



Minutes for Meeting

Zoning Board of Appeals, via Zoom

June 14, 2023 at 7:00 PM

Members present: Jane Fisher Carlson, Wendy Kaplan Armour, Tristan Colangelo

53 Country Drive: a hearing on a request by Costa and Mimi Littas requesting a variance for a sports court.

The following members were present:

- Jane Fisher Carlson, Chair
- Wendy Kaplan Armour
- Tristan Colangelo, Acting Secretary

Documents in the record include:

- 53 Country Drive, As-Built Site Plan with hand-drawn court location, Metrowest Engineering, Inc., 1/3/20
- 53 Country Drive, Proposed Sketch Plan, Metrowest Engineering, Inc., 6/14/23
- Email from C. Littas, 6/12/23

The site in question, 53 Country Drive, Weston, Massachusetts (the “Premises”), is a conforming lot located in Single Family Residence District A. Both the lot and existing home are conforming to the Zoning setbacks.

Appearing before the Board was Costa Littas (“The Petitioner”) to state he would like to add a sports court to his property that is partially located within the zoning setbacks. The Board told the Petitioner that neither the 1/3/20 As-Built Site Plan nor the 6/14/23 Sketch Plan submitted to the Board were adequate for the Board to decide on the case because they were not signed nor sealed by a Massachusetts Design Professional. The Petitioner stated that the engineer who did the Site Plan has been too busy to complete a signed/stamped drawing prior to this hearing.

The Petitioner was also hoping to learn whether or not the Board and/or any abutters would be amenable to granting a variance for the sports court prior to proceeding with further engineering documents. The Board reiterated that they are not able to hear any part of this case until proper documentation is submitted.

Following due and open deliberation, the Board, by unanimous decision, voted to allow the Petitioner to withdraw without prejudice the request for a variance for a sports court in the setbacks.

120 Rockport Road: a hearing on a request by Brandon Robinson requesting a variance for height of the home.

The following members were present:

- Jane Fisher Carlson, Chair and Acting Secretary
- Wendy Kaplan Armour
- Tristan Colangelo

Documents in the record include:

- 120 Rockport Road, Site Plan, sheet 1 of 2, prepared by Alpha Omega Engineering, Inc, 5/12/23
- 120 Rockport Road, Site Plan, sheet 2 of 2, prepared by Alpha Omega Engineering, Inc, 5/12/23
- 120 Rockport Road, Cover Page, A0.0, prepared by Preston Design Inc., 5/4/23
- 120 Rockport Road, Basement Floor Plan, A1.0, prepared by Preston Design Inc., 5/4/23
- 120 Rockport Road, First Floor Plan, A1.1, prepared by Preston Design Inc., 5/17/23
- 120 Rockport Road, Second Floor Plan, A1.2, prepared by Preston Design Inc., 5/4/23
- 120 Rockport Road, Attic Floor Plan, A1.3, prepared by Preston Design Inc., 5/4/23
- 120 Rockport Road, Roof Plan, A1.4, prepared by Preston Design Inc., 5/4/23
- 120 Rockport Road, Exterior Elevations, A2.1, prepared by Preston Design Inc., 5/4/23
- 120 Rockport Road, Exterior Elevations, A2.2, prepared by Preston Design Inc., 5/4/23
- 120 Rockport Road, Building Section Diagram and Home Height Calculations, A3.1, prepared by Preston Design Inc., 5/4/23
- 120 Rockport Road, Landscape Restoration Plan, L.1, prepared by Minglewood, LLC, 5/12/22
- 120 Rockport Road, Calculations and Key Plan, A4.1, prepared by Preston Design Inc., 5/4/23
- Letter from Weston Board of Health, 5/23/23
- Letter from Weston Fire Department, 5/25/23

- Department of Environmental Protection, Superseding Order of Conditions, 9/15/22
- Weston Stormwater Management Permit, 5/22/23

The site in question, 120 Rockport Road, Weston, Massachusetts (the “Premises”), is a conforming lot located in Single Family Residence District A. There are currently no improvements on the lot.

Appearing before the Board was Brandon Robinson of 30 Sachem Road, Needham, Massachusetts (the “Petitioner”). He told the Board that there has never been a home on the Premises due to difficult site conditions. There are wetlands and steep grade changes on the lot. The proposed home would be located in a relatively narrow area between the zoning setbacks and wetlands boundaries. As currently designed, it would be approximately 4 feet higher than the allowable maximum height of 37 feet to the highest point of the building, using the average natural grade for the height calculation required under Weston’s Zoning By-Law. The Petitioner is seeking a variance for this height exceedance.

The Residential Gross Floor Area (RGFA) of the proposed home is 5,967 square feet. The Petitioner stated that the average finish grade (the measurement required to determine a “Story Above Grade” under Section II of Weston’s Zoning By-Law) was used to determine that the basement was below grade and was therefore not counted in the RGFA calculations. The Petitioner said that a significant amount of fill would be needed to be brought on site to ensure that drainage properly sloped away from the home. He explained that as a result, the average natural grade (as defined in Section II of the By-Law) of the land around the dwelling would be lower than the average finish grade. The Petitioner asked for a variance to use the average finish grade rather than average natural grade in the calculations to determine building height under Section VI.E of the Zoning By-Law, or to allow other relief from the By-Law’s regulations.

An abutter, Divya Agarwalla of 26 Driftwood Lane, Weston, Massachusetts, appeared before the Board to ask how the Petitioner obtained approval to build on the lot, as she had been told that the lot was not “buildable.” The Petitioner said that the Weston Conservation Commission denied the requested Order of Conditions in 2022, but that this decision was appealed to the Massachusetts Department of Environmental Protection (DEP). In September 2022, the DEP issued a Superseding Order of Conditions (SOC) for the project, approving the Petitioner’s plan for the home, with special conditions.

The Petitioner stated that approximately 13.7% of the roof would exceed the Zoning By-Law’s 37-foot height limit. To support his application for a variance, he said that the unique topography of lot required that the proposed home could only be located in one specific area, due to wetlands, the slope of lot, zoning setbacks, and conditions imposed by the SOC. The Petitioner

also stated that the ceiling height on each floor (9'6" on the first floor and 8'6" on the second floor) could not be reduced enough to comply with the Zoning By-Law's height requirement and still have a modern, livable home. In further support of his request for a variance, the Petitioner listed hardships such as the loss of attic living space, loss of ceiling height, home aesthetics, and the resale value of the home.

The Board discussed the substantial hardships required to obtain a variance and said that none of the hardships listed by the Petitioner met that standard. The Board also observed that because this was new construction, the Petitioner had the flexibility to design a new home that would conform to the Zoning Bylaw's height regulations without requiring a variance.

Following due and open deliberation, the Board, by unanimous decision, voted to allow the Petitioner to withdraw his request for a variance from the Weston Zoning By-Law's height regulations without prejudice.