

Members Present: Henry Stone (HS), Kathryn Scadden (KS), John Thompson (JT), Phyllis Halpern (PH)

Members of ZBA Present: Stephen Larocque (SL), Natalie Sawyer (NS), Sujit Sitole (SS)

Staff Present: Valerie Geary (VG), John Field (JF)

Applicants Present: Beth Nolan (attorney), Patrick and Cristina Murphy (owners), Daniel Quaile (Lincoln Architects)

Others Present: Jonathan Witten (town counsel), Peter Vocatura (63 Wellesley St)

Location: online

Link to Recording: <https://weston.vod.castus.tv/vod/?video=db0356a5-ba6d-4652-965e-f547bc163d1b&nav=programs%2FZBA%20Meetings%20-%20Weston%20MA>

300 Meadowbrook Rd – 1922 – Changes to a previously approved partial demolition and addition with ZBA Special Permit

The Historical Commission attended the March 8th Weston Zoning Board of Appeals hearing on a request by Patrick Murphy regarding 300 Meadowbrook Road (Map 28, Parcel 83) appealing the Building Inspector's decision to impose a Stop Work Order relating to deviations in the plans approved by the ZBA. The meeting began at 7:30 pm.

Prior to this meeting, the HC submitted this memo to the ZBA, shown here without attachments:

At its regular meeting on 2 March and at an emergency meeting on 10 February, the Historical Commission agreed that the partially-built project at 300 Meadowbrook Road deviates substantially from the proposal as designed by architect Adrienne Giske and as approved by the Commission. The Commission agreed that the partially-built project is not in character with the original house or the historic neighborhood, but rather is detrimental to both.

This house is prominently located on a well-traveled corner in Case's Corner National Register Historic District. It is also within the Maple Rd/Wellesley St Historic Area. It is part of a group of homes built for a competition in the 1920s; all share similar setbacks, scale, massing, and character. Together they form a cohesive neighborhood that those who live there have treasured.

The drawings approved by the Commission were part of the record used by the Zoning Board of Appeals in their decision to grant a special permit. The drawings were schematic design drawings, not suitable for construction. No alterations to the footprint, elevations, or floor area of the approved design should have been allowed without prior written permission of the Weston Historical Commission, the Weston Board of Appeals and the Architect.

The partially constructed house is visible from both directions along Wellesley St and also to travelers approaching from Maple St and from Meadowbrook Road. The Commission has received numerous calls about the inappropriate fit of this construction. Some have come from neighbors who live in the district, while others come from Weston Golf Club members or passersby. All are concerned with the overwhelming nature of the additions and how the original house has been subsumed by the addition.

If this construction is allowed to continue in its current form, we believe that this will set a bad precedent in town. The Commission has always expected that approved drawings will be faithfully executed, especially when the property is in such a visible location and when the approved drawings were the basis of a special permit.

After the Stop Work Order was issued on 2 February, the owners requested an emergency meeting with the Commission that was held on 10 February. We explained our concerns to them and their attorney then and we tried to work with them to find a way forward. We asked for updated drawings to be able to judge how the additions will look with their finishes compared to the originally approved drawings. We had hoped that this would clarify the impacts to the historical, cultural and architectural resources of this house and

neighborhood. While we understand there may have been a misunderstanding regarding what was asked of them, the owners responded with a narrative list of materials (not all of which are the "in-kind" materials that were originally approved) and a lot of dimensional comparisons.

The approved design drawings carefully scaled the addition to fit harmoniously with the original house, using existing architectural fabric, detailing, roof slopes and height alignments. It kept the original house dominant and its important elements unobscured.

We created the attached redline overlay drawings to demonstrate the differences between the construction and the approved design. An important example of our intent there was to show that the height to the inflection point of the gambrel addition on the north was altered from the approved design. By raising the height of the inflection point, the entire roof height was raised and the volume was increased. The new mass is no longer clearly subservient. The added flares on both the east and west façade of the new gambrel are arbitrary and unrelated to the existing conditions. On the east, the low horizontal effect of the band of windows and baluster above them, which echoed the existing conditions, has disappeared. Please see these and other distinctions highlighted by these redlined drawings for additional important deviations from the approved drawings.

The owner has maintained "that there is no significant difference in height, as the construction was based on the scale presented by the Giske plan, which plan measurements were from the top of the foundation." Clearly, there is a major difference in height as viewed from many different angles at the site. There are several possible reasons for this discrepancy. According to the owner's lawyer, the profile was constructed off-site (by National Lumber.) Off-site construction on a project based on existing conditions is open to errors because it involves many assumptions that instead should be verified with existing references. Use of existing on-site alignments and existing on-site reference points would have ensured that the construction matched the proposed drawings.

Among objections to the Commission's viewpoint, as raised by the owners' attorney, is a concern as to whether deviations along the east (back) elevation are part of the Commission's purview. This façade is visible to hundreds of members of the Weston Golf Club and neighbors traveling down Meadowbrook Rd, where there is an unimpeded long view across the golf course. The back of the house is part of the Historic District and these changes have an impact on its character. While the Commission focuses on views from public ways, we also administer demolition delay process for houses on private roads and consider the views from these streets as well.

The owners have stated that their construction follows the Giske plan. We simply disagree. While there may be a general similarity to the approved drawings, there are obvious differences in elevations, details and finishes. The delicate detailing, proportion and scale are gone, and the massing has grossly increased. This neighborhood and this house are important to us; we ask the Board of Appeals to support the Building Department in working with the owner to remedy their missteps.

SL, acting chair for the ZBA, opened this portion of the ZBA meeting. He read an open meeting law disclaimer from the Governor regarding remote meetings.

JF, Building Inspector, stated that the Stop Work Order was issued because of concerns the frame of the building did not represent what the HC had reviewed and approved. If there was a violation, he wanted to act before any more work at the site was completed.

Attorney Nolan, representing the owners, argued that the Stop Work Order is based on misunderstandings regarding the jurisdiction of the HC, and that the deviations to the approved plans are not significant enough to detract from the cultural resources.

Architect Daniel Quaille, introduced himself and said his firm was engaged by the owners to analyze the approved schematic drawings versus what has been built to-date. He said that he field-measured the as-built heights and that these were corroborated by the surveyor. According to him, the as-built height of the addition ridge is approximately 6" higher than what the approved drawings showed. He did not focus on the back of the house per the attorney's direction.

Owner's impact statement: Patrick Murphy spoke about the family's excitement owning a house in the neighborhood, and their hopes to expand the house in a respectful way. He said that he gave the schematic drawings to a structural engineer to interpret and to use. He agrees that there have been changes to the plan, for example, at the back roof. This Stop Work Order has been very difficult for his family. He has many letters of support from neighbors.

SL noted that it is important to hear town counsel's response to the complaints over jurisdictional authority of the HC. He commented on how when the drawings were originally presented to the ZBA, they were told that the existing tree/shrub buffer at the north side would be preserved. However, now it has all disappeared. He agrees that there are many departures from what was presented. He noted that the ZBA relies on the HC in matters regarding whether a project is detrimental to the neighborhood.

NS stated that when the Giske plan was originally provided, the ZBA based its decision on the HC's support which made it easy to find that there was not a substantial detriment. She suggested that the owner should discuss modifications with the HC. She noted that the ZBA Special Permit was granted "without conditions for additions as shown in the drawings submitted in the hearing application and as shown in the amended documents." The special permit approval was tethered to the drawings.

SL noted a nexus was missed because there were no construction documents to properly prepare the schematic drawings before giving them to the structural engineer.

Jon Witten, town counsel, offered that the issue is not whether the HC has overstepped its bounds. The issue is not relevant to MGL 40C or even MGL 40A. The issue is "does the as-built project comport with the plans that the ZBA approved when it granted the Special Permit as a preexisting non-conforming structure in 2019. The ZBA can deliberate on that and conclude that there is a violation or it may conclude that the deviations are de minimus. What's before the ZBA is an appeal of the Stop Work Order for non-compliance with approved drawings.. Whether or not the plans deviate from the as-built is a matter of fact. The ZBA is capable of deciding on its own, or with its experts, whether the Stop Work Order should be upheld. The Board has 100 days to render a decision from the appeal date.

Historical Commission members spoke. To answer some of Attorney Nolan's comments, PH noted the difference between a Local Historic District and the Historical Commission. She stated that the HC reviews historic houses on Meadowbrook Rd although it's a private way, and that the back of 300 Meadowbrook Rd is included in Case's Corner Historic District. She spoke about how much more massive the as-built gambrel addition appears than it would seem in the drawings

HS stated that the HC relied on the original drawings and that the massing and scale they showed are lost in the way the building has been executed.

JT stated for the record that the HC had not requested that the as-built construction be torn down, but rather that the applicant resubmit drawings so as to try to find ways to make corrections.

KS spoke about concern for the precedent that is set by having an applicant not follow an agreement made with two different boards. She hoped for adequate screening at the north side to downplay the scale of the new construction.

Peter Vocatura, neighbor, voiced support for the Murphys and asked all to work together to move the project forward as quickly as possible.

SS recognized the challenges of an approval based on schematic drawings, but in this case the elevations that have been built are clearly different from what was approved. He asked that the HC work with the applicant.

NS said that since the HC has indicated that they are willing to work with the Murphys, this is a path forward. She requested that architect Quail suggest adjustments to reduce the detrimental affects claimed by the HC. She and other ZBA members will be available to meet again.

JF asked, in general, how he should handle changes in the field (that go beyond dimensional and set back requirements) to ZBA decisions in the future? Witten explained that when as-built construction does not comport with a special permit approval, that is a violation, even if it is not substantially more detrimental. When a special

permit is granted and is linked to a set of plans, those plans are the required construction documents. No deviation is permitted. A change would not be precluded, but would require notice and modification of the special permit.

SL noted that at 300 Meadowbrook Rd, there were deviations in the set backs from the approved drawings in addition to the elevation changes.

Nolan asked whether there could be a partial lifting of the stop work order on the interior of the house in the meantime. The ZBA agreed that John Field can clarify the order allowing them to proceed with interior work, but that this would be at their own risk.

JT asked for the HC chairs to be in communication with architect Quaile regarding the HC's concerns and regarding modifications to the drawings prior to a meeting with the HC.

Motion to continue the ZBA hearing until Monday, 4/5/21 at 7:00 pm.

Meeting adjourned at 8:52 pm

Respectfully submitted: Phyllis Halpern