



Minutes for Meeting

Zoning Board of Appeals, via Zoom

March 31, 2022 at 7:30 PM

Members present: Jane Fisher Carlson, Winifred I. Li, Natalie B. Sawyer

**154 Church Street:** a continuation of a hearing on a request by Joan-Ellen Pichard regarding 154 Church Street (Map 18, Parcel 11) requesting a determination of the regulatory authority of Section V of the Weston Zoning Bylaw; a determination of limitation of regulatory authority under Section IX of the Weston Zoning Bylaw; nullification of 2003 Planning Board Certificate of Action, Site Plan Approval, Condition 12; determination of regulatory authority as Special Permit Granting authority for Section X.A of the Weston Zoning Bylaw; and a special permit for an accessory apartment.

The following members were present:

- Jane Fisher Carlson, Chair
- Winifred I. Li
- Natalie B. Sawyer, Acting Secretary

Additional documents in the record include:

- Amended Special Permit application dated 3/21/22
- Memorandum from Jonathan Witten, Esq. to ZBA dated 3/30/22
- Email from Alicia Primer to ZBA dated 3/31/22
- Email from Norah Mallam to Nolan & Nolan Attorneys regarding conflict of interest law dated 3/31/22

Attorney Robert Nolan submitted an email from the State Ethics Commission regarding the

Conflict of Interest Law, G.L. c.268A, stating that neither Attorney M. Elizabeth Nolan, nor Attorney Robert Nolan is banned from representing a private client on this matter.

The Board noted that Town Counsel had submitted a memorandum, and provided the opinion that the Board does not have authority to “nullify” a decision of the Planning Board which was issued nearly 20 years ago, and for which no appeal was ever filed.

Imaikalani Aiu, Town Planner, appeared before the Board to give some background information regarding the Premises. He stated that the storage building on the Premises that is being requested to become an accessory apartment was negotiated in the original 2003 Certificate of Action to be only a storage building for a prior business. When the Planning Board revisited the issue in December 2021, they saw no changes that had occurred since then to warrant removing this condition.

Following due and open deliberation, the Board voted unanimously to deny the Petitioner’s *Request #5* in the amended special permit hearing application, seeking an issuance of a special permit for an accessory apartment. Condition No. 12 of the 2003 Certificate of Action is a continuing restriction preventing use of the accessory building as an accessory apartment. The Board determined that it would be inappropriate for the Board to issue a special permit that is in direct conflict with the Planning Board’s decision.

The Board voted unanimously to deny *Request #3*, seeking “nullification” of Condition No. 12 of the 2003 Certificate of Action, due to the fact that it is in the nature of an untimely appeal and outside of the Board’s jurisdiction.

Finally, the Board voted unanimously to take no further action on the following requests for advisory determinations:

- *Request #1*, a request for a determination of regulatory authority Section V, subsection B.4;
- *Request #2*, a request for a determination of limitation of regulatory authority under Section IX.B;
- *Request #4*, a request for a determination of regulatory authority as Special Permit Granting authority for use or change of use under Section X.A in the Petitioner’s amended special permit application.