



ZONING BOARD OF APPEALS
TOWN OF CONCORD
MEETING MINUTES
AUGUST 11, 2022

Pursuant to notice duly filed with the Town Clerk, a virtual public meeting of the Zoning Board of Appeals was held on Thursday August 11, 2022 at 7:00 p.m. using the Zoom meeting platform.

PRESENT:

Members:

Elizabeth Akehurst-Moore

Ravi Faiia

James Smith

Thomas Swaim

Paul Creedon, Building Inspector

Elizabeth Hughes, Town Planner

Hayleigh Walker-Kurland, Admin Assistant

Chair Akehurst-Moore 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 to the September 8th 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 September 8th at 7:00 PM. Mr. Smith seconded the motion. The Chair called for a roll call vote; Ms. Akehurst-Moore, yes; Mr. Faiia, yes and Mr. Smith, yes. All **VOTED** in favor.

Documents Used: None

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).

Chair Akehurst-Moore opened the public hearing. Frederick Gilgun of Nicholson, Sreter & Gilgun P.C. appeared for the hearing on behalf of 45 Coburn Hill Rd LLC. Also present were Ben Finnegan, the principal of the LLC, and construction manager Jaime Osborn.

Mr. Gilgun reviewed the application. The property currently lacks sufficient frontage by 5 feet and the existing home is in a state of disrepair. The new home will be a single-family home designed to fit within the neighborhood. Mr. Gilgun stated that they had requested a continuance at the July meeting as they had received feedback from neighbors regarding the proposed design. Mr. Finnegan met with the neighbors and made modifications to the proposed style and location of the home. Mr. Gilgun noted that they had

submitted a list of homes in the neighborhood that are comparable to the size of the proposed home. He stated that the home will significantly enhance and not pose a substantial detriment to the neighborhood.

Mr. Swaim asked if the Applicant would be able to maintain the trees in front of the home. Mr. Finnegan stated that they intend to maintain the two trees located near the road, but the trees located close to the existing house are scheduled to be removed.

Chair Akehurst-Moore opened the hearing for public comment.

Jane Torpie of 55 Coburn Hill Rd stated she appreciated the changes that Mr. Finnegan made to the proposed design. However, she noted that the house is substantially larger than any of the houses located Coburn Hill Rd, Adams Rd. and Nimrod Dr. She asked if the Board knew the percentage of homes that were redeveloped on the three aforementioned streets that are nonconforming. She felt the proposed house was out of character when compared to other homes in the area.

Susan Miller of 56 Coburn Hill Rd noted that the house located at 19 Coburn Hill Road is just as large as the proposed house. She noted that Mr. Finnegan was very responsive to the comments he received, and the revised design is a better fit for the neighborhood, however the front roofline of the proposed house makes it appear quite large.

Dan Bowen of 19 Coburn Hill Rd stated that he believed every house in the neighborhood is pre-existing nonconforming as he went through the same process to build the home he has now. The required frontage in the neighborhood is 125 ft. and almost every lot has a frontage of 120 or 100 ft. It was his opinion that homes of the size that the Applicant is proposing are desired by today's buyers. Mr. Bowen stated he is in favor of the proposed design and the Mr. Finnegan was very responsive to the comments of neighbors.

Carole Neville of 46 Coburn Hill Rd echoed the comments of her neighbors concerning Mr. Finnegan's willingness to revise the proposed design. However, she had concerns about the placement of the proposed house and asked if it could be situated in such a way that some of the square footage is hidden so the front elevation appears less massive and more in character with the neighborhood.

Mr. Smith discussed the comments made by Mr. Bowen and the GIS data showing the nonconforming lots in the area. He stated that in past instances where the number of nonconforming lots is larger than the number of conforming lots in a neighborhood, the Board has taken the position that they have more control over the development of a neighborhood.

Mr. Faiia agreed that the proposed house does seem large for this neighborhood. While the size of the house doesn't appear to be an issue for neighbors, he notes their concern regarding the massing.

Chair Akehurst-Moore stated that she was pleased that the developer had been receptive to changes. She agreed with Mr. Faiia's comments concerning the massing and, after reviewing the plot plan and the proposed elevations, stated that she felt a site visit was in order. Mr. Smith and Mr. Faiia agreed that a site visit was necessary to get a more accurate sense of the massing and the height of the proposed property. Mr. Finnegan agreed that he would schedule a site visit with a stake-out which he would make open to the public.

Mr. Smith 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 September 8th at 7:05 PM. Mr. Faiia seconded the motion. The Chair called for a roll call vote; Ms. Akehurst-Moore, yes; Mr. Faiia, yes and Mr. Smith, yes. All VOTED in favor

Documents Used: Site plan, GIS map

Quarry North Rd LLC, for a Special Permit under Sections 10, 11.6 and 11.8 of the Zoning Bylaw for a Planned Residential Development for six units at 48Y Fitchburg Turnpike (Parcel# 3419).

The Applicant requested a continuance to the September 8th meeting.

Mr. Faiia moved to continue the application of Quarry North Rd LLC, for a Special Permit under Sections 10, 11.6 and 11.8 of the Zoning Bylaw for a Planned Residential Development for six units at 48Y Fitchburg Turnpike (Parcel# 3419) to the hearing on September 8th at 7:10 PM. Mr. Smith seconded the motion. The Chair called for a roll call vote; Ms. Akehurst-Moore, yes; Mr. Faiia, yes and Mr. Smith, yes. All VOTED in favor

Documents Used: None

Michael Carucci, for a Special Permit under Sections 7.1.3, 7.1.5, 11.6 and 11.7 of the Zoning Bylaw to construct a 2,597 sq. ft. two car garage with second story addition at 309 Garfield Road (Parcel #3460-9)

Chair Akehurst-Moore opened the public hearing. Elise Stone appeared for the hearing on behalf of Michael Carruci.

Ms. Stone explained the history of 309 Garfield Rd which was originally the guest house of 317 Garfield Rd and later became its own lot by Special Permit as of this year. The property now consists of a single-family residence with a lot 21,886 square feet and a living area of 1,380 sq. ft. The lot is split by the road right-of-way. The current house has a nonconforming front setback of 9 feet. Ms. Stone stated that the proposed project consists of building a two-car garage with a room above that will also have a nonconforming setback of 9 feet so they are not increasing the non-conformity. There are restrictions as to where the proposed garage can be placed on the property due to the location of the existing septic system. Furthermore, the Applicant wanted to ensure that the proposed garage lined up with the existing driveway. Ms. Stone stated that they are under the allowable FAR; however, they are 527 square feet above the Maximum Gross Floor Area allowed by right. The Historical Commission has reviewed and approved of the project as the architecture of the proposed garage is in keeping with the existing house, which is subject to a historic preservation restriction.

Chair Akehurst-Moore explained that the nonconformity is an issue as this lot is unique. Special concessions and historic restrictions were originally placed upon the property as part of the Special Permit to create the lot so the house could avoid being torn down. She noted that the Historic Preservation Plan requires Town approval, which is the Select Board, prior the Board issuing a special permit. Ms. Stone stated that she was not aware that approval from the Select Board was a requirement. Chair Akehurst-Moore reiterated that the restrictions that were put in place for this lot require Town approval and she felt she could not move forward with approving the special permit but was interested in hearing the thoughts of her fellow Board members.

Mr. Swaim agreed with Chair Akehurst-Moore that the project requires approval under the Preservation Restriction by the Select Board.

Ms. Stone asked if this application should be considered an amendment. Mr. Smith stated he wasn't sure, but the project is subject to the approval of the Town prior to construction. He asked Chair Akehurst-Moore if they could approve the special permit on the condition that the

Applicant acquire Town approval. He also questioned whether the proposed garage could be considered a garage due to the proposed living space which will be built above it.

Mr. Swaim stated that he had spoken with Town Planner Hughes about the proposed project and confirmed that it could not be considered a dwelling or an additional dwelling unit. He suggested that the Board make it a condition that the living space cannot be converted into an additional dwelling unit.

Chair Akehurst-Moore had an issue with a conditional approval as she does not feel that such a condition falls under the Zoning Board's purview. She doesn't foresee Town approval being a major impediment to this project, but it should precede that of the Zoning Board.

Ms. Stone stated that the Select Board was not familiar with the history of the site. Mr. Smith stated that the Select Board would need to familiarize themselves with the history of the site prior to giving approval. The Zoning Board cannot provide guidance as to how they will review the materials.

Ms. Stone asked if the Board could provide a conditional approval of the nonconformity now. Chair Akehurst-Moore stated that in order to approve the nonconformity they would have to make the finding that the project is in keeping with the neighborhood and the surroundings which is not possible due to the additional restrictions placed on the lot. Procedurally, the Town must grant their approval first. Mr. Smith reiterated that the Zoning Board does not have the legal right to approve the special permit at this time.

Chair Akehurst-Moore opened the hearing for public comment and there was none. She noted the letter from abutters Jacob and Katherine Spencer who were concerned about the visibility of the project.

Mr. Smith moved to continue the application of Michael Carucci, for a Special Permit under Sections 7.1.3, 7.1.5, 11.6 and 11.7 of the Zoning Bylaw to construct a 2,597 sq. ft. two car garage with second story addition at 309 Garfield Road (Parcel #3460-9) to the hearing on September 8th at 7:15 PM. Mr. Faiia seconded the motion. The Chair called for a roll call vote; Ms. Akehurst-Moore, yes; Mr. Faiia, yes and Mr. Smith, yes. All VOTED in favor

Documents Used: Site plan

Brian Burt and Christina Scherer for a Special Permit under Sections 6.2.13, 7.1.2, 7.1.3 and 11.6 of the Zoning Bylaw to construct a 113 sq. ft. addition to 97 Highland Street on a legally non-conforming lot so that the lot exceeds that maximum FAR by 1,008 sq. ft. at 97 and 99 Highland Street (Parcel# 2424-97 & 2424-99)

Chair Akehurst-Moore opened the public hearing. Bill Dickinson of Dickinson Architects appeared for the hearing on behalf of Brian Burt and Christina Scherer who were also present.

Mr. Dickinson stated that 97 and 99 Highland Street is a condominium two-family structure and is over the allowable FAR by 895 square feet due to non-conforming lot size of 8,673 square feet. The project includes expanding the existing kitchen and constructing a deck. The 113 square feet addition will be in alignment with the walls of the existing structure and the deck will

be added within the allowed setbacks. An existing non-conforming 4x8 shed will be relocated a few feet to the west and will maintain the current rear setback of 13.1 feet.

Mr. Burt and Ms. Scherer stated that this addition is needed as the existing kitchen is very small. The proposed addition will be placed where their existing deck currently sits. Mr. Burt stated that they feel the proposed addition fits with the current character of the building and the neighborhood. Ms. Scherer added that the addition would make the kitchen more useable.

Mr. Smith inquired about the square footage of the current kitchen. Mr. Dickinson stated that the current kitchen is 10'x10'. They are expanding the kitchen by 6 ft. and it will be in alignment with the walls of the existing structure. This will allow for more cabinets, a larger kitchen island and a more functional space for entertaining. The existing kitchen is roughly 120 square feet.

Chair Akehurst-Moore asked Mr. Dickinson if he had considered other possible alternatives when it came to the position of the addition. Mr. Dickinson confirmed that he had and concluded there were no other possible alternatives. The expanded kitchen will be in alignment with the existing walls and partially obscured by the existing bay window. There is an existing driveway on easterly side of the house and the rear of the house falls right on the required setbacks. There is no other functional place for the addition to be built other than what is proposed.

Mr. Smith asked about the layout of the other floors. Mr. Burt and Ms. Scherer stated that their home has three floors and reviewed the layout of each. Mr. Smith reviewed the plans and agreed there wasn't enough square footage available in the current footprint that would allow for any other alternatives. Mr. Dickinson agreed with Mr. Smith's assessment. The current kitchen is inadequate for entertaining.

Mr. Swaim noted the letters of support from neighbors that were submitted to the Board. He also inquired if this project was similar to one on Central Street that was previously approved. Mr. Smith agreed that it was similar. The Board now has to consider, as they had with the Central Street project, whether this project is in keeping with the neighborhood and if any other alternatives are available to accomplish this work. Mr. Smith agreed that the literal application of the requirement under section 6.2.13 of the Zoning Bylaw would be unreasonable as no other reasonable alternatives were available and the design is thoughtful and does not pose a substantial detriment to the neighborhood.

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

Chair Akehurst-Moore agreed with Mr. Smith's assessment. The request to expand the kitchen is a reasonable one.

Mr. Faiia asked about the proposed placement of the existing shed. Mr. Dickinson stated that the shed was being moved two feet to the left of where it currently sits. The proposed placement will maintain the current 13.1 ft. setback. Mr. Faiia agreed that this was a modest addition and that the request to update the 100-year-old home is a reasonable one.

Mr. Smith moved to approve the application of Brian Burt and Christina Scherer, for a Special Permit under Sections 6.2.13, 7.1.2, 7.1.3 and 11.6 of the Zoning Bylaw to construct a 113 sq. ft. addition to 97 Highland Street on a legally non-conforming lot so that the lot exceeds that maximum Floor Area Ratio by 1,008 sq. ft. at 97 and 99 Highland Street (Parcel# 2424-97 &

2424-99). Mr. Faiia seconded the motion. The Chair called for a roll call vote; Ms. Akehurst-Moore, yes; Mr. Faiia, yes and Mr. Smith, yes. All VOTED in favor

Documents Used: Site plan and floor plans

Administrative Business

Approval of Minutes for July 14, 2022

Mr. Smith moved to accept the minutes for the July 14, 2022 meeting as amended. Mr. Faiia seconded the motion. The Chair called for a roll call vote; Ms. Akehurst-Moore, yes; Mr. Faiia, yes and Mr. Smith, yes. All VOTED in favor.

There being no further business, the meeting was adjourned at 8:14 p.m.

Approved by the ZBA: 9/8/22