

Members Present: Henry Stone (HS), Kathryn Scadden (KS), John Thompson (JT), Steve Wagner (SW), 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: Patrick and Cristina Murphy (owners), Beth Nolan (attorney), Daniel Quaile (Lincoln Architects)

Others Present: Jonathan Witten (town counsel), Lee Overall, Bill Bogle, Elly Pendergast, Ryan Dessert, Deena Powell

Location: online

Link to Recording: <https://weston.vod.castus.tv/vod/?video=bf39e6a6-2f49-4aa9-b723-8fd3bad1aa88&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 April 12th Weston Zoning Board of Appeals continued hearing on a request by Patrick Murphy regarding 300 Meadowbrook Road (Map 28, Parcel 83) to amend a special permit or appeal the Building Inspector's decision to impose a Stop Work Order relating to deviations in the plans approved by the ZBA.

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

9 April 2021

The Historical Commission met on 8 April to discuss drawings provided by Daniel Quaile, the new architect for the owners of 300 Meadowbrook Rd. This was the fourth meeting aimed at mitigating the deleterious effect that as-built deviations from the original approved addition design have had on the historic character and scale of the house. At this meeting the Commission reached a non-unanimous decision to approve changes to the as-built conditions as shown on drawings by Lincoln Architects. These changes will help to lessen the impact of the height and mass of the northern gambrel addition by removing the as-built pent roofs on the east and west ends, using rake returns that match the original house and altering the fenestration. Wood shingles and wood clapboards will be installed, as originally planned. Shutters will also be wood on the street elevations. Architectural details throughout the project are to match original conditions. Examples include flared shingles at the bases of all walls. Architectural changes on the east façade reinforce the low horizontal emphasis of the original house, and enable most of the original second floor building fabric to be kept intact.

As stated on 5 April, the Commission's strong preference is that the project be constructed in accordance with the originally approved drawings. This should not be seen as a precedent for disregarding approved drawings to the detriment of building, neighborhood and town character.

In the interests of minimizing the amount of as-built demolition required to come to a mutually agreeable solution, the Commission voted on the following:

- a. Deviations from the approved addition footprint -accepted (unanimous vote.)*
- b. All members prefer the original approved height and massing of the northern gambrel addition shown on Adrienne Giske's drawings, but a majority are willing to accept changes to its height and massing as shown on Lincoln Architects' drawings (not a unanimous vote.)*
- c. SKA1 by Lincoln Architects, dated 4/7/2021 – Proposed West Elevation (Front) – a majority (not a unanimous vote) was willing to accept changes to the massing, fenestration, details and*

materials shown on this drawing and in the notes, with one exception. It was agreed that the shutters facing Wellesley St should be painted wood with louvers and hung using keepers. Also, no arched-topped window is allowed in the gambrel addition. In addition to above-mentioned changes on the as-built gambrel façade, the gable roof at the mudroom entry will be altered to match the detailing of the existing porch entry.

- d. SKA 2 by Lincoln Architects, dated 4/7/2021 – Proposed North Elevation – a majority (not a unanimous vote) was willing to accept changes to the massing, fenestration, details and materials shown on this drawing and in the notes, with one exception. It was agreed that the shutters facing Meadowbrook Rd. should be painted wood with louvers and hung using keepers.*
- e. SKA6 by Lincoln Architects, dated 4/7/2021 – Proposed East Elevation - a majority (not a unanimous vote) was willing to accept changes to the massing, fenestration, details and materials shown on this drawing. Note this drawing shows the roof over the mudroom entry be changed from a gable to a hip. It also shows the roof over the family room be changed from a gable to a hip shape with a lowered top plate. This change will enable the soffit of the family room to align with the existing adjacent soffits, creating a strong low horizontal line across the façade as in the original house. This change will also enable most of the original second floor facade, including existing window openings, to remain unchanged. No arched-topped window is allowed in the gambrel addition.*
- f. There can be no further exterior design changes without Commission review and approval.*

SL, acting chair for the ZBA, began the meeting at 7:02 pm and read an open meeting law disclaimer from the Governor regarding remote meetings.

Attorney Nolan, representing the owners, noted that updated drawings by Lincoln Architect were submitted today. She stated that the owners are in agreement with the recommendations of the Historical Commission (H C) regarding West (front) and North (side) elevations, with exception of the requirement for louvered wood shutters hung on pins (because of the costs.) She stated that the applicant wants no changes to the East (back) elevation because the Commission's recommendations would require substantial demolition of the as-built mudroom and family room additions, which would cost \$60,000 – \$70,000.

Attorney Nolan delved into a legal interpretation of special permit issues; Town Counsel Witten noted that this is not a relevant discussion. He clarified that because the special permit issued by the ZBA was tethered to recommendations by the H C, the crucial subject before the board is whether the applicant complied with the previously – rendered special permit. He stated that the applicant has the right to request a modification, but the question is compliance with the prior special permit.

Steve Larocque noted that there are substantial changes at the back of the house from what was approved. Nolan claimed these changes were not because of bad intentions. Larocque recalled from the prior meeting that the applicant went directly from schematic drawings to a structural design, skipping important steps. Natalie Sawyer said that clearly the changes to the back were intentional even if the desire for a change came up mid-construction. Why didn't they apply then for a modification? Owner Patrick Murphy admitted that the changes were a deviation from the plan. He stated that he has lots of neighborhood support and that they hope to make amends.

Sujit Sitole asked for a wholistic understanding of the costs, comparing the original expected cost to the cost of the as-built and the cost of building what is recommended by the H C. Architect Daniel Quaille discussed extra structure that would be required to follow the H C's recommendation. Murphy said the as-built roof in the back cost more compared to the originally approved drawings.

SW spoke about the importance of the neighborhood and this house. He noted that the H C has met many times with the applicant trying to come to an agreement. He stated the Commission had accepted the front and side elevations. However, the rear elevation remained a problem. At the last H C meeting, he explained that the majority of the H C felt that lowering the eave line of the family room addition, and rebuilding the roof to a lower hip shape was the best solution. No one at that time spoke about any excessive costs. He explained that after long discussions, the HC had though that the applicants had agreed to this too. He clarified that the H C had

understood all the descriptions on the original submission by Giske and had not found them lacking, despite the owner's claim. He explained that the change to the request for louvered wood shutters came about because the H C had accepted many other changes and hoped for minor improvements.

PH noted that the H C has tried to suggest mitigations to reduce the deleterious impact of the unpermitted changes to the structure. SW said that all along the HC has worked with the applicant thinking that they were in agreement. The HC provided the ZBA with information (SKA-6) regarding which elevations its members now approve.

JT reiterated that H C members sincerely regret this conflict. He noted the owner had the responsibility to request modifications to the approved drawings before construction, but since that was not done, the additional costs for requested changes cannot be blamed on the H C. To establish a precedent whereby someone is allowed to keep an as-built that does not comply with what was approved because correcting that is too expensive is a thorny issue.

In response to comments made by the applicant, HS pointed out that while H C members discuss issues during meetings and may change their minds, decisions are made collectively by voting. He also said that building without working drawings and making construction changes on the fly are two things that will lead to problems.

KS agreed with other H C members. JT added that several people have told him that they have been upset by the as-built construction and are glad that the H C is trying to protect the neighborhood.

Ryan Dessert, a neighbor, feels that the accommodations made by the owner look good and he looks forward to seeing the house completed.

Larocque asked whether the applicant might agree to more of the H C's requests: add the wood louvered shutters on keepers, remove the Palladian window on the back, lower the height of the family room roof, and otherwise try to resolve the issues. Sitole agreed that making compromises is the goal. Both would like to have the support of the H C before the ZBA makes their decision.

JF asked how to relate this to enforcement of special permits that have deviations in the future. Sawyer noted that this is a unique situation because the as-built clearly does not fit the Murphy's approved drawings.

Larocque noted that he is concerned with precedent but also wants to find a workable solution. He relies on the H C's expertise.

After further discussion regarding options for moving forward, Counsel Witten opined that the proper process is for an applicant to seek relief from a previously issued adjudicative permit by arguing why relief is needed, so at the end of the day the ZBA can make its decision. The applicant bears the burden of demonstrating to the ZBA why the prior special permit needs to be modified. Cost is not within the statutory scheme. The ZBA has to have a compelling evidence basis for modifying its previously granted special permit. For example, are the as-built changes de minimus? If the costs for making the as-built corrections are prohibitive, that is not a legal basis for the ZBA to consider revising its prior decision. The decision should be evidence-based, but, in his opinion that evidence has not yet been put before the ZBA. He said that one approach could be for the applicant to convince the H C at another meeting to agree to a change of opinion. If that happens, the H C would state its revised opinion, and the ZBA could have a basis to change its prior decision. In response to Nolan's questions, he stated that the as-built is not compliant with the special permit, which is what controls this matter.

The ZBA suggested that the H C meet again with the applicant in hopes of finding a mutually agreeable way to mitigate the as-built changes from the approved drawings. The ZBA hopes for an endorsement from the H C to guide their decision as they do not now have evidence for modifying the previous special permit.

Attorney Nolan asked whether the ZBA could lift the stop work order on the west and north elevations. Sawyer said the ZBA needs to look at the issue holistically, not piecemeal, so that would not work. Witten agreed.

Motion to extend the ZBA hearing until Monday, 4/26 at 7:00 pm.

Meeting <adjourned> suspended at 8:41 pm
Respectfully submitted: Phyllis Halpern