

On a motion by Mr. Stebbins seconded by Mr. Belcher, the Board voted unanimously to continue the hearing to March 17, 2021 via remote participation at 7 pm to allow the applicant to provide visual models and a landscaping plan.

Address: 40 Westdale Road

Petitioner: Brian Hardiman

Project: Application for variances and a special permit pursuant to the Westwood Zoning Bylaw Sections §4.5.3.3 [Variance Required for New or Expansion of Nonconformity], §8.5.6.5 [Design Requirements; Stairways], §4.3.3.12 and §8.5 [Accessory Apartments]

Ivan Hernandez introduced the proposal to construct an accessory apartment for a family member of Brian Hardiman, homeowner. Original proposal was designed to allow for maximum accommodation from the wetland in the rear of the property; due to variance need, the proposal was redesigned. Stairs were the other variance issue the revised plans address. Two sets of revised plans have been proposed.

Ms. Bouchard described the new plans and comments from Joe Doyle.

Mr. Hardiman showed the floor plans of the home to describe the stairs located to service the existing house. He said the accessory apartment will only add 5 stairs to the existing stairs. This plan is preferable due to accessibility for his mother.

Mr. Stebbins and Mr. Belcher agree that a variance approval is unlikely due to size of the home, doesn't see hardship. Mr. Hardiman stated that the wetlands are a uniqueness to work around. Mr. Lally asked if anything else was unique or significant about the lot or structures.

Mr. Hardiman says the wetlands are unique, as well as the radius of the cul de sac.

Mr. Stebbins suggested that they focus on plans not requiring a variance. Mr. Lally agreed. Mr. Lally asked about the bylaw specifications of Section 8.5. Mr. Hardiman replied that all were in compliance.

Mr. Stebbins supports the special permit under 8.5 but not the variance. Mr. Belcher agrees.

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

On a motion by Mr. Lally seconded by Mr. Belcher, the Board voted unanimously via roll call to approve a special permit under Section 8.5 specific to plans shown on pages A1-A2 only.

Address: 215 Gay Street

Petitioner: Todd Sullivan

Project: Application to amend a special permit previously granted by the Board on September 3, 2020 pursuant to the Westwood Zoning Bylaw Section §4.3.3.2 [Accessory Uses – Storage of Motor Vehicles].

Todd Sullivan, applicant, introduced proposal to amend roofline from dutch colonial to a frame on the previously approved garage.

Ms. Bouchard shared proposed elevations on screen with the Board.

Mr. Lally stated the design is in character with the main house. He confirmed there were no proposed changes to the foot print. Mr. Sullivan confirmed no changes would be made to the proposed footprint.

Mr. Belcher asked if the intent is for more clearance. Mr. Sullivan replied no change in clearance, simply aesthetic.

Mr. Stebbins asked if there is a lift inside the garage? Mr. Sullivan says yes, for auto storage.

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

On a motion by Mr. Lally seconded by Mr. Belcher, the board voted unanimously via roll call to approve the amendment to the Special Permit.

Vote to Approve Meeting Minutes

On a motion by Mr. Lally seconded by Mr. Belcher, the Board voted unanimously via roll call vote to approve meeting minutes from January 20, 2021.

Other Business

Ms. Bouchard discussed ethics training for Board members and encouraged all members to complete their online training as soon as possible.

Vote to Adjourn Hearing

On a motion by Mr. Lally seconded by Mr. Belcher, the Board voted unanimously to adjourn the hearing at 9:40 pm.

List of Documents:

438 Pond Street

- Zoning Board application; plans and associated attachments

31 Abbey Road

- Zoning Board application; plans and associated attachments

215 Gay Street

- Zoning Board application; plans and associated attachments

493 Gay Street

- Zoning Board application; plans and associated attachments

40 Westdale Road

- Zoning Board application; plans and associated attachments

