

**Town of Westwood
Zoning Board of Appeals
Champagne Meeting Room, Carby Municipal Building, 50 Carby Street
Meeting Minutes –March 20, 2019**

Members Present: Dave Krumsiek, Chair, Doug Stebbins, Danielle Button

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: 510 Far Reach Road

Petitioner: Michael Terry, Esq.

Project: Application for Special Permit under §4.3.3.2

Mr. Krumsiek read the legal notice into the record. Michael Terry, the applicant, introduced the proposal on behalf of the homeowners. The property contains a large home in a neighborhood of similar homes. He described the house as already constructed, with the proposal to add a 4th garage door where there is currently a storage area with a 6 foot door. He stated that the general appearance of the home would not change.

Mr. Krumsiek asked if most houses in neighborhood had 4 car garages. Mr. Terry replied yes.

Mr. Stebbins asked if the structure was new construction. Mr. Terry replied that it is new construction, with a building permit issued for the home, but the 4th garage bay is pending the special permit. Mr. Stebbins stated that a project already under construction makes it difficult to suggest mitigation efforts to lessen impact. Mr. Terry stated that the 4th garage bay would be located on the side of the home and is not visible to the street or surrounding properties.

Mr. Stebbins introduced the conditions from Board of Health.

Mr. Krumsiek opened the hearing to the public for comment. Hearing no further comment, the Board moved to a vote.

On a motion by Mr. Stebbins which was seconded by Ms. Button, it was voted unanimously to approve a special permit for 510 Far Reach Road under Section §4.3.3.2 subject to conditions imposed by the Board of Health.

Address: 34 Woodland Road

Petitioner: Erin Crea

Project: Application for Special Permit under §4.5.3.2.3

Mr. Krumsiek read the legal notice into the record for both the special permit and variance applications. Mr. Krumsiek read a disclosure from Mr. Stebbins into the record stating that he had no financial interest in the application and describing a previous business relationship with the contractor on the application. Mr. Krumsiek opened the hearing to receive objections to Mr. Stebbins' participation in the hearing. None were made.

Erin Crea and Chris Crea, homeowners, introduced the proposal to renovate their existing home. Mr. Krumsiek asked that they describe the special permit application first.

Ms. Crea described the proposal to construct an all season room off the existing deck, with a farmers' porch extending around the front entry of house. The porch encroaches into the front setback by an additional 1.5 feet; with the existing structure is already nonconforming at 36 feet into the setback.

Mr. Krumsiek asked if the porch is de minimis in nature and serves for aesthetic purposes. Mr. and Ms. Crea both state that it is.

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

Sarah and Larry Mirson, 59 Woodland, spoke in support of both petitions.

Al & Evelyn Watson, 42 Woodland, spoke in support of both petitions.

Chris Gorman, 58 Woodland, spoke in support of both petitions.

Alex Mehlman, 410 Dover Road, spoke in support of both petitions.

On a motion by Mr. Stebbins which was seconded by Ms. Button, it was voted unanimously to approve a special permit for 34 Woodland Road under Section §4.5.3.2.3 to construct a front porch extending into the front setback subject to conditions imposed by the Board of Health and Conservation Commission.

Address: 34 Woodland Road

Petitioner: Erin Crea

Project: Application for Variance under § 4.5.3.3

Ms. Crea introduced the proposal to construct an addition to enlarge and improve their home, this requiring a variance to encroach into the side setback.

Mr. Krumsiek asked about the size of the existing home. Ms. Crea stated it was a 3 bedroom home but one is a small office.

Ms. Crea described the multiple issues with the property that create difficulty: a triangular shaped lot, wetlands, a stream intersecting the lot, a large ledge outcrop on the southwest side, high water table, a structure below street level. Mr. Crea stated that it is unique and unusual to have all variables on one particular property.

Ms. Crea stated that their hardship would be substantial if the variance was not approved and her belief that relief can be granted without substantial detriment to the public good. She described their efforts to consider multiple design options and concluded that only one was viable.

Mr. Krumsiek questioned why the addition could not be situated within the setbacks, particularly in the patio space in the rear of the home

Ms. Crea stated that is their only available recreational space. Mr. Crea stated that windows and a walkout basement exist there and would be cut off. Ms. Crea stated that if the addition was moved, the driveway would need to be extended and the impact on wetlands would be higher.

Ms. Button asked about the size of the garage. Ms. Crea replied that it measures 20x30 feet, with the corner of the north side over the setback by 5.5 feet.

Mr. Crea described the distance to the nearest structure (410 Dover Road) as remote.

Mr. Krumsiek asked about an option to reduce the size of the addition. Ms. Crea described a reduction of the addition to 20x20 addition to align flush with the current driveway would still require an extension of the driveway, interfering with wetlands. She stated that they needed room for their growing family, desired storage space, and a third garage bay to maintain their 3 cars from sap on the trees. Mr. Crea stated that cars stored inside a garage produce a neater look of the property.

Tim Fiorillo, contractor, stated that photos of the backyard could demonstrate the limitations of the property. Ms. Crea showed these to the Board.

Mr. Fiorillo asked about the height of structure relative to side setback and sought clarification about the bylaw and calculation of average height.

Ms. Bouchard stated that the Building Inspector did not flag the project as requiring relief in height and established the appropriate setback for the property. Ms. Bouchard stated that the applicant could dispute that determination but it would be in the form of an appeal and not within the current scope for the Board to review at this time. Mr. Krumsiek agreed.

Mr. Fiorillo stated that addition would be low profile. Ms. Crea said it could be mitigated with landscaping.

Mr. Krumsiek returned to the question of the addition's size and why the proposal could not be designed to avoid encroaching into the setback, perhaps by reducing the third garage bay. Mr. Stebbins agreed, stating that the need for storage could still be met without a 3rd bay. Ms. Crea responded that she intends for the home to be functional and still aesthetically pleasing. She stated that decreasing its size would negatively impact the home's appearance and did not want to impact her neighbors. She reiterated that her home is currently 1500 sq. ft. and the variance would allow an additional 900 sq. ft. for their family.

Mr. Krumsiek reviewed the particular legal findings required by a variance, as opposed to a special permit which allows more discretion. He stated that he was sympathetic to the family's needs, but there are other options available to construct on the parcel that do not involve building within the setback. Ms. Crea asked him to identify the options; Mr. Krumsiek replied that more space, master bedrooms, walk in closets, garages are nice to have but unnecessary, and do not warrant operation outside of the bylaws.

Ms. Button stated that she reviewed the various options submitted by the applicant and agreed that while conservation concerns made the issue difficult, that the applicants had the option to go without the garage.

Ms. Crea stated that financial hardship existed if the plan is not approved.

Mr. Krumsiek disagreed, and stated that he did not find the hardship as a significant finding. He stated that the encroachment into the setback comes down to a third garage bay, which is not essential. Ms. Crea stated that the house was bought in 2014 before bylaw changes were made. Mr. Crea stated that the variance is a reasonable request.

Mr. Krumsiek stated it is not unreasonable to request relief, but that the ZBA must apply bylaws consistently.

Spiros Motsenigos, 21 Woodland, spoke in support of the proposal.

Mr. Krumsiek explained the statutory limitations relative to bylaw.

Mr. Crea stated the family's need to provide space for family members visiting from overseas. He stated that the vehicles were depreciating in value from being outside.

Mr. Stebbins stated that encroachment into a setback is significant, and that not every plot of land is capable of solving every issue.

Mr. Crea stated that believes the Board should review on a case by case basis.

Mr. Krumsiek stated that the Board cannot be permissive in granting variances and that they must be enforced evenly. He stated that the Board has specific findings and statutory requirements to make, and does not have the right to dismiss the impact of a few feet on the back of the proposed addition.

Mr. Crea stated that the family would have to move, causing disruption to the educational needs of the children.

Ms. Button stated that it comes down to the variance requirements to find hardship a certain way. She stated that the Board is sympathetic to and understands their reasons for their request, but that the Board must be accountable to these legal requirements.

Ms. Crea stated her concern that these issues are now public record and may impact ability to sell.

Ms. Button responded that the issues are existing regardless of the hearing, and buyers are responsible for their own due diligence.

Mr. Crea responded that in 2014 this proposal would have required a special permit, not a variance. Mr. Krumsiek agreed that the proposal would have had a greater chance to be favorable as a special permit.

Mr. Motsenigos spoke again in favor of the proposal.

Mr. Krumsiek closed the hearing to public comment.

Mr. Crea stated that there is financial hardship for plan redesign. Mr. Stebbins replied that although applicants are entitled to apply, but variances are difficult to grant. Residents must design plans in accordance with the bylaw.

Hearing no further comment, the Board moved to a vote.

On a motion by Mr. Stebbins which was seconded by Ms. Button, it was voted unanimously to deny a variance for 34 Woodland Road under Section §4.5.3.3.

Address: 264 Canton Street

Petitioner: Paul Sciaba, Trustee for 264 Canton

Project: Application for Variance under §5.4.1.1

Mr. Krumsiek read the legal notice into the record.

Peter Zahka, Esq., representing the applicant, introduced Andrew Sciaba, son of the applicant and Kirk McEachern, project manager. Mr. Zahka introduced the request for a variance to construct a single family home. He stated that the current single family dwelling is a 5 bedroom house that is nonconforming due to height. The current house will be demolished and a new residence will be constructed in its place. He stated that the new home was designed with minimal windows on the side most affected by a view of the new house, to preserve privacy for abutters.

Mr. Zahka described the property as flat, without ledge or wetlands but lacking in frontage compared to the other homes in the neighborhood. He described the lot as long and narrow without additional room to play with to gain extra feet in height. He stated that the client could reduce the footprint of the home by 3 feet to allow the additional height, but the client feels the aesthetics of the proposed construction are improved by constructing as proposed.

Mr. Krumsiek asked what is unique about the property, as the lot is identical in shape and size to immediate abutters. Mr. Zahka replied that the structure being proposed is unique, and the applicant would like to attempt to construct a better looking structure.

Mr. Krumsiek opened the hearing to the public.

Mr. McEachern, Northern Contracting Corp, stated that more than 60% of the homes on the street are over 30 ft. high. He stated that the neighborhood has changed; most houses are nonconforming.

Mr. Stebbins replied that it can be hard to determine from looking at a home how the average height is calculated, and it is difficult to draw conclusions from that.

Terry Strauss, 258 Canton, spoke in opposition to the project as a direct abutter, citing shade concerns.

Marie Lynch, 274 Canton Street, spoke in opposition to the project, citing drainage concerns.

Andrew Sciaba stated his belief that the house is designed appropriately for its size and would be negatively impacted if footprint was reduced, as well as causing a delay in construction.

Mr. Krumsiek stated the design must fit the requirements of the bylaw, and the Board cannot approve a project that doesn't meet criteria.

Hearing no further comment, the Board moved to a vote.

On a motion by Mr. Stebbins which was seconded by Ms. Button, it was voted unanimously to deny a variance for 264 Canton Street under Sections §5.4.1.1.

Vote to Approve Meeting Minutes

On a motion by Mr. Stebbins which was seconded by Ms. Button, it was voted unanimously to approve meeting minutes from February 27, 2019.

Vote to Adjourn

On a motion by Mr. Stebbins which was seconded by Ms. Button, it was voted unanimously to adjourn the meeting.

The hearing adjourned at 7:41 PM.

List of Documents:

510 Far Reach Road

- Zoning Board application; plans and associated attachments

34 Woodland Road

- Zoning Board application; plans and associated attachments

264 Canton Street

- Zoning Board application; plans and associated attachments