



Minutes for Meeting

Zoning Board of Appeals, via Zoom

September 2, 2021 at 7:00 PM

Members present: Jane Fisher Carlson, Alan D. Rose, Jr., Stephen J. Larocque, Natalie B. Sawyer

180 Meadowbrook Road: a hearing on a request by **Dan Gordon Landscape Architects**, on behalf of **Gretchen & Stephen Winchester** requesting a special permit for the addition of a spa and other outdoor fixtures.

The Board held a public hearing on September 2, 2021, at 7:00 P.M., via Zoom video. The following members were present:

- Jane Fisher Carlson, Chair
- Stephen J. Larocque
- Natalie B. Sawyer, Acting Secretary

Documents in the record include:

- ZBA decision granting Variance dated 2/25/98
- ZBA decision granting Special Permit dated 11/12/98
- ZBA decision granting Special Permit dated 11/12/20
- An Appearance of Conflict of Interest Form, signed 9/2/21
- 180 Meadowbrook Road, Planting Plan, PL-1, prepared by Dan Gordon Landscape Architects, dated 6/15/21
- 180 Meadowbrook Road, Proposed ZBA Plot Plan, prepared by Metrowest Engineering, Inc., dated 6/14/21
- Stormwater Management Permit, 180 Meadowbrook Road, issued 12/15/20

The subject site, 180 Meadowbrook Road, Weston, Massachusetts (the “Premises”), is a non-conforming lot in Residential District A. The site has approximately 123 ft of street frontage in a district that requires 250 ft of street frontage. The ZBA issued a special permit in November 2020 approving a new home on the property. This new home that is currently under construction encroaches the side property lines, as it is 22.5 ft from the east side property line and 28.9 ft from the west side property line.

Jane Fisher Carlson, Board member, stated that she is a member of the Weston Golf Club, which abuts the site, but stated that this will not impact her impartiality concerning this hearing. Ms. Carlson signed an Appearance of Conflict of Interest form that is in the record. The applicants stated that they had no objection to Ms. Carlson’s Board participation in this matter.

Dan Gordon and Peter Stephens, of Dan Gordon Landscape Architects, appeared on behalf of Gretchen and Stephen Winchester (collectively, the “Applicants”). The Applicants presented the proposal, which consists of 4 elements within the setback area: (i) an in-ground spa; (ii) a free-standing garbage enclosure adjacent to the main residence; (iii) a built-in grill with cabinetry; and (iv) gas fire pit. Of these elements, 3 (spa, garbage enclosure and grill) are within the setback area, but no closer to the lot lines than the existing nonconformities. One element (the gas fire pit) encroaches further into the west side setback (from 28.9’ ft from the lot line to 19.9’ ft from the lot line). The Board engaged in a discussion of the proposal and, in particular, discussed concern regarding the gas fire pit, the additional nonconformity created by the further encroachment, and whether a variance may be required for this element.

At the request of the Applicants, the Board considered the request for the spa, garbage enclosure and grill (only); and the request for the gas fire pit was withdrawn without prejudice. As so amended, the Board unanimously agreed that the Application was not substantially more detrimental to the neighborhood, and approved the Application as to the spa, garbage enclosure and grill as set forth on the submitted plan.

73 Chestnut Street: a hearing on a request by **Theresa Nibi**, on behalf of **Weston Hazi LLC** requesting a special permit for an accessory apartment.

The Board held a public meeting on September 2, 2021, at 7:15 P.M., via Zoom video. The following members were present:

- Jane Fisher Carlson, Chair and Acting Secretary
- Alan D. Rose, Jr.
- Natalie B. Sawyer

Documents in the record include:

- 73 Chestnut Street, First Floor Plan, A01, prepared by Joseph S. Artley Architect, 72 Inman Street, Cambridge, MA 02139, dated 7/15/21
- 73 Chestnut Street, Second Floor Plan, A02, prepared by Joseph S. Artley Architect, dated 7/15/21
- 73 Chestnut Street, Basement Plan, A03, prepared by Joseph S. Artley Architect, dated 7/15/21
- 73 Chestnut Street, First Floor Plan RGFA, A01, prepared by Joseph S. Artley Architect, dated 7/15/21
- 73 Chestnut Street, Second Floor Plan RGFA, A02, prepared by Joseph S. Artley Architect, dated 7/15/21
- 73 Chestnut Street, Front Elevation, Left Side Elevation, A04, prepared by Joseph S. Artley Architect, dated 7/15/21
- 73 Chestnut Street, Rear Elevation, Right Side Elevation, A05, prepared by Joseph S. Artley Architect, dated 7/15/21
- 73 Chestnut Street, Site Plan Establishing Basement, S1-B, prepared by Joseph S. Artley Architect, dated 7/15/21
- 73 Chestnut Street, Accessory Apartment Gross Floor Area, A06, prepared by Joseph S. Artley Architect, dated 7/15/21
- 73 Chestnut Street, Proposed Addition, prepared by Everett M. Brooks, Co., 49 Lexington Street, West Newton, MA 02465, dated 6/25/19
- 73 Chestnut Street, Grant of Title 5 Bedroom Deed Restriction, dated 3/2/21
- 73 Chestnut Street Abutters List; Ratio [of] Dwelling to Lot Size;
- ZBA decision granting a variance for an addition, dated 7/3/08

The property in question, 73 Chestnut Street, Weston, Massachusetts (the “Premises”), is located in Single Family Residence District A. The lot is conforming, but the existing house is nonconforming because it is located 41 feet from the northerly side lot line in a district that requires 45 feet.

Theresa Nibi (the “Petitioner”) appeared before the Board to ask for a special permit for an accessory apartment in her home. The Petitioner said that she had reviewed the criteria under Section VI.G of the Town of Weston’s Zoning By-laws and believed that she had met all the requirements. She explained that she bought the home, which already had an accessory apartment, in 2017. At that time, she was unaware that unless she renewed the special permit for the apartment within 6 months of her purchase, the permit would lapse. The Petitioner described how she proceeded with the renovation of her home, including the basement accessory apartment, without being notified that a special permit would be required.

The Board reviewed each of the nine requirements for an accessory apartment special permit listed in Section VI.G of the Zoning By-laws with the Petitioner, determining that each requirement had been met, with the possible exception of Item #2: *“Construction of the Single Family Dwelling to be altered, or the Accessory Building to be converted, was completed, including any additions or enlargements thereto, at least ten years prior to the date of the special permit application.”* The Petitioner altered a deck on the home, adding a roof over it, in 2020. After due consideration, the Board determined that in this particular case, the mere addition of a roof over the deck would be considered *de minimis* for the purposes of Section VI.G.2, particularly since the covered deck did not constitute living space.

The Board requested that the Petitioner submit certified Residential Gross Floor Area (RGFA) calculations and stamped and signed architectural drawings to be added to the record. [These drawings were subsequently received on 9/3/21 and are referenced above, as “Documents in the Record”].

Following due and open deliberation, the Board, by unanimous decision, granted the requested special permit for an accessory apartment, noting that all the conditions for a special permit for an accessory apartment have been met under Section VI.G of the Zoning By-laws. The Board agreed that in the instant case, the *de minimis* addition of a roof over a deck, which is not living space, does not preclude the issuance of a special permit for the Petitioner’s accessory apartment. The Board also noted that this special permit will lapse upon transfer of the Premises unless the transferee applies for a renewal of the special permit within six months of the date of transfer and the renewal is subsequently granted.

99 Love Lane: a hearing on a request by **Tyler and Lauren Burns** requesting a special permit for an addition.

The Board held a public meeting on September 2, 2021, at 7:30 P.M., via Zoom video. The following members were present:

- Jane Fisher Carlson, Chair
- Alan D. Rose, Jr.
- Stephen J. Larocque, Acting Secretary

Documents in the record include:

- 99 Love Lane, Existing Conditions Basement Floor Plan, EC1.00, prepared by Pauli & Uribe Architects LLC, dated 5/10/21

- 99 Love Lane, Existing Conditions First Floor Plan, EC1.01, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Existing Conditions Second Floor Plan, EC1.02, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Existing Conditions Third Floor Plan, EC1.03, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Existing Conditions West Exterior Elevation, EC3.01, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Existing Conditions East Exterior Elevation, EC3.02, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Existing Conditions North & South Exterior Elevation, EC3.03, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Existing Conditions Building Section 1, EC4.01, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Existing Conditions Building Section 2, EC4.02, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Proposed Site Plan Diagram, A0.01, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Proposed Basement Floor Plan, A1.00, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Proposed First Floor Plan, A1.01, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Proposed Second Floor Plan, A1.02, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Proposed Third Floor Plan, A1.03, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Proposed West Exterior Elevation, A3.01, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Proposed East Exterior Elevation, A3.02, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Proposed North & South Exterior Elevation, A3.03, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- 99 Love Lane, Window Schedule & Details, A6.01, prepared by Pauli & Uribe Architects LLC, dated 5/10/21
- Site Plan, 99 Love Lane, prepared by Snelling & Hamel Associates, Inc., dated 8/5/21
- Average Natural Grade Calculation, 99 Love Lane, prepared by Snelling & Hamel Associates, Inc., dated 8/5/21

- Historical Commission, Partial Demolition Administrative Approval, 99 Love Lane, dated 4/1/21
- Email from R. Sweeney, Jr. to L. Burns regarding stormwater dated 6/15/21

The property in question, 99 Love Lane, Weston, Massachusetts (the “Premises”) is located in Single Family Residence District A. The lot is conforming as it has 64,900 ft² of area in a district requiring 60,000 ft². The lot has 464 ft of street frontage in a district requiring 250 ft. The existing home conforms with the required street line and centerline setbacks (60 ft and 85 ft, respectively). However, the existing home is only 13 feet from the side lot line in a district requiring 45 ft.

Appearing before the Board were Tyler and Lauren Burns, (the “Petitioners”) and their architect, Monika Pauli. The Petitioner is proposing to enlarge the garage and add living space above the new garage. The Petitioner stated that the current garage is too small for their needs so they are looking add a three-car garage with a second floor onto the existing garage. The Board questioned why there is a 3’6” jog in the back of the garage. Ms. Pauli stated that the extra space would be for storage and would allow for a more usable second floor. Ms. Pauli also stated that they did not want the garage to be pushed forward of the home for aesthetic reasons, and that it might not be acceptable to the Weston Historical Commission, who had reviewed the building plans that were part of this application. The Board was concerned about the additional encroachment into the setbacks, from 13 feet (existing) to 9 feet (proposed).

The Board asked if the abutters at 85 Love Lane are in support of the project, since they are the most impacted by the proposed changes. The Petitioners stated they did have discussions with them and they are supportive. The Board requested letters from abutters. The Board also requested a table of surrounding abutters and a GIS maps showing abutters.

The Board requested that the Petitioner submit the requested documents and revise the design so as to not encroach in the setbacks any more than the home currently encroaches. The Board voted unanimously to continue the hearing until September 23, 2021 at 7 p.m.

74 Orchard Avenue: a hearing on request by **David and Antonella Walker** requesting a special permit for a replacement dwelling.

The Board held a public meeting on September 2, 2021, at 7:45 P.M., via Zoom video. The following members were present:

- Alan D. Rose, Jr., Acting Chair and Acting Secretary

- Stephen J. Larocque
- Natalie B. Sawyer

Documents in the record include:

- ZBA decision granting Variance dated 4/26/05
- ZBA decision withdrawn without prejudice dated 11/17/20
- Letter from Town of Weston Historical Commission dated 11/8/19
- Email from Donna & Hugh Kelly in support of project dated 5/28/21
- 74 Orchard Avenue, Cover Sheet, prepared by Metrowest Engineering, Inc., dated 3/29/21
- 74 Orchard Avenue, Neighborhood Inventory Plan, prepared by Metrowest Engineering, Inc., dated 3/29/21
- 74 Orchard Avenue, Existing Conditions Site Plan, C1, prepared by Metrowest Engineering, Inc., dated 4/7/21
- 74 Orchard Avenue, Proposed Layout Plan, C2, prepared by Metrowest Engineering, Inc., dated 4/7/21
- 74 Orchard Avenue, Erosion and Sediment Control Plan, C3, prepared by Metrowest Engineering, Inc., dated 4/7/21
- 74 Orchard Avenue, Proposed Grading Plan, C4, prepared by Metrowest Engineering, Inc., dated 4/7/21
- 74 Orchard Avenue, Proposed Site Plan, C5, prepared by Metrowest Engineering, Inc., dated 4/7/21
- 74 Orchard Avenue, Proposed Sewage Disposal System Plan, C6, prepared by Metrowest Engineering, Inc., dated 4/7/21
- 74 Orchard Avenue, Proposed Detail Plan, C7, prepared by Metrowest Engineering, Inc., dated 4/7/21
- 74 Orchard Avenue, Zoning Calculations, A0.3, prepared by Christopher Hall Architects, Inc., dated 7/26/21
- 74 Orchard Avenue, Zoning Conformance, A0.4, prepared by Christopher Hall Architects, Inc., dated 7/26/21
- 74 Orchard Avenue, Proposed Exterior Elevations, A2.1, prepared by Christopher Hall Architects, Inc., dated 7/26/21
- 74 Orchard Avenue, Proposed Exterior Elevations, A2.2, prepared by Christopher Hall Architects, Inc., dated 7/26/21
- 74 Orchard Avenue, Proposed Street Elevations, A2.3, prepared by Christopher Hall Architects, Inc., dated 7/26/21

- 74 Orchard Avenue, Proposed Rendered Elevations, A4.1, prepared by Christopher Hall Architects, Inc., dated 7/26/21
- 74 Orchard Avenue, Proposed Perspectives, A4.2, prepared by Christopher Hall Architects, Inc., dated 7/26/21
- 74 Orchard Avenue, Profile A-A, Sheet 1 of 2, prepared by Metrowest Engineering, Inc., dated 6/30/21
- 74 Orchard Avenue, Profile A-A, Sheet 2 of 2, prepared by Metrowest Engineering, Inc., dated 6/29/21
- 74 Orchard Avenue, Tree Removal Plan, L-301, prepared by a Blade of Grass LLC, dated 6/30/21
- 74 Orchard Avenue, Landscape and Lighting Plan, L-302, prepared by a Blade of Grass LLC, dated 6/28/21
- 74 Orchard Avenue, Precedent Images, L-303, prepared by a Blade of Grass LLC, dated 6/21/21
- 74 Orchard Avenue, Existing Site Views, L-304, prepared by a Blade of Grass LLC, dated 5/18/21

The subject site, 74 Orchard Avenue, Weston, Massachusetts (the “Premises”), is a non-conforming lot in Residential District A. The site has 45,888 ft² in a district that requires 60,000 ft² area. The site has approximately 164.5 ft of street frontage on Orchard Avenue (250 ft required), but has more than 250 ft of street frontage on Tamarack Road. The previous home on the lot, which was recently demolished was non-conforming. It was approximately 42.2 ft from Orchard Avenue. District A requires a minimum of 60 ft from the street sideline. The previous home had a shed that was 10.2 feet from the side lot line and a garage that was 26.4 feet from the side lot line, both of which were non-conforming, as a 45-foot setback is required.

Christopher Hall, architect for the project, addressed the Board and stated that they are seeking a special permit for relief on the insufficient lot area and street frontage in order to build a replacement dwelling on the lot. The proposed home has a RGFA of 6,954 ft² and a 15.4% RGFA ratio to lot size.

The new proposed dwelling conforms to all the required setbacks in District A. It would be 81.3 feet from Orchard Avenue and 85.8 feet from the centerline of Orchard Avenue (60 ft and 85 ft required, respectively). The proposed home will be 75.3 feet from Tamarack Road and 100.3 feet from the centerline of Tamarack Road. The proposed home will be a minimum of 46 feet from the side setback (45 feet required). The Historical Commission reviewed the application for demolition, as the home had been determined to be historically significant. They imposed a one year demolition delay in a letter written on November 8, 2019.

The Board inquired about the retaining walls shown on the submitted drawings. The Petitioner stated that none of the retaining walls were greater than 3 feet above the natural grade, and therefore do not need a special permit.

Hugh Kelly, 59 Orchard Avenue, appeared before the Board to state that he is very happy with the design of the proposed home.

Following due and open deliberation, the Board, by unanimous roll-call vote, granted a special permit for a new home, as shown in the drawings and plans submitted. The Board determined that the new home would not be substantially more detrimental to the neighborhood than the previous nonconforming home on the property, noting that the new dwelling complied with all of the setback requirements and had undergone site plan review by the Planning Board.