



Minutes for Meeting

Zoning Board of Appeals, via Zoom

July 22, 2021 at 7:00 PM

Members present: Winifred I. Li, Alan D. Rose, Jr., Sujit Sitole, Natalie B. Sawyer

**7 French Road**: a request by Edwin and Mailing Gaw requesting an amendment to a special permit issued in 2018.

The Board held a public hearing on July 22, 2021, at 7:00 P.M., via Zoom video. The following members were present:

- Alan D. Rose, Jr., Acting Chair and Acting Secretary
- Sujit Sitole
- Natalie B. Sawyer

Documents in the record include:

- ZBA decision granting an extension to the 2018 special permit dated 9/11/20
- ZBA decision granting special permit with conditions for a replacement home, dated 7/2/18
- ZBA decision granting special permit and a variance for a replacement home dated 4/20/16
- Site Plan, 7 French Road, prepared by Snelling & Hamel Associates, Inc., dated 7/21/21
- Email from C. Burns to M. Owen dated 7/21/21
- Email from M. Owen to C. Burns dated 7/21/21
- Verification of Roof Area document prepared by Keith B. Gross, Architect, dated 7/13/21
- Easement Plan 7 and 11 French Road, prepared by Snelling & Hamel Associates, Inc., dated 4/9/21
- Meeting minutes Weston Conservation Commission August 25, 2020, approved 9/8/20
- Average Natural Grade Calculation, 7 French Road, dated 7/20/21
- Septic System Revisions, 7 French Road, SKC 2.0, prepared by dei Site Design, Civil

Engineering, Land Planning, dated 8/24/20

- Proposed House RGFA Calculations, 7 French Road, prepared by Keith B. Gross, Architect, A0.1, dated 6/14/21
- Elevations, Exterior Details, 7 French Road, A.4, dated 5/19/18
- Elevations, Exterior Details, 7 French Road, A.5, dated 5/19/18

The subject site, 7 French Road, Weston, Massachusetts (the “Premises”) is located in the Single Family Residential District B, and comprises 54,358 ft<sup>2</sup> in a district which requires a minimum 40,000 ft<sup>2</sup> of area. The Premises has 120.05 feet of frontage and 148.7 feet of lot width at street setback, in a district requiring a minimum of 150 feet in width for both dimensions for lots created before 1997. This lot was created circa 1949. At that time, the Premises was zoned as Single Family Residential C, which required a minimum of 40,000 ft<sup>2</sup>, and 125 feet of frontage; there was no requirement for lot width at street setback. The Premises was re-zoned to SFRD B in 1954.

There is a 20-foot wide drainage easement that bisects the Premises from the midsection of the easterly lot line to the southwest corner. Within this drainage easement is an intermittent stream, with an associated buffer zone, and a 100-year flood zone.

The Premises is improved by a dwelling constructed in 1953, which encroaches into the setback from the street lot line. The Zoning Board of Appeals granted a variance and special permit in 2016 for a replacement dwelling. That dwelling was not constructed. The Zoning Board of Appeals granted a special permit with conditions in 2018 for a different replacement dwelling. The approved dwelling would be sited 50.3 feet from the street, with the steps being sited 49.2 feet from the street line. The dwelling would be sited 35.3 feet from the westerly lot line and 45 feet from the easterly lot line, with a shed 37.2 feet from the westerly lot line. The approved dwelling would comprise no more than a total of 4,621 ft<sup>2</sup> of Residential Gross Floor Area (RGFA) (8.5% of lot), including a 96 sq. foot shed. The new dwelling shall be no more than 36.375 feet in height above average natural grade and no more than 2.5 stories.

The 2018 special permit is also subject to the following conditions:

- Additional landscape buffering shall be installed at the westerly lot line, in cooperation with the homeowner at 39 Lexington Street.
- Petitioners shall fill in the stone wall gap at the site of the abandoned northwest driveway entrance to match the stone wall circling French Road.
- The reconfigured (to accommodate the relocated driveway) stone wall in front of the Premises, closest and parallel to French Road, shall be preserved and maintained.
- The two trees on the sides of the newly proposed driveway shall be preserved. If either tree is damaged, the damaged tree shall be replaced with a 10 to 12-foot tall tree.
- Trees between the new driveway (at the northeast) and 11 French Road shall be

maintained.

- The weeping cherry tree on the Premises shall be relocated to 11 French Road or elsewhere on the Premises, per agreement with the homeowner at 11 French Road.
- Petitioners shall grant an easement to 11 French Road for the continued use of the driveway currently serving 11 French Road if any part of the driveway is definitively determined to be on the 7 French Road lot.

In September 2020 the ZBA issued an extension to the 2018 special permit for 6 months. However, due to the COVID-19 pandemic and the Massachusetts State of Emergency, no special permits were tolling during this time. The State of Emergency was lifted on June 15, 2021, and so the 6-month extension would start on this date and expire on December 15, 2021.

Appearing before the Board were Edwin and Mailing Gaw, the “Petitioners”. Mr. & Mrs. Gaw applied for an amendment to the 2018 special permit to add an additional 580 ft<sup>2</sup> of living space above the garage. In addition, the Petitioners are proposing to shift the home’s foundation along with the deck and pool 4.5 feet to the east in order to accommodate a revised septic system that will be located on the west side of the lot.

The Petitioner’s also requested assistance in resolving a dispute over an easement between the Petitioners and the neighbors at 11 French Road. The Petitioners reported to the Board that the easement dispute has been resolved and that an agreement has been signed by both parties.

Felipe Ocampo, 39 Lexington Street, appeared before the board asking about a retaining wall in the ground that is shown on the latest Septic System Revisions drawing. This retaining wall is on the boundary line at the edge of his property, and he is concerned about any potential damage to trees on his property. The Petitioner did not know how deep the wall will be in the ground and agreed to get more information on the retaining wall.

Vincent Agnello, 11 French Road, and his daughter Andrea Pettinato appeared before the Board to express their concerns regarding having the driveway for the proposed home on the east side of the property, next to their driveway. They are concerned this will cause more drainage problems in the area, as this is a recurring issue. They stated that they have had drainage issues for many years and believe that the 4.5-foot shift of the home will make the issue worse. In addition, they expressed concern for the proposed size of the home, its visibility from the street, and disrupting the nature of the neighborhood. They also expressed their desire to have trees on the site preserved.

John & Marty Fiske, 8 French Road, appeared before the Board to state that they are not happy that the home has been empty for four years and do not want the new home to change the

nature of the neighborhood.

The Board expressed concern that the Conservation Commission did not issue a determination regarding the shifting of the home 4.5 feet to the east. The only mention of approval is in their meeting minutes from the August 25, 2020 meeting.

The Board agreed that more information is needed before deciding the case. They want to have a determination letter from the Conservation Commission regarding shifting the home 4.5 feet to the east and they would also like to get more information regarding the retaining wall on the west side of the property for Mr. Ocampo to review. The Board unanimously voted to continue the hearing until August 17, 2021 at 7 pm via Zoom.

**256 South Avenue:** a request by Frederick Camerato requesting a special permit for an addition.

The Board held a public hearing on July 22, 2021, at 7:15 P.M., via Zoom. The following members were present:

- Winifred I. Li, Acting Chair and Acting Secretary
- Alan D. Rose, Jr.
- Sujit Sitole

Documents in the record include:

- Site Plan, 256 South Avenue, prepared by Snelling & Hamel Associates, Inc., dated 12/21/17
- Site Plan, 256 South Avenue, prepared by Snelling & Hamel Associates, Inc., dated 7/20/21
- Proposed Septic System for #256 South Ave. (Rt. 30), prepared by William C. Murphy d.b.a. PureGround, dated 8/12/18
- Proposed Garage 2nd Floor, 256 South Avenue, A1, prepared by Alan E. Taylor Associates, dated 7/9/21 (“Second Floor Plan”)
- Proposed Garage 2nd Floor, 256 South Avenue, A2, prepared by Alan E. Taylor Associates, dated 7/9/21 (“Front Elevation”)
- Proposed Garage 2nd Floor, 256 South Avenue, A3, prepared by Alan E. Taylor Associates, dated 7/9/21 (“Section A-A”)
- Proposed Garage 2nd Floor, 256 South Avenue, A4, prepared by Alan E. Taylor Associates, dated 7/9/21 (“Abutting *[sic]* Properties”)
- Email from L. Elliston to V. Geary, dated 7/15/21
- Supplemental memo from Peter F. Harrington, Esq. to Weston Board of Appeals, dated 7/21/21

The premises, 256 South Avenue, Weston, Massachusetts, is located in the Single Family Residence District A. The lot comprises approximately 1.41 acres (approximately 61,420 square feet) in a district requiring 60,000 square feet. The lot has approximately 212 feet of street frontage in a district requiring 200 feet for lots created prior to 1997. The existing house is conforming, but the detached garage encroaches 20.3 feet into the eastern side lot line setback. The ZBA issued a variance in 1984 permitting a garage no less than 25 feet from the lot line. The actual garage is 24.7 feet from the lot line.

Frederick S. Camerato (the "Petitioner"), his attorney, Peter F. Harrington of Newton, MA, and his architect, Alan Taylor of Newton, MA, appeared before the Board. Mr. Harrington stated that the Petitioner purchased the home in 2017 and now wants to add living space over the garage. He would like to raise the roof of the garage in order to expand the height of the space under the roof. The space above the garage is currently unfinished and does not have sufficient height to be habitable. The Petitioner is proposing to have one bedroom, one bathroom, a study and a balcony on the second floor of the garage. A total of 846 square feet of enclosed living space would be added. The new space will not include a kitchen, so will not be an accessory apartment.

It was noted that Seaverns Brook (in the rear or southerly end of the subject lot) is more than 100 feet from the garage; and there are drainage swales (in the front of the lot, near the road) approximately 36 feet from the garage.

Architect Taylor stated that the Petitioner is proposing an enclosed stairway on the south side of the garage as shown on drawings A1 and A2 and the July 2021 site plan. There is an existing 4-foot wide concrete slab on the south side of the garage. The Petitioner is proposing to enlarge the slab so that it will be 12 feet wide. The stairway would sit on the concrete slab, but the slab would extend about 8 feet beyond the stairwell. The proposed stairwell would be entirely in the easterly side lot line setback.

The Board suggested that the Petitioner locate the stairway on the north (street) side of the garage, so most of the additional footprint would be within the building envelope (a small portion of the stairway still would be in the easterly lot line setback). This would be essentially a mirror image of what was proposed. The Board also stated that the Petitioner should not enlarge the existing 4-foot wide concrete slab since the existing slab is located in the easterly lot line setback. The Petitioner agreed to these suggestions and agreed to submit a revised site plan and revised architectural drawings A1 and A2 to reflect these changes.

Following due and open deliberation, the Board, by unanimous roll-call vote, granted a special permit for an addition over the existing garage as described above but with the changes agreed as noted above, subject to the Board's receiving a revised site plan and revised architectural drawings A1 and A2 reflecting the agreed changes. The Board determined that the addition above the garage would not be substantially more detrimental to the neighborhood than the existing nonconforming garage on the property.

[Note: On August 27, 2021, the Board received a packet of six pages (consisting of a partial site plan and five drawings) all dated 27 August 2021 and signed and stamped by architect Alan E. Taylor, which packet included the required revised site plan and architectural drawings. The same new partial site plan also is dated July 28, 2021 and signed by land surveyor John R. Hamel.]

**416 Conant Road:** a request by Zach Burnett regarding **416 Conant Road** (Map 3, Parcel 35) requesting a special permit for a new home.

The Board held a public hearing on July 22, 2021, at 7:30 P.M., via Zoom. The following members were present:

- Winifred I. Li, Acting Chair and Acting Secretary
- Alan D. Rose, Jr.
- Sujit Sitole

Documents in the record include:

- Memo to John Field from Historical Commission on Demolition Application for 416 Conant Road, dated 11/20/20
- Certificate of Action – Scenic Road Site Plan Approval, filed with Town Clerk 6/28/21
- Proposed Plan, 416 Conant Road, prepared by CCR Associates, Civil Engineers & Land Surveyors, dated 6/18/21
- Existing Condition Plan, 416 Conant Road, prepared by CCR Associates, Civil Engineers & Land Surveyors, dated 1/14/21
- Proposed Foundation Plan, 416 Conant Road, prepared by CCR Associates, Civil Engineers & Land Surveyors, dated 1/14/21
- Front Elevation, A 01, prepared by Zachary Burnett, dated 1/19/21
- Left Elevation, A 02, prepared by Zachary Burnett, dated 1/19/21
- Right Elevation, A 03, prepared by Zachary Burnett, dated 1/19/21
- Rear Elevation, A 04, prepared by Zachary Burnett, dated 1/19/21
- Basement Layout, A 05, prepared by Zachary Burnett, dated 1/19/21
- First Floor Layout, A 06, prepared by Zachary Burnett, dated 1/19/21
- Second Floor Layout, A 07, prepared by Zachary Burnett, dated 1/19/21
- RGFA, A 08, prepared by Zachary Burnett, dated 1/19/21
- Stairway Cut, A 09, prepared by Zachary Burnett, dated 1/19/21
- Front Elevation, A0.1, prepared by Zachary Burnett, dated 6/13/21
- Floor Plans, A0.2, prepared by Zachary Burnett, dated 6/13/21
- Stair Cut/RGFA/Window Schedule, A0.3, prepared by Zachary Burnett, dated 6/13/21
- Description, Neighborhood RGFA, A0.4, prepared by Zachary Burnett, dated 6/13/21
- Site Cut #1, A0.5, prepared by Zachary Burnett, dated 6/13/21
- Site Cut #2, A0.6, prepared by Zachary Burnett, dated 6/13/21
- Existing Landscape Plan, A0.7, prepared by Zachary Burnett, dated 6/13/21

- Proposed Landscape Plan, A0.8, prepared by Zachary Burnett, dated 6/13/21
- Materials Sheet, A0.9, prepared by Zachary Burnett, dated 6/13/21
- Site Photos, A0.10, prepared by Zachary Burnett, dated 6/13/21
- Site Photos, A0.11, prepared by Zachary Burnett, dated 6/13/21
- Site Photos, A0.12, prepared by Zachary Burnett, dated 6/13/21

The Premises, 416 Conant Road, Weston Massachusetts, is located in the Single Family Residence District A. The lot comprises approximately 1.423 acres (approximately 61,986 square feet) in a district requiring 60,000 square feet. The lot has insufficient street frontage, 125.6 feet in a district requiring 250 feet (or 200 feet for lots created prior to 1997). The existing house, dating from 1940, is also non-conforming, as it is located 41.1 feet from the street side line in a district that requires a 60-foot distance, and it is 37.7 feet from the southerly side lot line in a district that requires 45 feet.

Zachary Burnett, owner of 416 Conant Road, (the “Petitioner”) appeared before the Board. He is requesting a special permit to build a new home on the lot. He stated that the existing house is not salvageable. The Historical Commission approved the demolition of the existing home in its November 20, 2020 memo. The proposed replacement home’s residential gross floor area (RGFA) is to be 3,615 square feet. The replacement structure is to be sited on the lot further from the street than the existing house, but not completely out of the front setback. The proposed house is to be 51.7 feet from the street side line. The replacement house will comply with the side setback and height requirements. The Petitioner will remove the two existing sheds which are behind the house (one of which sheds is in the southerly side setback).

Asked why the proposed house was not designed to be further back from the street to avoid being in the street setback, the Petitioner stated that he was not able to push the house further back because of the topography and the wetlands behind the house.

The Board noted that on the Proposed Plan, 416 Conant Road, dated 6/18/21, the label for abutters Stephen and Kelly Larocque is listed as 420 Conant Road, but should be 421 Conant Road.

The Petitioner stated that he has repositioned the proposed air conditioning units so that they will be outside the setbacks per the Planning Board’s recommendation. In addition, the Petitioner has deleted the originally proposed 7-foot high retaining wall and is substituting in its place lower, terraced walls that are conforming to the Zoning By-Law.

The Board noted that on drawing A0.12, dated 6/13/21, the stairs shown are not in the correct place. The Petitioner agreed to submit a revised drawing.

The Board asked the Petitioner to provide a stamped RGFA calculation (drawing A0.3). The Petitioner stated that he would have his engineer stamp the drawing and submit it within two weeks.

Following due and open deliberation, the Board, by unanimous roll-call vote, granted the requested special permit for a replacement house as proposed in the drawings submitted for this hearing, but subject to removal of the existing sheds as well as the existing house, and also subject to the Board's receiving corrected A0.3 and A0.12 drawings from the Petitioner. [The corrected drawings, dated 8/2/21, were subsequently submitted as required.] The Board determined that the new house would not be substantially more detrimental to the neighborhood than the existing nonconforming structures on the existing nonconforming lot.