

Webster Zoning Board of Appeals  
Meeting Minutes  
July 7, 2020

A meeting of the Webster Zoning Board of Appeals was held on Tuesday, July 7, 2020 in the Selectmen's Meeting Room of the Webster Town Hall, 2<sup>nd</sup> Floor, 350 Main Street, Webster, MA.

Present: Chairman Jason Piader, Vice Chairman Dan Cournoyer, Clerk Chris Daggett, Members Dan Fales and Mark Mason.

1. **Call to Order:** Chairman Piader called the meeting to order at 6:30 p.m. Mr. Piader reviewed the protocols for conducting the meeting such as social distancing, face masks, approaching the Board and the submission of new materials during the meeting. He noted that if proper social distancing could not be maintained then the meeting would have to be continued to another date.
- 3A. **Public Hearing: Variance Application – 202 Killdeer Road – Kathryn Swanson (Applicant / Owner) – Construct a garage within the front yard setback.** Assessor ID 58-A-12. Site is located in the Lake Residential (LR) and Lake Watershed Protection (LWP) zoning districts.

Mr. Piader asked the Clerk to read the public hearing notice. Mr. Daggett announced that the Board would open the hearing for 202 Killdeer Road.

Kathryn Swanson (Applicant / Owner) was present to review the application with the Board. She reviewed the progress of the application noting that since the time of the original submission the size of the garage has changed. Originally she had requested a 24' x 28' foot garage but has since scaled that request down in size to 24' x 26' in order to be more accommodating to neighborhood concerns. This new size would mean that she needs a 5 ½ foot variance for the front yard setback. Ms. Swanson noted that the garage would be for two vehicles one of which is a truck. The garage would be attached to the house and there would be some storage above which would be accessed via stairs. Presently she doesn't have a garage on the site. The house is small, and storage is very limited. The garage is necessary to get her vehicles under cover, provide extra storage and enable her to access the house under cover during the bad weather. She noted that some neighbors were concerned that the new garage would impair sight lines when exiting their properties. Ms. Swanson reviewed her analysis of that and stated that there would be no infringement on her neighbor's sight lines when trying to leave their properties. She added that there were several properties in the area that had garages closer to the street than what she was proposing. Ms. Swanson noted that she had submitted pictures demonstrating this. She stated that she would abide by whatever the Board found reasonable but that the garage was a necessity.

Mr. Piader asked how long her truck was and would it fit into the proposed garage. Ms. Swanson stated that the truck was approximately 18 feet long. He asked about other properties in her neighborhood that had garages within the front yard setback as well. She stated that there were several on Killdeer Island including South Shore Road which is in her immediate neighborhood. Mr. Piader noted that there were four specific criteria that had to be met to grant a variance and asked Ms. Swanson if she could outline site conditions and hardship issues specific to her request. Ms. Swanson noted that the shape of her lot wouldn't permit the construction of a garage in another location.

Mr. Piader asked if the Board had any further questions for Ms. Swanson. There were none. Mr. Piader asked if there was anyone present who wished to speak to the matter.

Mr. Richard Franas, 206 Killdeer Road stated that he had spoken with Ms. Swanson and that the scope of the project has changed several times. He was seeking clarification on the actual size of the garage being considered by the Board. He noted that original plan set showed the garage as 24' x 20' but had a handwritten note show the garage as 24' x 28' and now she's asking for a 24' x 26' garage. In addition, Ms. Swanson had staked out an area in her yard that didn't match the dimensions shown on the plan. He noted that he wasn't objecting to the garage per se so long as the dimensions were specific, that it didn't interfere with traffic sight lines, and that it was aesthetically pleasing. He suggested that Ms. Swanson stake out the location and exact dimensions of the proposed garage for everyone to see.

Mr. Piader noted that the Board was considering the revised plan which is for a 24' x 26' garage which would encroach into the setback by 5 ½ feet. That's the amount of variance she is requesting. The front yard setback requirement is 20 feet. If the variance was granted, the garage would be setback 14 ½ feet from the roadway. Mr. Daggett noted that the original plan was confusing because of the two different notations. Mr. Mason stated that the recent plan received made it clear that she was requesting a 24' x 26' garage. Mr. Piader stated that the Board could request that Ms. Swanson stake out the proposed footprint for review by the Board which would mean that the public hearing would have to be continued. Mr. Franas didn't think that was necessary so long as the Board would be clear about the actual size during their decision process. Mr. Piader asked Ms. Swanson to clarify her request. She stated that the last plan submitted was the request. She had the original plan scaled back to 24' x 26' to be more responsive to concerns raised by the neighbors. She added that the measurement for the setback from the roadway can be confusing since the survey information is different from the pavement.

Mr. Piader noted that the Board can be specific about dimensions at the time of decision and that the Board would be considering the 24' x 26' footprint. If approved, Ms. Swanson could build a garage that size or smaller. If she built something larger she would be in violation and would have to come back to the Board.

Mr. Piader asked if Board had additional questions. There were none. He asked if there were any further comments from the audience. There were none.

Motion to close the public hearing made by Mr. Cournoyer, seconded by Mr. Daggett. Motion passed unanimously, 5-0.

Ms. Swanson asked what the process was next and when a decision would be rendered. Mr. Piader noted that the Board would be discussing the matter later in the meeting and that she was welcome to stay. However, no new information or comments would be permitted. A draft decision would be considered by the Board at a later date. Mr. Mason noted that the next meeting was scheduled for July 21<sup>st</sup> and that the decision would likely be scheduled then. Mr. Piader added that there was a 20 appeal period if the decision grants the variance. Ms. Swanson asked if she could attend the meeting when the decision would be made and asked if she would receive notification about that meeting to which the Chairman answered ye.

**3B. Public Hearing 3B: Special Permit Application – 17 Loveland Road – Joseph Seraphin (Applicant / Owner) – Rebuild existing garage with a new residential unit on the second floor.** Assessor ID 46-A-53-0. Site is located in the Lake Residential (LR) and Lake Watershed Protection (LWP) zoning districts.

Mr. Piader asked the Clerk to read the public hearing notice. Mr. Daggett announced that the Board would open the hearing for 17 Loveland Road.

Mr. Joseph Seraphin and Mrs. Jean Seraphin (Applicants / Owners) were present to review the application with the Board. Mr. Seraphin stated that they were seeking to rebuild a garage that, since the time of application, had been damaged by fire. The new structure would have a garage and an apartment above to be used only for family members such as his parents when they visit and for his son's family who's daughter is severely handicapped. He noted that the property had been in his family for four generations and that the current house is very small. He and his wife don't want to expand the existing house, even though the lot would support a larger house, because they want to keep the property true to its original configuration. The unit above the garage is strictly for use by his family and would not be used as rental to others.

Mr. Piader expressed concern about two residences on one lot particularly around the Lake. Others may seek to do the same as an extra source of income by long term renting or AirBnB. He noted that there are lots of people doing so illegally along with other unpermitted uses such as marinas that are straining the Lake resources and are dangerous at times. Loveland Road is narrow and adding new residential units would increase traffic. He added that if the Board were to consider approving the new unit that it could be conditioned for family members only.

Mr. Seraphin stated that he would not be renting the unit to anyone, that it would be for family use only. Mrs. Seraphin referenced a private email that she had sent to Ann Morgan outlining the hardships their family has endured having to care for a severely handicapped child. They did not enter that correspondence into the record but wanted to the Board to know that their intent with the new residential unit was to provide for family only. Mr. Seraphin added that the lot is large enough to divide into 3 lots which he doesn't want to do because the house has been in the family for a long time and they want to continue to live there permanently. The existing house is very small and they need the extra space for family so that they don't have to tear down and rebuild.

Mr. Piader asked if the Board had any questions. Mr. Fales asked about the plans for the new garage and if there were any issues with the setbacks. Mr. Piader noted that the Special Permit application was specific to the use and not the dimensions.

Mr. Piader asked why they didn't attach the garage to the current house which would make the new living space qualify as an in-law apartment. Mrs. Seraphin stated that there was 100 feet between the two structures and attaching them was not feasible. Mr. Piader asked if there were any comments from the public.

Kate Goff, 15 Loveland Road, stated that she was the immediate abutter to the Seraphins. She said that they were excellent neighbors and praised them for maintaining their property and for being consistently good neighbors. Ms. Goff noted that she had no objection to rebuilding the garage but did object to the additional residential unit. She reviewed recent history when the house was being used by others which was a miserable situation including the fact the previous tenants had almost hit her house - both houses share a driveway. She noted that she couldn't live through that again. She added that removing problem tenants took a long time and there was no guarantee that the new unit wouldn't be rented in the future. Ms. Goff noted that in speaking with the Seraphins that the plans for the garage have changed several times. Mr. Piader asked if it was just the proposed use she objected to. Ms. Goff stated yes, it was. She reiterated that the Seraphins were good neighbors and no matter what happened that they would be responsible and responsive. If, in the future, they move or sell the house to family that there's no guarantee that future owners or renters would be as responsible to the neighbors. Mr. Piader asked if there were any other lots

in the neighborhood that had multiple residences on one lot to which she stated that there were none that she was aware of.

William Stangroom, 11 Loveland Road, noted that he agrees with Ms. Goff. The Seraphins are good neighbors, they take good care of their property and are very respectful. However, he believes that the unit will be used for rental purposes and is very concerned about traffic and impacts to the neighborhood. He reiterated Ms. Goff's frustrations with the previous tenant noting that it was a terrible situation which wreaked havoc on the neighborhood. He does not want to see that repeated in the future. He wanted to know who was going to enforce / police the "family only" rule if that was something the Board was considering.

Mr. Piader asked the Board if there were any additional questions. There were none. Mr. Piader asked Mr. Seraphin to speak to the concerns raised by the neighbors. Mr. Seraphin noted that his mother had rented the house to his cousin during a time when the ownership of the house was in transition after his father's death. The cousin had problems (since recovered from) and, at that time, cause a lot of problems at the house. That was his mother's mistake, not his, and he apologized to the neighbors. He noted that the lot on Checkerberry Island had a separate apartment on site. Given the size of his lot, he could tear down the existing house and build a McMansion which he doesn't want to do, but could, to accommodate his family's needs. He stated that he lived in a great neighborhood and didn't want to see it changed by tearing down the old.

Mr. Piader asked if the Board had any additional questions. There were none.

Motion to close the public hearing made by Mr. Cournoyer, seconded by Mr. Daggett. Motion passed unanimously, 5-0.

#### **4. Discussion: Variance Application – 202 Killdeer Road**

Mr. Piader noted that the Board must consider four specific requirements when granting a variance. The applicant didn't fully articulate the issue of hardship and lot configuration but he knows that there is no other place on the lot where a garage could be situated. He appreciates why she wants to have a garage for the reasons she stated. Many small lots around the Lake and in her neighborhood have garages. Reducing the size of the garage to eliminate the need for a variance could be seen as a hardship as the garage would then be too small to accommodate her current vehicles. Mr. Mason and the other Board members didn't raise any other concerns or issues.

Motion to direct staff to draft a decision taking into consideration all materials submitted, testimony received and the Board's findings for a 24' x 26' garage made by Mr. Cournoyer, seconded by Mr. Mason. Motion passed unanimously, 5-0.

#### **4. Discussion: Special Permit Application – 17 Loveland Road**

Mr. Piader noted that the requirements for granting a Special Permit are different than a variance, specifically if the proposed use is more detrimental to the neighborhood. Allowing a second residential unit in the Lake Residential zone (a single family zone) could potentially open a can of worms in that others may seek to do the same thing in the future. This could lead to more rental properties, increased traffic and density. This has been happening already on the Lake with pop up marinas in residential areas

that have not received permits from the Town. Enforcement of a “family only” condition would be problematic and burdensome for Town staff. Mr. Piader noted that the lot size was large enough to either expand the existing house or attach the garage / apartment to the existing house thereby eliminating the need for a special permit. Mr. Mason noted that the minimum lot size in the Lake Residential district was 5,000 and the Seraphins have 18,000 square feet. They could subdivide the lot and put up more houses thereby also increasing the density of the neighborhood. He stated that he didn’t see a problem with the proposed residential unit citing the fact that many properties around the Lake house multi-generational households whether by way of in-law apartment or separate living quarters on the same lot.

Mr. Daggett was concerned about the potential for renting the unit to others in the future noting that neighbor issues can be tough. Increased traffic is a problem but the Seraphins could tear down their existing house, build something much larger (McMansion) and traffic would increase by the nature of the much larger house with more people in it. He added that there a number of in law apartments around the Lake that would have the same impacts on traffic and number of people living on the same property as the proposed detached residential unit above the garage.

Mr. Fales asked if there was a way to condition / stipulate in a decision that it was for this family only and that it did not transfer to others in the future. Mr. Piader stated yes, special conditions could be developed and approved. Mr. Fales asked how such conditions would be monitored and enforced. Mr. Piader stated that it would be out of the Board’s hands and that there would be no guarantee that the unit wouldn’t be rented out either to family or others. Lots of people do just such a thing and don’t get caught.

The Board discussed the pros and cons of expanding the existing house to create an in law apartment as opposed to a second detached residential unit on the lot. The existing condition of the garage was noted. Mr. Fales noted that the proposed structure is a little over 18,000 square feet would would create a large apartment above the garage. He added that the Seraphins could choose to do nothing and that the current garage was an eyesore. Mr. Piader suggested that the Board could condition the unit to disallow bedrooms but all the other amenities. No one else agreed with that idea.

Motion to direct staff to draft a decision taking into consideration all materials submitted, testimony received, and the Board’s findings made by Mr. Cournoyer, seconded by Mr. Mason. Motion passed unanimously, 5-0.

## 2. Action Items – Meeting Minutes

- a. **January 14, 2020:** Chairman Piader asked the Board if there were any edits or changes. There were none. Motion to approve the meeting minutes of January 14, 2020 as drafted made by Mr. Fales, seconded by Mr. Cournoyer. Motion passed unanimously, 5-0.
- b. **March 18, 2020:** Chairman Piader asked the Board if there were any edits or changes. There were none. Motion to approve the meeting minutes of March 18, 2020 as drafted made by Mr. Fales, seconded by Mr. Cournoyer. Motion passed unanimously, 5-0.
- c. **April 8, 2020:** Chairman Piader asked the Board if there were any edits or changes. There were none. Motion to approve the meeting minutes of April 8, 2020 as drafted made by Mr. Fales, seconded by Mr. Cournoyer. Motion passed unanimously, 5-0.

5. **Other:** Chairman Piader stated that he had received email correspondence from the Town Administrator regarding the status of the Town's lawsuit regarding Mr. Finnamore's campground to which the ZBA is a party. The Town has entered into mediation with regards to this matter. Mr. Piader noted that he could forward the email to the rest of the Board if members wanted to see it.
6. **Adjournment:** Motion to adjourn the meeting made by Mr. Cournoyer, seconded by Mr. Fales. Motion passed unanimously, 5-0. The meeting was adjourned at 7:44 p.m.

Minutes approved by the Board.

  
Chris Daggett, Clerk

7/21/2020  
Date

#### EXHIBITS

- Public Hearing: Variance Application – 202 Killdeer Road – Kathryn Swanson (Applicant / Owner) – Construct a garage within the front yard setback. Assessor ID 58-A-12. All material associated with this application is on file in the office of the Town Clerk and the Planning Department.
- 3B. Public Hearing 3B: Special Permit Application – 17 Loveland Road – Joseph Seraphin (Applicant / Owner) – Rebuild existing garage with a new residential unit on the second floor. Assessor ID 46-A-53-0. All material associated with this application is on file in the office of the Town Clerk and the Planning Department.