



ZONING BOARD OF APPEALS  
TOWN OF CONCORD  
MEETING MINUTES  
JUNE 9, 2022

Pursuant to notice duly filed with the Town Clerk, a virtual public meeting of the Board of Appeals was held on Thursday June 9, 2022 at 7:00 p.m. using the Zoom meeting platform.

Meeting ID: 873 9386 1848 Meeting Password: 437279

PRESENT:

Members:

Elizabeth Akehurst-Moore, Chair

Ravi Faiia

Theo Kindermans

Thomas Swaim

Paul Creedon, Building Inspector

Heather Carey, Admin Assistant

Hayleigh Walker-Kurland, Admin Assistant

Chair Akehurst-Moore called the meeting to order at 7:00 p.m.

Voting Members: Elizabeth Akehurst-Moore, Ravi Faiia, Theo Kindermans

**Public Hearings:**

*Robert Drake on behalf of Emerson Hospital, for a Special Permit Renewal for 10 years under Sections 5.4.1.4, 7.1.2, 7.7.2.12, 11.6 and 11.8 of the Zoning Bylaw to allow a temporary mobile medical facility within the Groundwater Conservancy District at 133 Old Road to Nine Acre Corner (Parcel# 3648-E).*

Chair Akehurst-Moore opened the public hearing and reviewed the application. Robert Drake appeared for the hearing on behalf of Emerson Hospital. He explained the request for the special permit renewal to allow a temporary mobile MRI and CT truck at the docking station located outside the Emergency Services Department.

Chair Akehurst-Moore asked if the permit had been used prior to the request for renewal. Mr. Drake confirmed it had been used several times. The mobile unit was brought in when existing equipment required repairs. Chair Akehurst-Moore there were any changes from the previous renewal request. Mr. Drake stated there were none. Chair Akehurst-Moore asked Building Inspector Paul Creedon if there were any issues with regard to this permit. Mr. Creedon stated there were none.

Chair Akehurst-Moore asked for questions from the Board. Mr. Kindermans asked how long Emerson has had this permit. Mr. Drake stated they have had it for the maximum allowable period of ten years.

Chair Akehurst-Moore opened the hearing for public comment and there was none.

Mr. Kindermans moved to approve the application of Robert Drake on behalf of Emerson Hospital, for a Special Permit under Sections 5.4.1.4, 7.1.2, 7.7.2.12, 11.6 and 11.8 of the Zoning Bylaw for

a temporary mobile medical facility within the Groundwater Conservancy District at 133 Old Road to Nine Acre Corner (Parcel# 3648-E). Mr. Faiia seconded the motion and all **VOTED** in favor.

Documents Used: Photos

***Sarah and Bill Murphy, for a Special Permit under Sections 7.1.3, 7.1.5, and 11.6 of the Zoning Bylaw to construct a 1,198 sq. ft. addition on the existing 1,494 sq. ft. non-conforming dwelling at 368 Old Marlboro Road (Parcel #3767-2).***

Chair Akehurst-Moore opened the public hearing and reviewed the application. Elise Stone appeared for the hearing on behalf of property owners Sarah and Bill Murphy and explained that they are seeking to construct an addition to the non-conforming dwelling of 368 Old Marlboro Road. She gave an overview of the proposed work including; the two car garage, a connecting side entry and mudroom and an extension to the family room in the rear of the house. The GFA of proposed work exceeds the 50 % allowed by right.

Chair Akehurst-Moore asked for questions from the Board. Mr. Swaim asked about placement of the driveway. Ms. Stone stated that the location of the driveway would stay the same. Mr. Faiia asked why the proposed garage couldn't fit into the existing setbacks. Ms. Stone stated that the proposed width of 22 feet was necessary for parking in a two-car garage. They had worked with Building Commissioner Matte and it was determined to be the best option. Mr. Faiia asked for clarification about the footprint of the proposed addition. Ms. Stone stated the owners request to make the addition flush on the exterior.

Mr. Kindermans asked if there were any comments from abutters. Mr. Swaim stated that the only neighbors are on the north side of the property. Mr. Kindermans noted the the fencing on the property. He stated it constituted a significant encroachment of about 15 feet onto the rail trail. Ms. Stone stated that the property owners haven't installed any fencing. The Murphy's appeared for the hearing and confirmed the fencing was preexisting when they purchased the property. Chair Akehurst-Moore stated the fencing wasn't relevant to this work but it was now a matter of public record.

Chair Akehurst-Moore opened the hearing for public comment and there was none.

Mr. Faiia moved to approve the application of Sarah and Bill Murphy, for a Special Permit under Sections 7.1.3, 7.1.5, and 11.6 of the Zoning Bylaw to construct a 1,198 sq. ft. addition on the existing 1,494 sq. ft. non-conforming dwelling at 368 Old Marlboro Road (Parcel #3767-2). Mr. Kindermans seconded the motion and all **VOTED** in favor.

Documents Used: Site plan, google earth, and photos

***Keith Callahan on behalf of The Thoreau Club, for a Variance under Section 3(c)(2) of the Sign Bylaw and a Special Permit under Sections 5.4.5 and 11.6 of the Zoning Bylaw to host a tennis tournament and install a temporary sign at 275 Forest Ridge Road (Parcel# 2970-1-5).***

Chair Akehurst-Moore opened the public hearing and reviewed the application. Keith Callahan appeared for the hearing on behalf of the Thoreau Club. He gave an overview of the event to host an international woman's tennis tournament from Aug. 8th – Aug 14th. The event exceeds three days and thus requires special permit. Mr. Callahan gave an overview of the week including participants, timing of tournament events and parking management. Illegal parking will not be tolerated and attendants and police officers will be on duty. A party will be hosted sometime midweek in the outdoor pool area and will conclude at 10 pm. Event ends Sunday at 2pm. A Temporary banner will be placed at the end of Forest Ridge Rd for 3 weeks. A VIP tent will also

be erected for two days. Emergency protocols have been discussed with the police and fire dept and will be in place.

Chair Akehurst-Moore praised the comprehensiveness of the application and asked if the event had received a permit before. Mr. Callahan confirmed it had not and that Building Commissioner Matte and Kevin Hurley stated that only the tent, bleachers and food required permitting which they pursued. Mr. Callahan stated that the permitting process for this application began in fall of 2021. Chair Akehurst-Moore asked if a sign was applied for under a previous application. Mr. Callahan stated it was in the original application, however there is no design available for it yet.

Mr. Faiia asked about attendance. Mr. Callahan gave an overview of attendance, the matches and where they are held. M. Kindermans spoke in favor of the application. Chair Akehurst-Moore asked building inspector Paul Creedon if this event had previously received any complaints. Mr. Creedon stated there had not. Mr. Swaim stated he had reviewed the application and had no comments. Mr. Faiia asked if they could approve a sign without reviewing a design. Mr. Callahan gave a brief description of the information the sign will contain. Mr. Swaim asked about the dimensions. Mr. Callahan confirmed it would be 3'x7'. Mr. Kindermans asked when the sign will be taken down. Mr. Callahan stated it would be taken down on Sunday. Chair Akehurst-Moore stated she was comfortable with granting a variance for the sign and noted the letter from Tina Cantu in support of the event.

Chair Akehurst-Moore opened the hearing for public comment and there was none.

Mr. Kindermans moved to approve the application of Keith Callahan on behalf of The Thoreau Club, for a Variance under Section 3(c)(2) of the Sign Bylaw and a Special Permit under Sections 5.4.5, 11.6 and a variance under 3C.2 of the Zoning Bylaw to host a tennis tournament and install a temporary sign at 275 Forest Ridge Road (Parcel# 2970-1-5). Mr. Faiia seconded the motion and all **VOTED** in favor.

Documents Used: Photos

*Lyn Wilson, for a Special Permit under Sections 5.3.4 and 11.6 of the Zoning Bylaw for the stabling or boarding of horses in a residential district at 28 Cambridge Turnpike (Parcel# 0241).*

Chair Akehurst-Moore opened the public hearing and reviewed the application. Lyn Wilson appeared for the hearing and gave an overview of her request to stable her pony on the property of 28 Cambridge Turnpike. The property is just over two and a half acres. Chair Akehurst-Moore stated that under section 5.3.4 of the Zoning Bylaw, written consent is needed from every owner within 300 feet of the stable and asked Ms. Wilson if she had received all of them. Ms. Wilson stated she had received one email in the affirmative from the property of 181 Lexington Rd. Chair Akehurst-Moore asked Ms. Carey if the applicant needs to have written consent in hand. Ms. Carey stated that the applicant would need them in hand.

Mr. Swaim reaffirmed Ms. Careys statement. Chair Akehurst-Moore stated that the best thing to do would be to continue the application to the meeting of July 14<sup>th</sup> and asked Ms. Carey if she had worked with Ms. Wilson on compiling an abutters list. Ms. Carey confirmed she had. Ms. Wilson asked if the application could be moved forward given the lack of responses. Chair Akehurst-Moore stated that lack of communication is treated as non- consent. Ms. Wilson stated that a few of the neighboring properties are owned by the town. Chair Akehurst-Moore stated that Ms. Carey would be able to assist in securing responses for the town owned properties.

Chair Akehurst-Moore asked for questions from the Board. Mr. Kindermans stated it comes down to knocking on doors and getting signatures. Chair Akehurst-Moore asked Ms. Wilson for an ideal timeframe for continuance. Ms. Wilson requested one month.

Chair Akehurst-Moore opened the hearing for public comment. Jeffrey Guy of 455 Lexington Road appeared for the hearing spoke in favor of the application. Chair Akehurst-Moore stated that the response needed to be in writing.

Mr. Faiia moved to continue the application of Lyn Wilson, for a Special Permit under Sections 5.3.4 and 11.6 of the Zoning Bylaw for the stabling or boarding of horses in a residential district at 28 Cambridge Turnpike (Parcel# 0241) to the hearing on July 14<sup>th</sup> at 7:00 PM. Mr. Kindermans seconded the motion and all **VOTED** in favor.

Documents Used: none

*Greg Graham, Latitude Architecture, for a Special Permit under Sections 7.1.3 and 11.6 of the Zoning Bylaw to construct two 1st floor additions totaling 27.3 sq. ft. and create 224.4 sq. ft. of additional living space on the second floor by raising the roofline and construct a breezeway connecting the garage to the house at 35 Belknap Street (Parcel# 0769).*

Chair Akehurst-Moore opened the public hearing and reviewed the application. Greg Graham appeared for the hearing on behalf of owners of 35 Belknap Street which is a nonconforming lot. It violates the front yard and side yard setbacks. Mr. Graham gave an overview of the project which includes constructing two 1st floor additions totaling 27.3 sq. ft. and creating 224.4 square feet. of additional living space on the second floor by raising the roofline and constructing a breezeway. With the additions the floor area is 3,645 square feet which is under the allowable floor area of 3,826 square feet.

Chair Akehurst-Moore opened the hearing for public comments. Paul Pflugfelder of 53 Belknap St appeared for the hearing and asked about the extent of the non-conformity regarding the proposed garage and breezeway. Mr. Graham stated that the breezeway is an open-air element and would not violate the requirements for nonconformity. Mr. Pflugfelder asked if the breezeway was considered an auxiliary unit. Mr. Graham stated that it's not conditioned space and should instead be considered a landscape feature. Chair Akehurst-Moore confirmed that the breezeway was not an auxiliary unit. Mr. Pflugfelder asked if the addition of the breezeway would contribute to the nonconformity and if the previous owners had avoided this type of addition for that reason. Mr. Kindermans clarified Mr. Pflugfelder's question for the Board.

Chair Akehurst-Moore asked Building Inspector Paul Creedon if the connection makes the garage part of the main building and increases the non-conformity. Paul Creedon stated that the garage may have been conforming at the time it was built but is now nonconforming. This will not make it any more nonconforming. Mr. Graham reiterated that this is an open-air structure and does not increase the nonconformity. Chair Akehurst-Moore asked Mr. Graham what he was looking at in terms of setbacks. Mr. Creedon clarified the required setbacks. Mr. Pflugfelder stated he had no other questions, and he was delighted with the improvements. Chair Akehurst-Moore asked Ms. Carey if there was any additional public comment. Ms. Carey confirmed there was not.

Mr. Kindermans stated he was satisfied with the proposed plan. Mr. Faiia asked if there would be any changes to the current landscaping. Mr. Graham stated that a tree in the path of the proposed breezeway is set to be removed but other landscaping will remain as it adds a level of privacy. Hilary Steinert of 199 Nashawtuc Road and property owner of 53 Belknap Street stated that most

of the big shrubs near the breezeway are invasive and they will be replanting indigenous plants to maintain the screening. Paul Pflugfelder of 53 Belknap stated he was happy with the landscaping work.

Mr. Kindermans moved to approve the application of Greg Graham, Latitude Architecture, for a Special Permit under Sections 7.1.3 and 11.6 of the Zoning Bylaw to construct two 1st floor additions totaling 27.3 sq. ft. and create 224.4 sq. ft. of additional living space on the second floor by raising the roofline and construct a breezeway connecting the garage to the house at 35 Belknap Street (Parcel# 0769). Mr. Faiia seconded the motion and all **VOTED** in favor.

Documents Used: Application, design, photos and plot plan

### **Administrative Business**

#### **Election of Officers**

1. Mr. Kindermans moved to elect Ms. Akehurst-Moore as chair and Mr. Smith as clerk. Mr. Faiia seconded the motion and all voted in favor

2. Mr. Faiia moved to elect Mr. Kindermans as vice chair. Mr. Swaim seconded the motion and all VOTED in favor.

There being no further business, the meeting was adjourned at 8:08 p.m.

Respectfully submitted,  
Hayleigh Walker  
Administrative Assistant