



ZONING BOARD OF APPEALS
TOWN OF CONCORD
MEETING MINUTES
JULY 14, 2022

Pursuant to notice duly filed with the Town Clerk, a virtual Zoom public meeting of the Zoning Board of Appeals was held on Thursday June 14, 2022 at 7:00 p.m.
Meeting ID: 817 2520 1217 Password: 311857

PRESENT:

Members:

Ravi Faiia

James Smith

Thomas Swaim

Paul Creedon, Building Inspector

Elizabeth Hughes, Town Planner

Hayleigh Walker-Kurland, Admin Assistant

Acting Chair James Smith called the meeting to order at 7:00 p.m.

Public Hearings:

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).

The Applicant requested a continuance without discussion to the August 11th meeting.

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 August 11th at 7:00 PM. Mr. Swaim seconded the motion. The Chair called for a roll call vote; Mr. Faiia, yes; Mr. Swaim, yes; and Mr. Smith, yes. All **VOTED** in favor.

Documents Used: None

Mark White, for a Special Permit under Sections 4.2.2.1 and 11.6 of the Zoning Bylaw to construct a 3,966 sq. ft. two-family dwelling at 104 and 106 Conant Street (Parcel #2262).

Chair Smith opened the public hearing and reviewed the application. Mark White of AWMW LLC appeared for the hearing and gave an overview of their request for a special permit to construct a new two-family dwelling at 104 and 106 Conant Street. The property has 11,770 square feet and lies within Zoning District C. There is an existing two-family structure on the property that was built in 1953 which is serviced by Town water and sewer and utilizes natural gas for heating and hot water. Mr. White stated the proposed two-family will be energy efficient and be all electric for its heat pumps, hot water heaters and cooktops. The new building will conform to all dimensional regulations as specified in the Town of Concord Zoning Bylaw, including FAR coverage, height, parking, and setback requirements. The proposed 2- unit building will share a common wall down the middle of the garage. Mr. White concluded that their proposal to provide two moderately sized housing units on this site is directly in keeping with the 2018 Envision Concord Comprehensive Long Range Plan's Housing Goal #5 and

section 4.2.2.1 of the Zoning Bylaw. Additionally, the two units are preferable to a single 4,000 square foot home as they are more in harmony with the adjacent properties, an excellent option for smaller households and is consistent with smart growth planning strategies for greater density close to transit and other nearby resources.

Mr. Swaim and Mr. Faiia stated they had no objections to the proposed dwelling.

Mr. Smith asked for clarification on difference between the gross floor area calculation and the maximum floor area calculation. The Acting Building Commissioner Paul Creedon confirmed that the calculations for gross floor area and maximum floor area are the same. Additionally, Town Planner Elizabeth Hughes explained that gross floor area excludes basements, decks and screened porches but would include a detached garage. Mr. Creedon elaborated that any attic with a ceiling lower than 6'8" would not be included either.

Chair Smith then asked if this property consisted of two separate lots. Mr. White clarified that the property would remain one lot with a condominium ownership.

Chair Smith asked if Mr. White was satisfied with the comments and conditions in the Concord Public Works Water/Sewer Division memo. Ms. Hughes stated that the conditions mentioned are standard conditions for the Water/Sewer Division. Chair Smith just wanted to make sure the Applicant was aware of the comments. Mr. White stated that he had no issues with the comments.

Chair Smith opened the hearing for public comment and there was none.

Chair Smith stated that this was a very thoughtful presentation and ticks the boxes in terms of moving away from fossil fuels and creating smaller units.

Mr. Faiia agreed with Chair Smith's comments and thought that the neighbors would be pleased with this project based on past comments.

Mr. Faiia moved to approve the application of AWMW LLC, for a Special Permit under Sections 4.2.2.1 and 11.6 of the Zoning Bylaw to construct a 3,966 sq. ft. two-family dwelling at 104 and 106 Conant Street (Parcel #2262) subject to the conditions in the June 30th memo from the Water/Sewer Division. Mr. Swaim seconded the motion. The Chair called for a roll call vote; Mr. Faiia, yes; Mr. Swaim, yes; and Mr. Smith, yes. All **VOTED** in favor.

Documents Used: Concord Public Works Water/Sewer Division Memo June 30, 2022

Catherine Webster, for a Special Permit under Sections and 4.2.2.2 and 11.6 of the Zoning Bylaw for a 922 sq. ft. additional dwelling unit at 314 Elm Street (Parcel# 1780).

The Chair opened the public hearing and reviewed the application. Catherine Webster appeared for the hearing and stated that she and her husband are looking to sell their house. However, they cannot do so until they obtain permits for the apartment in the detached carriage house that was built in 2013 for her aging parents. The previous contractor failed to obtain the necessary permits when the apartment was first built, and they are looking to rectify this error.

Chair Smith asked if there were any specific issues associated with this application beside the lack of permitting. Ms. Webster gave an overview of the previous construction. The carriage house was an existing structure that included a two-car garage and an apartment upstairs which was deemed unsafe. They renovated the apartment for her parents who frequently visit. There are no issues with the apartment itself. Ms. Webster stated that they simply want to correct the mistake that was made regarding the lack of permits so they can sell their home.

Ms. Hughes stated she did see any issues with this request. The apartment is less than 1,000 square feet. However, there is currently no second means of egress which will be rectified by the installation of a stairway in the back of the structure as shown on the proposed floor plans. Ms. Hughes also noted the comments made by the Concord Public Works Department Water/Sewer Division memo dated June 30, 2022, regarding the unknown water and sewer service configurations to the detached structure. The property owner will have to show how the structure is connected and it will have to meet Water/Sewer Division service connection requirements.

Carlos Miranda of Confidence Home Improvement and contractor for this project appeared for the hearing. He stated that he has reached out to the Water/Sewer Division regarding the proposed work. They will be installing another sewer line from the carriage house to the street.

Mr. Faiia asked if there was an old bylaw for additional dwelling units that stated that permits do not transfer to the new property owner when you sell the house. Ms. Hughes confirmed that there was, and the previous bylaw also did not allow additional dwelling units in detached structures. When the additional dwelling unit in question was first built, it was illegal and not permissible. Ms. Hughes asked Ms. Webster when the carriage house was built. Ms. Webster stated it was built in 1919. Ms. Hughes clarified that the previous owner could have gone through a special permit process for a second dwelling unit for a structure that was built prior to zoning. Ms. Webster confirmed that a permitting process was started in the 70's but was never finalized.

Chair Smith opened the hearing for public comment and there was none.

Mr. Faiia stated that the project meets the additional dwelling unit criteria and he appreciated that Ms. Webster was trying to correct the previous owner's mistake.

Mr. Swaim moved to approve the application of Catherine Webster, for a Special Permit under Sections 4.2.2.2 and 11.6 of the Zoning Bylaw for a 922 sq. ft. additional dwelling unit at 314 Elm Street (Parcel# 1780) subject to conditions in the Water/Sewer Division memo of June 30, 2022. Mr. Faiia seconded the motion. The Chair called for a roll call vote; Mr. Faiia, yes; Mr. Swaim, yes; and Mr. Smith, yes. All **VOTED** in favor.

Documents Used: Floor plans and Water and Sewer Memo

45 Coburn Hill Rd LLC, for a Special Permit under Sections 7.1.3, 7.1.5 and 11.6 of the Zoning Bylaw to demolish the existing 1,804 sq. ft. dwelling and construct a 5,296 sq. ft. dwelling that is over 50% larger than the existing gross floor area on a non-conforming lot at 45 Coburn Hill Road (Parcel# 1863).

The applicant requested a continuance to the August 11th meeting.

Mr. Faiia moved to continue the application of 45 Coburn Hill Rd LLC, for a Special Permit under Sections 7.1.3, 7.1.5 and 11.6 of the Zoning Bylaw to demolish the existing 1,804 sq. ft. dwelling and construct a 5,296 sq. ft. dwelling that is over 50% larger than the existing gross floor area on a non-conforming lot at 45 Coburn Hill Road (Parcel# 1863) to the hearing on August 11th at 7:00 PM. Mr. Swaim seconded the motion. The Chair called for a roll call vote; Mr. Faiia, yes; Mr. Swaim, yes; and Mr. Smith, yes. All **VOTED** in favor.

Documents Used: none

Jason Roan, for a Special Permit under Sections 7.1.3, 7.1.5, and 11.6 of the Zoning Bylaw to construct a 1,569 sq. ft. addition on a 3,075 sq. ft. non-conforming dwelling that is over 50% larger than the existing gross floor area on a non-conforming lot at 45 Bartlett Hill Road (Parcel# 1248-2).

Chair James Smith opened the public hearing and reviewed the application. Jason Roan appeared for the hearing and gave an overview of the project to expand the living space of the dwelling. While they are looking to preserve the first floor and basement footprint, they will have to rebuild the roof due to the inadequate roof structure and framing. This will require the addition of a central cross dormer and flanking dormers on either side. Mr. Roan introduced the option of moving the garage doors to the side which is in keeping with Historic Districts Commission guidelines as the property is in the North Bridge/Monument Square Historic District. There is an existing non-conforming setback for an old overhang. Mr. Roan noted the existing setback of 19.4 feet to the south side overhang and 12.7 feet to the east side overhang. The overhangs that require the Boards review are the south side overhang which has a proposed setback of 19.4 feet and the east side overhang which has a proposed setback of 12 feet which is allowable per the Zoning Bylaw provided that there is an additional three feet added to the setback on the other side. Mr. Roan noted that the additional proposed area is actually 51% larger than the existing gross floor area.

Mr. Swaim asked why Mr. Roan needs to ask for relief on the overhangs since they are consistent with what is existing. Chair Smith clarified that any a major renovation where there is a pre-existing nonconformity requires Board review, even if the nonconformity is not being extended or made worse. Ms. Hughes referenced Zoning Bylaw 7.1.3 which outlines the requirement for a special permit to change, alter or extend a non-conforming structure. This project requires an alteration to a nonconforming structure and the Board has to ensure that the alteration is not substantially detrimental to the neighborhood. Ms. Hughes also referenced Zoning Bylaw 7.1.5 as this project includes an addition that is 51% larger than the existing gross floor area. Ms. Hughes noted that the overhang onto the side yard setback does not require a vote as the footage of 12 feet is permissible within the Zoning Bylaw so long as there is the additional three feet on the other side. Acting Building Commission Creedon noted that in Zoning Districts B and C the height is limited to 15 feet and the overhang is taller than that which serves as another extension to the non-conformity

Chair Smith asked if they thought about changing the design so the proposed design could be 50% rather than 51% larger than the existing gross floor area. Mr. Roan stated that the design was economically and compactly designed in terms of the architectural layout. To reduce the footage would impact the proposed layout of the kitchen and screened porch in the rear of the house.

Mr. Faiia asked if the height of roof was changing on the east elevation. Mr. Roan stated that they were going to be under 35 feet allowable and 27 feet to the peak which was previously approved by the HDC.

Chair Smith opened the hearing for public comment and there was none.

Chair Smith stated that this was a thoughtful design that maintains the same footprint. The proposed addition is in the rear which is helpful from a neighborhood perspective and the dormers are in keeping with the neighborhood.

Mr. Faiia noted that the smaller driveway is being made into a larger paved area. He asked if there was any infiltration or recharge plan for offsetting that increase in the impervious area. Mr. Roan stated the current plan is to use asphalt paving but there is a discussion for using pervious pavers to recharge the water table. Ms. Hughes asked if the Historic Districts Commission approved the asphalt driveway. Mr. Roan confirmed they did. Ms. Hughes suggested an infiltration trench along the backside of the property so the water from the driveway can be

infiltrated in a stone drip trench. Chair Smith asked if they could set a condition for using either pervious papers or infiltration trench for this project. Ms. Hughes confirmed they could.

Mr. Faiia moved to approve the application of Jason Roan, for a Special Permit under Sections 7.1.3, 7.1.5, and 11.6 of the Zoning Bylaw to construct a 1,569 sq. ft. addition on a 3,075 sq. ft. non-conforming dwelling that is over 51% larger than the existing gross floor area on a non-conforming lot at 45 Bartlett Hill Road (Parcel# 1248-2) subject to standard conditions and the condition that the driveway be constructed using pervious pavers or, if asphalt is used, an infiltration trench is constructed to assist with recharging the increase in the impervious area. Mr. Swaim seconded the motion. The Chair called for a roll call vote; Mr. Faiia, yes; Mr. Swaim, yes; and Mr. Smith, yes. All **VOTED** in favor.

Documents Used: Proposed Renderings, Site Plan

Christopher Alphen, Esq., for a Special Permit under Sections 7.1.3, 7.1.5 and 11.6 of the Zoning Bylaw to construct a 2,341 sq. ft. addition on a 2,096 sq. ft. non-conforming dwelling that is over 50% larger than the existing gross floor area on a non-conforming lot at 99 Dalton Road (Parcel# 4201-7).

The Chair opened the public hearing and reviewed the application. Attorney Christopher Alphen, Esq. of Blatman, Bobrowski, Haverty and Silverstein appeared for the hearing along with Resa Gray of Honeycomb Design and Build and the property owners Alenka Zeman and Daniel McIntyre. Mr. Alphen gave an overview of the project which involves a renovation to a structure on lot that is conforming aside from the fact that it lacks sufficient frontage. The lot, which is located at the end of a cul-de-sac, currently has 90 feet of frontage where 150 feet is required. As this project involves constructing an addition that is 50% larger than the existing gross floor area, they are pursuing the special permit.

Resa Gray of Honeycomb Design and Build stated that the homeowners have begun to outgrow the home they have lived in for nine years. The proposed project includes the demolition of a single car garage and a single-story den and in its place create a two-story addition on the west side of the home that includes a new two-car garage, den, mudroom, and laundry area. This work will also involve relocating the powder room from the existing home to the addition. On the second floor they are proposing a primary suite with a new bathroom and a shared office space. The proposed project includes extending the unfinished attic height which is currently 5 feet to create a space for a child's play area accessible by staircase. Lastly, they are proposing a screen porch in the footprint of the current rear deck and a second screen porch off of the living room. Ms. Gray reviewed the proposed elevations, layout and their submissions to the Natural Resources Commission, who required a reduction in the size of screen porch on the east side to 170 Square feet.

Mr. Faiia asked if there were other non-conforming lots in the neighborhood. Mr. Alphen stated that the lot is conforming for area at 40,000 square feet, the only non-conformity is the frontage. Ms. Hughes brought up the Town's GIS map showing the nonconforming status of the lots in the neighborhood,

Chair Smith noted that the homes in the neighborhood are in transition where a significant portion of the lots are conforming and the regulations that the Board has to issue a special permit for over 50% expansion will have very little effect on the character of the neighborhood.

Chair Smith opened the hearing for public comment and there was none.

Mr. Faiia agreed with the comments made by Chair Smith. The expansion of this dwelling are similar to the adjacent property and will likely become the norm in the neighborhood.

Chair Smith noted that due to the configuration of the lot at the end of the cul-de-sac, the dwellings on the adjacent lots are further away. It will be a large house but will not appear to increase the massing due to the shape of the lot. Mr. Faiia agreed that the frontage doesn't appear narrow because there is so much space on the surrounding properties.

Mr. Swaim did not have anything further to add.

Mr. Swaim moved to approve the application of Alenka Zeman and Daniel McIntyre for a Special Permit under Sections 7.1.3, 7.1.5 and 11.6 of the Zoning Bylaw to construct a 2,341 sq. ft. addition on a 2,096 sq. ft. non-conforming dwelling that is over 50% larger than the existing gross floor area on a non-conforming lot at 99 Dalton Road (Parcel# 4201-7). Mr. Faiia seconded the motion. The Chair called for a roll call vote; Mr. Faiia, yes; Mr. Swaim, yes; and Mr. Smith, yes. All VOTED in favor.

Documents Used: Plot Plan, Photos, Proposed Elevations, Existing and proposed Layout, GIS Map

Administrative Business

Approval of Minutes for March 24, 2022, April 14, 2022, May 12, 2022 and June 9, 2022

Mr. Swaim moved to accept the minutes for the March 24, 2022, April 14, 2022, May 12, 2022 and June 9, 2022 meeting as amended. Mr. Faiia seconded the motion. The Chair called for a roll call vote; Mr. Faiia, yes; Mr. Swaim, yes; and Mr. Smith, yes. All voted in favor.

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

Approved by the ZBA on: 8/11/22