

**Town of Webster Zoning Board of Appeals  
Meeting Minutes  
Large Meeting Room, Gladys E. Kelly Public Library, 2 Lake Street  
June 10, 2019**

Present: Chairman Jason Piader. Vice Chairman Dan Cournoyer, Members Chris Daggett, Mark Mason.  
Also Present Ann Morgan, Town Planner and Kelly Gorham, Planning Department Clerk

**1. Call to Order** - Chairman Piader called the meeting to order at 6:00 p.m.

**2. Action Items** - Approval of Meeting Minutes

- a. Draft Meeting Minutes – December 13, 2018. The Board reviewed the draft minutes. No edits or changes were made. Motion to approve the minutes as drafted made by Mr. Cournoyer, seconded by Mr. Daggett. Motion passed unanimously, 4-0.

**3. Public Hearing – Variance application – 49 Highland Street - Side yard setback variance to replace existing garage and construct a larger garage; Amy & George Panagiotou (Applicant / Owners); Assessor ID 10-A-3-0; parcel is located in a Single Family Residential (SFR) zoning district.**

George and Amy Panagiotou were present and reviewed the application. They noted that there is an existing 10'x 20' garage that in serious disrepair. They showed the Board pictures. The garage is over 100 years old and is seriously dilapidated. They would like to tear it down and replace it with a 24'x 40' structure in the same location with the foot print expanding into lot, not into the side yard. It was noted that the existing footprint which would be covered by the new structure is 4.1 feet from the side yard and that a 15 foot setback is required in the Single Family Residential (SFR) zoning district. The Applicant noted that they are not increasing the existing non-conformity but would like to be able to use the existing footprint which would make the new garage non-conforming with the same (existing) setback. Mr. Panagiotou noted that many of the houses in the neighborhood have garages that have similar non-conforming garages where the side yard setbacks are not being met. It is an older neighborhood that was built out before current zoning. He further noted that they had submitted a letter of support from their neighbor.

The Board and Applicant discussed nature of existing non-conformity as it relates to the proposed structure as well as the constraints of the lot. The existing site conditions were reviewed to determine if there were any other viable option to locate the new garage and maintain the required setback. Both the Panagiotou's and the Board members noted that the house and existing pool make it difficult to locate the structure on a different area of the site. To the rear of the lot there is a drop off that slopes down approximately six feet to a wetland area.

Ms. Morgan noted that several Department Comment forms were submitted into the record. There were not comments or objections from the Town Departments. No written or verbal public comments were received. Mr. Cournoyer asked about the apron to the new driveway and what it would be made of. Mr. Panagiotou noted that they intend to install a couple of concrete slabs and that the rest would consist of pea stone.

Mr. Piader asked if the Board had any additional comments. No additional questions or comments were made. No public comment was received.

Motion to close the public hearing made by Mr. Cournoyer, seconded by Mr. Daggett. Motion passed unanimously, 4-0.

Mr. Piader explained to the Panagiotous that the hearing was closed and no new input would be received. The Board would take a vote on the matter in a moment and they were welcome to stay. Once a Decision

is made and filed with the Town Clerk they would have to wait the required 20 day appeal period. Ms. Morgan noted that they would receive a copy of the Decision as well as a letter outlining their next steps which must be completed prior to applying for a building permit.

After the public hearing was closed, the Board deliberated on the application as it relates to the four criteria for granting. It was noted that the site constraints including wetlands, slope and existing structures such as the house and pool make it difficult to find another location on the site to build a new garage that would conform to zoning. Moving existing structures to find a new location would be a financial hardship. The surrounding area and neighborhood have several examples of lots with garages that are similarly placed on the lot, many pre-existing, non-conforming with similar side and front yard setbacks.

Motion to grant the variance based on hardship caused by constraints of the property as it relates to site conditions and financial hardship in the property owner's ability to locate a garage on site; and that the proposed garage does not present a substantial detriment to the public good nor derogates from the intent and purpose of the Zoning By-Law made by Mr. Cournoyer, seconded by Mr. Mason. Motion passed unanimously 4-0 by roll call vote (Daggett – AYE; Piader – AYE, Mason – AYE; Cournoyer – AYE).

#### **4. New Business**

- a. **Board and Committee Appointments – Term Expirations.** Ms. Morgan noted that both Mr. Piader and Mr. Fafard's terms were due to expire on June 30<sup>th</sup>. She advised that they send an email to the Board of Selectmen seeking reappointment at the July meeting if they intended to stay on the Board.
- b. **Other:** Mr. Mason noted that he was unable to access the Board materials on the website using the link sent by staff. Mr. Piader noted the same and stated that he had found the material through a couple of avenues and relayed those to the Board. Ms. Morgan noted that she would back check the link before sending it the next time.
- c. **Conservation Commission Setback Policy –** Ms. Morgan noted that the Conservation Commission has adopted a setback policy is in direct conflict with the Town's Zoning By-law (ZBL). The policy call for a 25 foot setback from all wetlands including the Lake. It was established to better protect the wetlands and to offset impacts to the Lake. With regards to the Lake, the ZBL calls for a ten foot setback. There has been some recent conflicts and questions about how to reconcile the ZBL with the policy. Ms. Morgan noted that she will send the policy to the Board for their review and discussion at the next meeting. When asked, she noted that the Conservation Commission had adopted the policy at a regularly posted meeting but, to her knowledge, no public hearings were held. Mr. Cournoyer noted that policies should go through the proper channels. The issue of enforcement was raised with several members questioning how the Town would go about enforcing a policy. A wetlands by-law is needed. Ms. Morgan noted that she thought the Conservation Commission was working on developing just such a by-law. It was further noted that all setback variance issues go through Zoning Board of Appeals and the Board is required to uphold the Zoning By-law, not the Conservation Commission setback policy. Ms. Morgan noted that she would include this item on the next meeting agenda.
- d. **Board Meetings / Special Permits:** Mr. Piader stated that he thinks the Board should meet more frequently. He looked at the Planning Board agendas and noted that they consistently have a large number of items, some of which may be suited for ZBA review. He felt that this would provide more balance. Ms. Morgan noted that the Board could have workshop to review the Zoning By-Law and offer some recommendations that would lead to such changes or provide input on modifications required to update the ZBL such as the Use Table. Mr. Piader suggested that they could look at the Special Permit process and which uses could be under the umbrella of the ZBA instead of the Planning Board. Uses not listed in ZBL sometimes require a Special Permit from the ZBA and sometimes force

the people to file an appeal if a use is not clearly identified. The language as well as definitions need to be clear and expanded upon. Ms. Morgan noted that she had already begun to work on a Use Table that reflects all the items identified in the ZBL as the current Use Table is inadequate and inconsistent with the text of the ZBL. She also noted that the solar by law needs clarification and modifications.

4. Any other items which may come lawfully before the Board: None.

**5. Next Meeting**

Ms. Morgan noted that a new variance application had been filed. The Board reviewed possible dates and directed staff to finalize a date in July or early August based on the availability of all members.

**6. Adjournment**

Motion to adjourn made by Mr. Cournoyer, second by Mr. Daggett. Motion passed unanimously 4-0. The meeting was adjourned at 6:32 p.m.

Minutes Approved:

  
Jason Piader, Chairman

7-29-19  
Date