

Webster Zoning Board of Appeals
Meeting Minutes
July 21, 2020

A meeting of the Webster Zoning Board of Appeals was held on Tuesday, July 21, 2020 in the Selectmen's Meeting Room of the Webster Town Hall, 2nd Floor, 350 Main Street, Webster, MA.

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

Also Present Ann Morgan, Director of Planning & Economic Development

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 – 49 Wakefield Avenue – Chad Coporale (Applicant / Owner) – Construct a garage within both side yard setbacks.** Assessor ID 50-C-6-0. Site is located in the Lake Residential (LR) and Lake Watershed Protection (LWP) zoning districts.

Mr. Daggett read the public hearing notice.

Mr. Coporale was present to review the application with the Board. He noted that he was building the garage where the driveway currently exists and will not be expanding the driveway. The garage has a second floor for storage. The garage will be 6'1" from the northern lot line resulting in a 3' 11" variance request and 6'3" from the southern lot line resulting in a 3'9" variance request. They would not be encroaching into the front yard setback.

Mr. Piader noted that the plan set showed an expansion of the existing house by adding a third floor which may exceed the 25% expansion of a pre-existing non-conforming structure. He asked if this was part of the application. Ms. Morgan noted that it was not, only the garage, as cited by the Building Commissioner.

Mr. Piader noted that in order to grant a variance the Applicant had to demonstrate that they met the four criteria. He asked Mr. Coporale about the hardship standard. Mr. Coporale noted that while he understands that parking cars in a garage is a luxury, the additional storage space above the garage was essential as the house have very limited storage. Mr. Piader asked about the soil / topography criteria. Mr. Coporale noted that the lot is narrow and that there is no other location in which to site a garage. Mr. Piader asked if the proposed 24 foot width of the garage was the standard for two cars. He answered yes for the proposed two door garage. He could reduce the size of the footprint by 16 inches if he were to change to a one door garage. Mr. Piader asked about if the proposed garage would be a detriment to the public good. Mr. Coporale noted that there would be no infringement on the sightlines for his neighbors. The property was already served by public water and sewer. With regards to the criteria relating to the derogation of the intent of the zoning by-law Mr. Coporale noted that the proposed garage would not be encroaching into the front yard setback. He brought pictures showing similar lots in the neighborhood that had garages. Mr. Piader asked that the pictures be left with staff so that they could be entered into the record.

Mr. Piader asked if there were any additional comments from the Board or the public. There were none.

Motion to close the public hearing made by Mr. Cournoyer, seconded by Mr. Daggett. Motion passed unanimously, 5-0 by roll call vote - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

2. Action Items – Meeting Minutes

a. Reorganization

Motion to nominate Jason Piader as Chairman made by Mr. Mason, seconded by Mr. Fales. Motion passed unanimously 5-0 by roll call vote: - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

Motion to nominate Dan Cournoyer as Vice Chairman made by Mr. Mason, seconded by Mr. Piader. Motion passed unanimously 5-0 by roll call vote: - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

Motion to nominate Chris Daggett as Clerk made by Mr. Mason, seconded by Mr. Fales. Motion passed unanimously 5-0 by roll call vote: - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

b. Meeting Minutes - July 7, 2020: Chairman Piader asked the Board if there were any edits or changes. There were none. Motion to approve the meeting minutes of July 7, 2020 as drafted made by Mr. Fales, seconded by Mr. Cournoyer. Motion passed unanimously, 5-0 by roll call vote: - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

c. Draft Decision - Variance Application - 202 Killdeer Road - Construct garage within front yard setback - Kathryn Swanson (Applicant / Owner)

d. Draft Decision - Special Permit Application - 17 Loveland Road - Rebuild garage with a new second floor residential unit - Joseph Seraphin (Applicant / Owner)

2D. Draft Decision – Special Permit Application – 17 Loveland Road – Rebuild and Expand Existing Garage with a New Second Floor Residential Unit – Joseph Seraphin (Applicant / Owner)

Ms. Morgan noted that the draft decision was not available as there was one outstanding issue. The Zoning By-law requires that the Planning Board is required to provide a recommendation on the site plan associated with this application. The site plan public meeting was opened back in March and was continued to July 27th due to the State of Emergency related to the COVID pandemic. Some issues relating to the site plan were identified in March which the Applicant had since been working to address.

Jean Seraphin stated that she was surprised to hear that there were outstanding issues with the site plan. Ms. Morgan noted that there were no new issues and that work completed since March needed to be reviewed by the Planning Board at their next meeting. Mr. Piader reviewed the process by which a site plan review is required when a Special Permit is required by the Zoning Board of Appeals.

Ms. Morgan recommended that the Board wait for the Planning Board recommendation prior to making a decision. The Board discussed their upcoming meeting schedule to review decisions and schedule a hearing for an application recently submitted. Two meeting dates and times were agreed upon, August 4th at 6:00 p.m. and August 26th at 6:00 p.m.

3B. Public Hearing 3B: 16 Robinson Street. Public hearing on remand from Land Court, Cronan v. Vinton et. Al, 18 MISC 000162, concerning reconstruction of a nonconforming garage under Section 650-28 of the Zonin Bylas and G.L. c. 40A, s.6., and enforcement of the Zoning Bylaw with respect to such structure.

Ms. Morgan noted that Counsel for one of the parties in this matter had conveyed through the Town's Special Counsel that they were not comfortable attending an in person meeting due to health concerns. Presently the Town does not have the technological means to conduct a hearing that includes both in person and remote participation for everyone that may want to attend but that the Town was working on providing that capability. Special Town Counsel had noted to staff that an in-person meeting with remote participation was preferred in this case to allow multiple opportunities for participation in accordance with the Open Meeting Law. It was recommended that the Board continue this matter to a later date / time certain and that it would be appropriate to do so under the provisions of Chapter 53 of the Acts of 2020.

Motion to reschedule the public hearing in the matter of Cronan v. Vinton to August 26, 2020 at 6:00 p.m. in accordance with Chapter 53 of the Acts of 2020 made by Mr. Cournoyer, seconded by Mr. Mason. Motion passed unanimously, 5-0 by roll call vote - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

2D. Draft Decision – Variance Application – 202 Killdeer Road –Construct a garage within the front yar setback – Kathryn Swanson (Applicant / Owner)

Ms. Morgan outlined the format the draft including the findings and draft conditions of approval if the Board granted the variance. Mr. Daggett noted that one of the conditions in the draft included a stormwater component that he had not seen before and asked if it were required. Ms. Morgan noted that the condition was based on comments received from the Town Engineer which were specific to the Massachusetts stormwater regulations / requirements.

Motion to make approve Findings F1 through F8 as drafted made by Mr. Fales, seconded by Mr. Mason. Mr. Piader asked if there were any comments or edits from the Board. There were none. Motion passed unanimously, 5-0 by roll call vote - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

Motion to make approve Finding F9 as drafted made by Mr. Cournoyer, seconded by Mr. Fales. Mr. Piader asked if there were any comments or edits from the Board. Mr. Daggett asked about the language in the second paragraph noting that the applicant "did not provide information pertaining to this criteria". Ms. Morgan stated that this was in reference to what the Applicant provided on the submitted application form. Applicants are asked to address each criteria for granting a variance on the application form. Mr. Piader asked if there were further comments or questions. There were none. Motion passed unanimously, 5-0 by roll call vote - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

The Board reviewed Finding F11. Mr. Piader asked if there were any comments or edits from the Board. Mr. Piader noted that the shape and size of the lot precluded locating the garage to another location and that such language is to be included in the decision. The Board agreed. Motion to make approve Finding F11 as drafted and edited made by Mr. Cournoyer, seconded by Mr. Mason. Mr. Piader asked if there were further comments or questions. There were none. Motion passed unanimously, 5-0 by roll call vote - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

The Board reviewed Finding F12. Mr. Piader asked if there were any comments or edits from the Board. Mr. Piader noted that the Applicant had submitted a number of photographs and materials to adequately demonstrate that the proposed garage in size and location was consistent with other garages in the neighborhood that such language is to be included in the decision. The Board agreed. Motion to make approve Finding F12 as drafted and edited made by Mr. Cournoyer, seconded by Mr. Mason. Mr. Piader asked if there were further comments or questions. There were none. Motion passed unanimously, 5-0 by roll call vote - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

The Board reviewed the draft conditions of approval. Mr. Piader asked if there were any comments or edits from the Board. There were none. Motion to grant the variance with conditions as drafted made by Mr. Cournoyer, seconded by Mr. Daggett. Motion passed unanimously, 5-0 by roll call vote - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

3A. Discussion: Variance Application – 49 Wakefield Avenue

Mr. Piader noted that the lot was narrow and the proposed garage is typical of the neighborhood. Literal enforcement of the Zoning By-law would present a hardship. He noted that no information was received that would demonstrate public safety issues and neither the Police or Fire Departments had issued any comments to that effect. The proposed garage was typical of the surrounding neighborhood. It was noted that the abutting neighbor had submitted documentation from a variance that was requested in 1999 where a third story addition to that house was proposed. The variance was denied citing fire safety concerns. Ms. Morgan noted that there was no documentation on file for that case that demonstrated the cause for denial but that the case before the current Board was for a garage and not additional height to the current house. Mr. Piader asked the Board if there were any further comments or questions. There were none.

Motion to direct staff to draft a decision taking into consideration all materials submitted, testimony received and the Board's findings made by Mr. Daggett, seconded by Mr. Fales. Motion passed unanimously, 5-0 by roll call vote - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE.

4. **Next Meeting Date:** August 4, 2020 at 6:00 p.m.
5. **Adjournment:** Motion to adjourn the meeting made by Mr. Mason, seconded by Mr. Fales. Motion passed unanimously, 5-0 by roll call vote - Fales - AYE; Cournoyer - AYE; Piader - AYE; Mason - AYE; Daggett- AYE. The meeting was adjourned at 7:30 p.m.

Minutes approved by the Board.


Chris Daggett, Clerk

9/9/2020

Date

EXHIBITS

- Public Hearing: Variance Application – 49 Wakefield Avenue – Chad Coporale (Applicant / Owner) – Construct a garage within both side yard setbacks. Assessor ID 50-C-6-0. 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 – 16 Robinson Street. Public hearing on remand from Land Court, Cronan v. Vinton et. Al, 18 MISC 000162, concerning reconstruction of a nonconforming garage under Section 650-28 of the Zoning Bylaws and G.L. c. 40A, s.6., and enforcement of the Zoning Bylaw with respect to such structure. All material associated with this application is on file in the office of the Town Clerk and the Planning Department.