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TOWN OF CARLISLE

OFFICE OF Zoning Board of Appeals

66 Westford Street
Carlisle, MA 01741
978-369-5326

Minutes: Board of Appeals, June 7, 2021

Call to Order

The meeting was called to order at 7:31 p.m. Pursuant to the Governor's Executive Order Concerning Open Meetings during the COVID-19 crisis, there was no in-person attendance. Participation was entirely remote utilizing the teleconference application Zoom Meeting. Chair Snell reported that the meeting was recorded and asked if any other persons were recording the meeting. No one else present said they were recording the meeting.

Roll Call and Declaration of Quorum

Chair Snell recognized the required quorum of Members. Present were Members Travis Snell (Chair), Steven Hinton and Associate Members Jay Lee and Eric Adams. Associate Member Gretchen Anderegg joined the meeting at 7:45 p.m. Absent was Member Manuel Crespo.

Statement of Compliance

The issue of compliance regarding posting of the meeting was confirmed by the Chair. According to Secretary Wang, the Meeting Agenda was posted June 2, 2021, on the Town website and at Town Hall.

Public Comment – Approval of Agenda

Chair Snell asked those present if there were any matters other than those listed on the agenda which the public would like to add to the agenda. When none were offered, the agenda was accepted.

Approval of prior minutes

The Board voted to accept the minutes from May 3, 2021, as amended, Snell (aye), Lee (aye), Hinton (aye) and Adams (aye).

New Business – Application 2107

Chair Snell opened the public hearing for the application of Lauren and Matt Marolda requesting a Variance pursuant to Section 7.5 to build a garage 12 feet from the lot line where 40 feet is required under Section 4.3.2. The property is located within the Residence District B at 190 Lowell Street. Participation was entirely remote using the teleconference application Zoom Meeting. There was no in person attendance.

Present were the Applicants, Lauren and Matt Marolda, Secretary Peggy Wang, Mosquito reporter Cynthia Sorn and members of the public. Secretary Wang reported that no correspondence had been received.

Documents entered into the record

ZBA_2107_01 Application including explanation of the project prepared by Lauren Marolda dated April 26, 2021

ZBA_2107_02 Sewage Disposal Plan prepared by Stamski and McNary, Inc. dated January 22, 1999

ZBA_2107_03 Wetland Permitting Plan prepared by Stamski and McNary, Inc. dated February 8, 2019

Applicants' testimony

The Applicant, Matt Marolda, presented the plan to replace an existing 24' x 24' garage with 30' x 28', 3 bay garage. He noted that the existing garage is rapidly deteriorating and needs to be replaced. The Applicant said that

proposed replacement structure would be in the general location of the existing structure. The existing structure is 21.5 feet from the lot line, proposed structure would be 12 feet from the lot line. He explained that the given the location of the septic and the topography, the proposed location is the only workable solution.

Board's comments

The Board asked the Applicant about the distance from the edge of the proposed structure to the neighboring home. Mr. Marolda estimated the distance to be 300 to 400 feet, Member Hinton utilizing Google Earth confirmed that the distance would be 300 feet. Member Adams asked the Applicant if he had spoken with the abutter, Mr. Marolda said that he had not.

The Board reviewed the Wetland Permitting Plan and suggested several options including modifying the driveway and rotating the proposed structure could reduce the encroachment. They explained to the Applicant the proposed structure would double the current encroachment which requires tangible evidence that no other options are available. At this point it would be difficult to word a ruling that matches the requirements of the Zoning Bylaw.

The Board determined that a site visit would be beneficial for them to confirm that existing conditions limit the location of the proposed structure. They suggested the Applicant review Bylaw 7.5 to understand the hardships.

Public comments

Kevin Bergquist, abutter at 170 Lowell Street, noted that he had no specific objection to the location of the proposed structure but had a concern about what other things would be allowed if a Variance is granted for example the storage of motorcycles. The Board explained that if the Variance were granted, the use of the area would be like how it is used now, there would be additional privileges.

Continuance

Chair Snell asked the Applicants permission to continue the public hearing until July 12, 2021, so that the Board could conduct a site visit. The Applicants were in favor of the continuance and granted permission for the Board to enter his property for the purpose of a site visit.

Chair Snell moved, and Member Hinton seconded the motion to continue the public hearing until July 12, 2021. The Board voted 5 to 0 in favor of the motion, Snell (aye), Hinton (aye), Adams (aye), Anderegg (aye) and Lee (aye).

Application 2108

Chair Snell moved and Member Hinton seconded the motion to open the public hearing for the application of Justin and Elizabeth Daghish Appealing the Building Commissioner's denial of a request for a Zoning Enforcement. The Board voted 5 -0 in favor of the motion, Snell (aye), Hinton (aye), Adams (aye), Anderegg and Lee (aye). The property is located within the Residence B District at 15 Old East Street. Participation was entirely remote utilizing the teleconference application Zoom Meeting. There was no in-person attendance.

Present were the Applicants, Justin and Elizabeth Daghish, the Applicants' Attorney Ginny Kremer, Secretary Peggy Wang, Mosquito reporter Cynthia Sorn and members of the public. Secretary Wang reported that no correspondence had been received regarding the application.

Documents enter into the record

ZBA_2108_01 Application submitted by Christopher Alphen, Esq, dated May 5, 2021

ZBA_2108_02 Letter outlining the reason for the Appeal submitted by Christopher Alphen Esq. dated May 5, 2021

ZBA_2108_03 Exhibit A – Letter to the Town of Carlisle objecting to unpermitted business at 27 Old East Street submitted by Justin and Elizabeth Daghish dated March 22, 2021

ZBA_2108_04 Exhibit B – Response to complaint prepared by Building Commission Jon Metivier dated April 7, 2021

Applicant's testimony

The Applicants' Attorney Ginny Kremer spoke on behalf of the Applicants who contend that there is commercial activity on 27 Old East Street, the property with which they share a common driveway. When the Applicants purchased 15 Old East Street in 2016, they noticed the garage at 27 Old East Street and thought it was simply a garage that was not

permitted for any other use. Once the Applicants noticed the commercial use of the property and the accessory apartment occupied by a Police Officer, they alerted the Town and filed a complaint. The Building Commissioner concluded that there was insufficient evidence of commercial use at 15 Old East Street. Attorney Kremer said that the Building Commissioner did not follow up by speaking with other witnesses or take in to account the photographs submitted by the Applicants. The Applicants have observed the storage of contractor and landscaping equipment and Police Officers hanging out in the driveway. The Applicants are requesting that the Building Commissioner reverse his decision and the property owners should be ordered to cease the commercial activity.

Board's comments and questions

The Board asked the Applicants if they had collected any data or kept logs of activity that could be used to compare with the Building Commissioner's report. Justin Daglish said that he has video from security cameras which shows the daily use by a contractor and police cars recorded over a period of a year that he is willing to share.

The Board noted the need to separate the accessory apartment from the complaint of commercial use during this hearing. Attorney Kremer focusing on the commercial use explained that there is equipment being stored on the property and complained that the Building Commissioner knows the individual operating the business and did not conduct a proper investigation because of that relationship.

Member Adams said he did not think the Board would have enough data to support overturning the Building Commissioner's decision. Chair Snell suggested that a sit visit would be helpful so that the Members could see with their own eyes what is being stored on the property.

Public comments

Annie Macy, an abutter at 29 Old East Street, spoke in support of Terry Holsinger, the property owner of 27 Old East Street. Laurie Engdahl, a Concord resident and former neighbor of Terry Holsinger, noted that Elizabeth Daglish lived at 15 Old East Street as a child and purchased it from her parents. The fact that there is an accessory apartment at 27 Old East Street should not be a surprise. Ronald Holsinger, a Concord resident and son of Terry Holsinger, told the Board that there was a plow and pick-up truck being stored on the property that he inherited from his father. The equipment was used for the care of the property only, he added that there is no business there. Terry Holsinger said that Mr. Moody uses the equipment to take care of the property acting as a dear friend who helps her. Ronald Holsinger suggested that the Daglishs' might be confused about the pickup ownership since he drove a red pickup truck identical to Mr. Moody's truck.

Continuance

Chair Snell asked the Applicants permission to continue the public hearing until July 12, 2021, so that the Board could conduct a site visit. The Applicants' were in favor of the continuance. He received permission from Terry Holsinger to visit the property on Friday June 11, at 8:45 am.

Chair Snell made the motion and Hinton seconded the motion to continue the public hearing until the July 12, 2021 meeting. The Board voted 5 to 0 in favor of the motion, Snell (aye), Hinton (aye), Adams, Anderegg and Lee (aye).

Adjournment

Chair Snell asked those present if there were any additional issues to discuss. When none were offered, Chair Snell moved, and Member Hinton seconded the motion to adjourn. The Board voted 5 -0 in favor of the motion, Snell (aye), Lee (aye), Adams, Anderegg (aye) and Hinton (aye). The meeting adjourned at 8:37 pm.

Respectfully Submitted - Peggy Wang