



Minutes for Meeting

Zoning Board of Appeals, via Zoom

August 17, 2021 at 7:00 PM

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

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

The Board held a public hearing on August 17, 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

Additional Documents in the Record:

- Tree Assessment and Construction Protection Plan, prepared by Daniel E. Cathcart, Certified Consulting Arborist, Plant Healthcare Consultants, Inc., dated 8/12/21
- Letter from Attorney Jonathan White to ZBA dated 8/13/21
- Weston Conservation Commission Memorandum, Minor Plan Changes, 7 French Road, dated 8/17/21
- Email from F. Ocampo dated 8/14/21
- Email from E. Gaw dated 8/16/21
- Email from F. Ocampo dated 8/17/21

Appearing before the Board was Jonathan White, attorney for the Petitioners, Edwin and Mailing Gaw, to update the Board on developments since the last meeting. The Petitioners submitted a determination letter from the Conservation Commission approving the 4.5-foot shift of the home. In addition, the Petitioners provided details on the proposed underground

retaining wall.

William Doyle, civil engineer for the Petitioner, appeared before the Board to explain the design and changes to the septic system since the 2018 approval of the project. Mr. Doyle stated that the septic system leach field shape has changed since the 2018 proposal to accommodate the requirement that the leach field be at least 20-feet from the building (the 2018 proposal had the garage on the side of the home, which only required a 10-foot distance). He stated that the retaining wall that is located adjacent to the west property line was always in the proposed design and is required as part of the septic system design. The wall is just under two feet tall, with approximately 1.5-feet underground and 0.5 feet above ground. There is 10-foot 3-inch distance between the leach field and the property line, which is considered a runout area. Mr. Doyle stated that there is no prohibition from planting shrubs or screening trees in this area.

A Tree Assessment and Construction Protection Plan issued by Daniel E. Cathcart on 8/12/21 regarding two Norway Maple trees located on the abutter's property (39 Lexington Street), adjacent to the proposed location of the septic system retaining wall. Mr. Cathcart makes the following recommendations in the Plan to protect and improve the survivability of the two trees:

- The trees should receive watering in the amount of 1-2 inches, 3 times a week, beginning 2 months prior to the commencement of construction project and continued throughout the project and continued for one growing season upon completion of the project.
- Deep root fertilization with root promoting, no-nitrogen fertilizer administered in late September or early October would be beneficial.
- Excavation in the critical root zone should be performed with hand or high-pressure air equipment to expose the roots. Root pruning of the exposed roots should be done by a certified arborist familiar with this type of work. Once roots are pruned construction equipment can complete the excavation.
- Installation of a root barrier is option but recommended as it will reduce the potential of future damage to the retaining wall that will require impacting the root of the trees. It will also help direct new root development.

Vincent Agnello, 11 French Road, addressed the Board stating he is concerned that the proposed septic system could be compromised during a flooding event since the area has many drainage problems. The Petitioner's civil engineer, Mr. Doyle, stated that the system is a pump system, and will be located four feet above the flood zone.

Felipe Ocampo, 39 Lexington Street, addressed the Board with several concerns about the proposed project. Mr. Ocampo stated that details of the retaining wall that is proposed to be near his property line were not included in the original design approved by the ZBA in 2018, so

these details are new. In addition, Mr. Ocampo expressed concern about the integrity of the proposed septic system over time, as the roots of the trees near the property line could disrupt the septic system. Mr. Ocampo noted that the Tree Assessment and Construction Protection Plan prepared by Daniel E. Cathcart dated 8/12/21, recommends extensive watering of the tree roots before and during the construction project and he is concerned he may not be able to perform all the recommendations. He asked whether the Petitioner can provide an automatic irrigation system for the trees. Mr. Ocampo also noted that although Mr. Doyle stated that there is no restriction in planting screening shrubs along the property line, he doesn't believe that these plantings are viable near the leaching field. Mr. Ocampo expressed concerns about moving the house 4.5 feet to the west due to drainage issues in the area. He also stated he believes the proposed home is too big for the lot, considering the amount of buildable area due to wetlands on the property.

Neither Agnello nor Ocampo offered any professional opinions to support their respective positions.

John and Marty Fiske, 8 French Road, addressed the Board stating that they hope that the Gaws can build the new home.

Mikhail Kuznetsov asked the Board when the special permit will expire. It was determined that due to the COVID pandemic, and the Massachusetts State of Emergency that had been in place, no existing permits tolled during that time. The Massachusetts State of Emergency ended on 6/15/21, and therefore the current special permit will expire 12/15/21 because a 6-month extension was obtained during the Massachusetts State of Emergency.

Following due and open deliberation, the Board, by unanimous roll-call vote, granted the requested amendment to the special permit for a replacement house as proposed in the drawings submitted for this hearing, and subject to the following conditions:

1. The petitioner will implement all recommendations in the Tree Assessment and Construction Protection Plan prepared by Daniel E. Cathcart dated 8/12/21 except for the required watering and fertilizing of the trees during the construction project.
2. The petitioner will plant at least six arborvitae that are between 5 and 8 feet in height at the time of planting along the west property line per the 2018 special permit.

The Board determined that the new house with the additional living space above the garage, and the shift of the dwelling 4.5 feet to the east in order to accommodate a revised septic system would not be substantially more detrimental to the neighborhood than the existing nonconforming dwelling on the nonconforming lot.