

**Town of Westwood  
Zoning Board of Appeals  
Remote Participation, Zoom Video Conference Call  
Meeting Minutes – May 20, 2020**

**Members Present:** Jack Lally, Doug Stebbins, Mike McCusker

**Staff Members Present:** Sarah Bouchard, Housing & Zoning Agent and Nora Loughnane, Director of Community and Economic Development

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

**Applications**

**Address: 101 Willard Circle**

**Petitioner: Michael and Sonya Burke**

**Project: Application for Special Permit Under 8.5 and Variance Under 5.2**

Mr. D'Angio, attorney for the applicants, described the Burkes' efforts to amend the plans to reduce the impact of the project. David Sharff, architect, spoke to the change to reduce the height, improve accessibility with a first floor unit, add cantilevers to wrap the addition into the rear of the existing home. He stated that despite these amendments, there was no way to create an accessible entrance into the unit without some encroachment into the side yard setback, albeit at a reduced amount.

Mr. D'Angio stated that the proposal exhausts all other options and is the closest in compliance to all zoning, conservation, and flood plain considerations. He described the hardship as unique to this particular parcel. He stated he believes the elements of the statute are met and the conditions especially affect the subject property.

Ms. Burke described the uniqueness and hardship for the lot.

Ms. Loughnane described the history of how the flood plain specific to this lot has changed over time with significant drainage issues coming off Route 1 into the Willard Circle area. She referred to maps she submitted to the Board that show that the 100 year flood area has receded from other parcels but not the subject property. She described the design as sensitive to the unusual circumstance of flood plain.

Mr. Lally asked if building within flood zone is discouraged? Ms. Loughnane replied yes, that it would have a negative effect to abutting properties.

Mr. Ernest Margeson, family of applicant, stated that this project is important to the family.

Mr. Stebbins asked if the Building Department had confirmed measurements on the revised plan. Ms. Bouchard replied that he had not.

Mr. Lally stated that the revised proposal better complies with the intent of the bylaw and demonstrates hardship and uniqueness relating to the parcel.

Mr. Stebbins agreed. He further stated that he would want to see the Building Commissioner confirm the measurements for compliance of the overhang. Ms. Loughnane recommends that board grant a special permit under 4.5.3.2.3 to allow overhang of up to 4 feet into setback.

Mr. McCusker states his support for the revised proposal and says there are positive findings that the variance criteria have been met. Mike says revised proposal takes comments to heart. Variance meets criteria. Supports variance.

*On a motion by Mr. Lally seconded by Mr. Stebbins, the Board voted unanimously to approve a variance under 5.2 and special permit under 4.5.3.2.3 and 8.5.*

**Address: 38 Alder Road**

**Petitioner: William Lestan**

**Project: Application for Variance Under 5.2.3**

Ed Richardson, attorney for the applicant, described the uniqueness of topography in the slope in front of the swimming pool. He stated that hardship had been shown through an estimate submitted to the Board showing a \$50K expense to remove the wall that was needed to stabilize the slope. He stated that the proposal involves no derogation from the intent of the Bylaw and had a positive impact on the neighborhood.

Mr. Lestan described the location of plumbing for the pool as creating difficulty in relocating the retaining wall. Bill Trainor, landscape architect for the applicant, described the existing design as ideal for the parcel and preventing washout of mulch and other natural materials. He stated that plantings on the terraced wall will soften look of wall.

Mr. Stebbins asked if removing the bottom wall is an option. Mr. Richardson replied that it is not an option because it would replicate the problem from before, with the slope having a tendency to wash out.

Mr. Lally stated that the wall supports the property and his belief that removal could cause harm to the pool support. He stated that hardship is involved to force its removal and in his view, does not derogate from intent of bylaw.

Mr. McCusker stated that he doesn't feel he can approve a variance. He described the financial cost of removing the wall as self inflicted hardship, since it was already installed without the requisite zoning relief. He suggested that there may be other ways to resolve the issue, including relocating the fence.

Christine Lestan, homeowner, replied that to move the fence would represent significant expense, require digging up the patio and interfere with plumbing. She stated that neighbors are commenting on the positive appearance of wall.

Mr. Lally opened the hearing for public comment. Hearing none, the hearing was closed to the public for comment.

Mr. Stebbins states that the landscaping could have a positive impact on the visual impact of the walls. He suggested a condition to require proper mature landscaping.

makes motion to approve variance. Asks DS for a second. DS says will condition upon proper mature landscaping and proper scale represented in photos. MM voting no. Roll call: JL yes, DS yes, MM no. Motion does not carry.

*A motion made Mr. Lally and seconded by Mr. Stebbin to approve the variance under 5.2.3 conditioned upon a landscaping plan approved by the Board was defeated, with Mr. Lally and Mr. Stebbins in favor and Mr. McCusker opposed.*

**Address: 104 Beechnut Road**

**Petitioner: Seamus Downey**

**Project: Application for Special Permit Under 8.5 and Variances Under 8.5.6.3 and 8.5.6.4**

Mr. Downey stated that the project demonstrates financial hardship because he believes the building code and Bylaw are in conflict.

Mr. Lally asked if any modifications have been made to the plan submitted to the Board. Mr. Downey replied that he has a plan drafted that reduces the size of the unit but has not submitted it to the Board and would like the Board to consider the original plan.

Mr. McCusker asked the applicant to describe how the accessory apartment could be modified to reduce the square footage. Mr. Downey replied that a portion of storage space could be walled off and unfinished.

Mr. Lally states that the plan before the Board tonight does not meet the requirements for a special permit or variance. Mr. Stebbins and Mr. McCusker agree. Mr. Downey asks what his options are for refileing at a future date. Ms. Bouchard replies with options.

Mr. Downey requested to withdraw the application for a special permit.

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

*On a motion by Mr. Lally and seconded by Mr. Stebbins, the Board voted unanimously to grant leave without prejudice for the withdrawn application for a special permit.*

*On a motion by Mr. Lally and seconded by Mr. Stebbins, the Board voted unanimously to deny the variances under 8.5.6.3 and 8.5.6.4.*

**Vote to Adjourn**

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

The hearing adjourned at 9:15 PM.

**List of Documents:**

101 Willard Circle

- Zoning Board application; plans and associated attachments

38 Alder Road

- Zoning Board application; plans and associated attachments

104 Beechnut Road

- Zoning Board application; plans and associated attachments