



Minutes for Meeting

Zoning Board of Appeals, via Zoom

March 8, 2021 at 7:00 PM

Members present: Jane Fisher Carlson, Alan J. Rose, Jr., Natalie B. Sawyer, Stephen J. Larocque

490 Concord Road: a continuation on a request by **Nuong Bui and Hong Linh Ho Duc** for a special permit for an extension to a portico and a pergola.

The Board held a public hearing on March 8, 2021 at 7:00 P.M., via Zoom. The following members were present:

- Jane Fisher Carlson, Chair and Acting Secretary
- Alan D. Rose, Jr.
- Natalie B. Sawyer

Additional documents in the record:

- Email from N. Bui to V. Geary requesting a withdrawal of their application, dated February 8, 2021

The Petitioners were not present at the meeting, but the above-referenced email, requesting that their application be withdrawn, was referenced.

Following due and open deliberation, the Board unanimously agreed to allow the Petitioners to withdraw the application without prejudice.

29 Derby Lane: an application by **Ty Howton** regarding **29 Derby Lane** requesting a special permit for an addition to the home.

The Board held a public hearing on March 8, 2021 at 7:00 P.M., via Zoom. The following members were present:

- Jane Fisher Carlson, Chair and Acting Secretary
- Alan D. Rose, Jr.
- Natalie B. Sawyer

Documents in the record include:

- Existing Conditions photos, EX04, 29 Derby Lane, EX04, dated 6/23/20
- Existing Conditions Plan, 29 Derby Lane, prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA, dated 12/18/20
- Proposed Addition Plan, 29 Derby Lane, prepared by GLM Engineering Consultants, Inc., dated 1/29/21
- RGFA Calculations, 29 Derby Lane, D01, D02, D03, prepared by Thomas Galligan, dated 1/22/21
- Memorandum from John Field, P.E., to the Weston ZBA dated 2/23/21
- Porch/New Mudroom Architectural Drawings, 29 Derby Lane, A01, A02, A03, A04, A05, A06, dated 9/16/20
- Weston ZBA decision, 29 Derby Lane, granting a variance for a garage, dated 9/14/82
- Letter of support from abutter G. Sreedhar of 23 Derby Lane, Weston, Massachusetts, to the ZBA
- Weston Historical Commission Initial Determination Letter dated 8/9/20

The site in question, 29 Derby Lane, Weston, Massachusetts (the “Premises”) is located in Single Family Residence District B. The lot is nonconforming due to lack of area, since it measures 22,600 square feet, and a conforming lot in District B requires 40,000 square feet. The home is also a preexisting nonconforming dwelling because it encroaches into the setbacks toward the southerly side lot line and the rear lot line. The Zoning Board of Appeals (ZBA) issued a variance in 1982 to allow a garage addition to encroach into the rear lot line setback.

The owner of the Premises, Ty Howton (the “Petitioner”) appeared before the Board with Project Manager Drew Arias. The Petitioner is seeking to enclose the dwelling’s existing farmer’s porch so that the area can be used as a mudroom, and to slightly expand it by approximately 1.4 feet. The entire addition would conform to all setback requirements. In a memorandum to the Board dated February 23, 2021, Building Inspector John Field wrote that the conversion from the porch to the enclosed space would add approximately 160 square feet of enclosed area to the dwelling’s first floor. Mr. Field said that this addition would increase the

dwelling's Residential Gross Floor Area (RGFA) to lot area ratio from approximately 22.5% to about 23.3%.

Mr. Arias informed the Board that the Historical Commission approved this change to the house in a Determination Letter dated 8/9/20.

The Board asked about another addition the Petitioner had brought before the Historical Commission on 3/2/21. The Petitioner explained that currently, his only plan was the conversion of the porch into a mudroom, although he was exploring the feasibility of other possible projects in the future. The Board noted that if another ZBA hearing application for the Premises were to be received within the next two years, every attempt would be made to have the same three members of the Board hear the petition.

The Board noted that the Petitioner's request to enclose the existing porch does not increase the nonconformities of the dwelling and adds a nominal 160 square feet of enclosed space to the home.

Following due and open deliberation, the Board unanimously agreed that the proposed addition would not be substantially more detrimental to the neighborhood than the existing conditions. The special permit was granted.

300 Meadowbrook Road: an application by Patrick Murphy as to **300 Meadowbrook Road** appealing a Building Inspector's decision.

The Board held a public hearing on March 8, 2021 at 7:30 P.M., via Zoom. The following members were present:

- Stephen J. Larocque, Acting Chair
- Alan D. Rose, Jr.
- Natalie B. Sawyer, Acting Secretary

Documents in the record include:

- ZBA decision granting a special permit for an addition at 300 Meadowbrook Road, dated 9/19/19
- Letter from Weston Historical Commission to ZBA dated 5/27/19
- Letter from Weston Historical Commission to ZBA dated 3/3/21
- Markup of "Proposed Building Sections" drawing A7, 300 Meadowbrook Road with scale superimposed

- Letter from E. Nolan to Weston Historical Commission dated 2/8/21
- Letter from E. Nolan to Weston Historical Commission dated 2/28/21
- Memo from A. Giske to the Town of Weston dated 3/1/21
- Memo from A. Giske to the Town of Weston dated 1/11/21
- Structural Framing Plans, prepared by Reliable Truss and Components, Sheets 1-8, dated 6/19/20
- Letter from J. Field to P. Murphy, Stop Work Order, dated 2/2/21
- Plot Plan Showing New Additions, 300 Meadowbrook Road, prepared by R. Wilson and Associates, dated 2/25/21

The subject site, 300 Meadowbrook Road, (the “Premises”) is located in the Single Family Residential District B (SFRD B). The Premises comprises about 28,300 ft² in a district requiring a minimum of 40,000 ft². The lot has 126 ft of street frontage in a district requiring 200 ft. The home is located about 43 ft from Wellesley Street (50 ft required). The current RGFA is about 9.2%.

Patrick and Cristina Murphy (the “Petitioners”), Elizabeth Nolan, attorney for the Petitioners, and Dan Quaille, architect for the Petitioners, appeared before the Board to appeal a stop work order issued by the Zoning Enforcement Officer, and thereafter modified their request to seek an amendment to a special permit granted in 2019.

The original application for a special permit was dated May 24, 2019, and sought approval of a special permit in accordance with submitted drawings (the “Submitted Drawings”), which included additions for a master bedroom, sunroom and breezeway infill. Prior to appearing before the Board in 2019, the Petitioners sought and received approval from the Historical Commission based upon the same Submitted Drawings. In support of their argument that the proposed work would not be substantially more detrimental to the neighborhood, the Petitioners appended the Historical Commission approval, and emphasized the Historical Commission approval at both associated hearings on August 1, 2019 and September 5, 2019.¹ On September 19, 2019, based upon the submissions and representations of the Applicants, the Board issued its decision, determining that that proposal was not substantially more detrimental to the neighborhood than the existing conditions and approving the issuance of a special permit “for additions as shown in the drawings submitted in the hearing application and as shown in the amended documents” (the “2019 Special Permit”).

¹ The Applicant was represented at the 2019 hearings by Adrienne Giske, who was, at that time, the architect for the project.

Thereafter, construction commenced, and the project as-built failed to conform to the Submitted Drawings and, therefore, was not authorized by the 2019 Special Permit. On January 2, 2021, the Zoning Enforcement Officer, noting significant deviations between what was proposed and what was built, issued a stop work order (the “Stop Work Order”). At the time of the Stop Work Order, framing of the additions was substantially complete.

The Petitioners conceded that major changes had been made to the approved design; but argued that the Stop Work Order could not be enforced because of the scope of the Historical Commission’s jurisdiction. The Board discussed that this argument missed the mark. The 2019 Special Permit limited approval to the Submitted Drawings and the Board’s finding of “no substantial detriment” was based, at least in part, upon the Historical Commission’s approval. Therefore, the hearing was continued to April 5, 2021 with the recommendation that the Petitioners meet with the Historical Commission to discuss options to mitigate the deleterious effect of the deviations from the Submitted Drawings.