TOWN OF CARLISLE

OFFICE OF
Zoning Board of Appeals

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66 Westford Street
Carlisle, MA 01741
978-369-5326

Minutes: Board of Appeals, June 3, 2019

Call to Order

The meeting was called to order at 7:30 p.m. in the Town Hall, 66 Westford Street. Chair Snell advised those present that the hearing was being recorded and asked if anyone present was also recording the hearing. No one else said they were recording.

Roll Call and Declaration of Quorum

Chair Snell recognized the required quorum of Members. Present were Travis Snell (Chair), Manuel Crespo (Clerk), Steven Hinton and Associate Members Lisa Davis Lewis and Eric Adams.

Statement of Compliance

The issue of compliance regarding posting of the hearing was confirmed by the Chair. According to Secretary Wang, the Meeting Notice was posted in Town Hall on May 28, 2019.

Public Comment – Approval of Agenda

Chair Snell asked those present if there were any matters other than those listed on the agenda which the public would like to add to the agenda. When none were offered, the agenda was accepted.

Old Business – Hearing for case 1907

The Board reopened the hearing continued on May 6, 2019 for the application of Linda Rubenstein requesting a Special Permit under Section 3.2.2.7 to operate a Commercial Kennel. The property is located in the Residence B District at 134 Ember Lane.

Present were the Applicant, Linda Rubenstein, Secretary Peggy Wang, Mosquito reporter Mark Brittle and members of the public.

Documents entered in to the record

1907_50 Letter from the Applicant with updates and questions
1907_51 Carlisle Canines Business Operation Plan
1907_52 Letter from Amica insurance regarding replacement of damaged fence
1907_53 Letter of concern from abutters John and Jude Fry and Robert and Leslie Morgan
1907_54 Applicant's Policies and Procedures for the business
1907_55 Report for May 2018 of dog activity and barking from the Applicant
1907_56 Letter of concern from abutters John and Jude Fry
1907_57 Letter read by the Applicant at the June 3, 2019 public hearing

Applicant's testimony

The Applicant read a prepared statement (1907_57). In her statement the Applicant noted that she is willing to reduce the number of dogs allowed, put up cameras and decibel readers to be used by the Board to monitor compliance and install screening. She talked about the success of the anti-bark collar being used on her dog Sunny. The Applicant stated that she wants to operate the Business as a good neighbor.

Board's comments

Regarding the Operation Business Plan, the Board asked if the dogs are left alone during the day. The Applicant responded that the dogs are left alone for an hour or so but always inside the house. The Board reviewed possible noise screening options with the Applicant that were suggested in the letter from abutter John Fry (1907_56) and other products available.

When the Board asked the Applicant about the anti-bark collar she said it has been in use since the day after the May 6, 2019 hearing but she explained it is only on her dog when other client-dogs are in the house, never when Sunny is the only dog present.

Public comments

Abutter at 132 Ember Lane, Jude Fry, expressed concern that the Board is not addressing the noise issue to her satisfaction. Today while outside she could hear barking from noon to 1:00 pm.

Abutter Neelam Sihag at 163 Ember Lane said that she could hear barking even when her windows were closed. David Casebier, abutter at 161 Ember Lane, expressed concern that the Applicant is making minimal effort to provide a sound barrier and added that there is not a long term plan for the business.

Abutter at 128 Ember Lane, Keith Therrien, spoke in favor of the application and noted that the anti-bark collar is working well. Deb Kablosky of 55 Lowell Street and Gail Macleod of 239 Lowell Street spoke in favor of the business. John Bakewell of 290 Rutland Street spoke about the success of the Town's 15 minutes barking law. Charles Bradly of 296 Fiske Road spoke in favor of the business and reminded the Board that there is a Town bylaw that allows for Commercial Kennels in residential districts.

Board's response to public comments

Chair Snell noted that the Board wants to balance the rights of a small business to operate and the noise concerns of the abutters when considering the application. In this case, there is a 15 year history of use by the Applicant and there have been no complaints during that period. Chair Snell said there has never been a Special Permit to operate a Commercial Kennel in the Town of Carlisle, however, the Zoning Bylaw allow for a Special Permit for such use.

The Board discussed the need to develop a method of monitoring the noise and traffic. It was noted that there are several economical and sophisticated devices available that would provide time and date stamped information which the Applicant could install. The data could be made available to the Board for periodic review. Agreeing to this type of self-monitoring would show a good faith effort on the part of the Applicant.

When no additional comments from the public were offered, the public hearing was closed.

Deliberations and Decision

During deliberations the Board noted that the issue of traffic could be managed by a stagger drop-off and pick-up schedule. In addition, any septic, smell and fly concerns have been eliminated with the current procedure of picking up waste three (3) times a day and removal by a professional service. The noise factor and number of dogs requires a comprehensive plan and conditions.

After deliberating the Board determined it appropriate to grant the Special Permit. At the June 3, 2019 meeting, the Zoning Board of Appeals voted 3-0 in favor of the Special Permit, Hinton (aye), Snell (aye) and Crespo (aye) with the standard findings and conditions and the following specific conditions:

1) The business shall operate according to the Plan of Record (1907_51) subject to the modifications discussed at the June 3, 2019 public hearing.
2) The maximum number of dogs allowed shall be ten (10) at any one time and any day, that maximum number to include all dogs owned by the business operator.
3) No dogs shall be dropped off before 8:00 am or picked up after 8:00 pm, staggered drop-off and pickups need to be scheduled in 15 minute intervals.
4) The Applicant shall make every effort to mitigate noise 365 days of the years.
5) The Applicant shall install a decibel meter to measure the sound intensity and duration of any barking and camera with numeric tabulators, each operating 365 days of the year. Data shall be retained for a period of no less than 3 months. If deleted in less than 3 months it will be considered a serious violation of the conditions.

6) The Applicant shall present a detailed plan to be approved by the Board that addresses screening which balance cost with the neighbors' concerns for noise reduction and a visual barrier at the next Board meeting on July 1, 2019.
7) The permit is granted for a period of one (1) year to expire on June 3, 2020.
8) In six (6) months, there shall be a review of the Applicant's compliance with the conditions.

Appeals

The Applicant was advised that the written Decision will be prepared and signed within fourteen (14) days. A copy will be mailed to the Applicant and abutters at which time the twenty (20) appeal period begins. At the end of the appeal period, if no appeal is filed, the Applicant shall pick up the original copy of the decision along with the Grant of Special Permit from the Town Clerk which must be recorded with the Register of Deeds and filed with the Building Commissioner before becoming final.

New Business

The Board opened the public hearing for the application of Eric Adams and Angus Beasley requesting a Special Permit to rebuild the house and barn increasing the overall footprint on an existing non-conforming lot, being .528 acres where 1 acre is required under Zoning Bylaw Section 4.1.1.1. The property is located in the Residence A Historic District at 21-23 Bedford Road.

Member Eric Adams while present had recused himself from the Board. He did not participate or deliberate and had no standing on the Board during the public hearing. Also present were the Applicants, Secretary Peggy Wang, Mosquito reporter Mark Brittle and members of the public.

Documents entered in to the record

1909_01 Historical photos of the John Green house
1909_02 Photo-rendered image of the front street façade depicting the finished project prepared by the Applicants
1909_03 Sketch of rear elevation showing the parking area and handicap ramp prepared by the Applicants
1909_04 Dimensional floor plans of the units, storage, mechanical and garage spaces prepared by the Applicants
1909_05 Dimensional exterior elevations of entire structure prepared by the Applicants
1909_06 Application Bylaw Analysis prepared by the Applicants
1909_07 Preliminary Site Plan prepare by Stamski and McNary, Inc.
1909_08 Adams+Beasley Professional Office Operations Description prepared by the Applicants
1909_09 Historical Commission statement of support for the application
1909_10 Letters of support signed by abutters and residents

Applicant's Testimony

The Applicants distributed the plans to rebuild the existing structure into a structure that would have two (2) residential units and one (1) business unit going through the Distinctive Structure preservation bylaw. The Applicants do not intend to flip the property once completed and intend to maintain ownership. The plans include a four (4) bedroom unit with 3272 square feet of habitable space, 2512 square feet of professional office space and a one (1) bedroom loft with 2236 square feet of habitable spacer for a total of 8020 square feet. The Applicants noted that this proposed structure is very much like the one previously approved by the Board and that they are requesting the same numbers and criteria as granted in case 1401.

The Applicants said that there are fifty (50) employees of Adams + Beasley Associates but the maximum number of employees who are working in the office is no more than fifteen (15) during the hours of 8:00 am and 5:00 pm Monday through Friday. The Applicant added that there is a staff meeting once a quarter with all employees in attendance.

Board's comments

The Board reviewed the plans and discussed parking, hours of operation and possible expansion of the business. The Board discussed the need for a Special Permit to operate a business, similar to the ones granted to other businesses in Town. The Special Permit under Section 3.2.4.3.2 would allow for a business in a Distinctive Structure which remains with the property. The second Special Permit would allow for the operation of a business in the Residence A Historical

District and be exclusive to Adams + Beasley Associates so that if their business vacates, a new business would have to apply for a Special Permit.

Public comments

Bob Hilton, an abutter at 70 Lowell Street, expressed concern about the use of the Distinctive Structure section of the bylaw and urged the Board to follow the law. Deborah Kablotsky, an abutter at 55 Lowell Street, spoke in favor of the application but expressed some concern regarding parking. Anthony Besthoff, 74 School Street, spoke in favor of the application saying that the proposed structure would improve the Town center. Geoffrey Freeman, 245 Rockland Road and a member of the Historical Commission, said that the dismantling of the structure was the only way to preserve the Distinctive Structure. Jason Molten, 458 Cross Street, supported the application. Kathleen Keller, an abutter at 14 Westford Street and a member of the Historical Commission, said that the proposed structure is the best possible solution. Annette Lee, 65 Lowell Street and a member of the Historical Commission, spoke in favor of the application.

When Chair Snell asked those present if there were any additional comments and none were offered, the public hearing was closed.

Deliberations and Decision

The Board deliberated the case and determined it appropriate to grant the three (3) following Special Permits: The Board voted 3-0 in favor of granting a Special Permit under Section 6.3 to enlarge the structure up to 50%, specifically up to 8020 square feet, Snell (aye), Crespo (aye) and Hinton (aye) with following specific findings and conditions.

The decision was based on the following specific findings

1) A Special Permit is necessary under the terms of Zoning Bylaw Section 6.3 because the lot is non-conforming, being 0.528 acres where 1 acre is required under Bylaw Section 4.1.1.1.
2) The existing and proposed structures are non-conforming being 12.8 feet from the set back on the east side where 20 feet is required under Bylaw Section 4.3.1.
3) A variance is not required because the propose structure does not increase the existing non-conformity.
4) The building had 5464 square feet of useable space when Carlisle's Zoning Bylaw was enacted in 1934.
5) The proposed structure has 8020 square feet of habitable space.
6) The propose increase of habitable space does not exceed the 50% expansion rule.
7) Any future expansion must be limited to 176 square feet.
8) There were two (2) abutters who spoke in favor of the application, one (1) abutter expressed concern regarding the application and five (5) residents who supported the application present at the hearing.
9) There were seven (7) abutters and nineteen (19) residents who signed a letter of support for the application.
10) There was correspondence from the Historical Commission in support of the application. Three (3) members of the Historical Commission attended the hearing and confirmed their support.

The decision is subject to the following specific conditions

1) The proposed structure is limited up to 8020 square feet of habitable space.
2) The proposed structure shall conform to the approved plans reference herein (1909_04 & 1909_05).

The Board vote 3-0 to grant a Special Permit under the Distinctive Structure Bylaw Section 3.2.4.3.2 to authorize the alteration and re-use of a Distinctive Structure for the purpose of a professional office consistent with the plan submitted, Snell (aye), Hinton (aye) and Crespo (aye) with the standard findings and conditions and the following specific

The decision is based on the following specific findings

1) A Special Permit is necessary to operate a business in the Residence A Historic District under the terms of Zoning Bylaw Section 3.2.4.3.2
2) A portion of the property is located in the Carlisle Center Business District but the proposed structure is in the Residence A Historic District.
3) The Carlisle Historical Commission has reviewed the plans and supports the proposed re-use of this historical property as an appropriate means of preservation of a distinctive structure (1909_09).
4) The Professional Office as a "re-use" of a Distinctive Structure qualifies under the requirements of Bylaw Section 3.2.4.3.2.

The decision is subject to the following specific conditions

1) Because the Special Permit is for the "re-use" of a Distinctive Structure there is no expiration date and the rights authorized remain with the property not the business.
2) The use of the structure is limited to the combination of residential and "Professional Office" space.

The Board of Appeals voted 3-0 in favor of granting a Special Permit under Bylaw Section 3.2.3.1.6 to operate a business in the Residence A District for a period of five (5) year, Snell (aye), Hinton (aye) and Crespo (aye) with the standard findings and conditions and the following specific conditions

The decision is subject to the following specific conditions

1) Hours of operation for the business shall be 7:00 am to 7:00 pm Monday through Friday.
2) The Building Commissioner shall mitigate the traffic impact.
3) The number of on-site employees shall not exceed 15 except for quarterly occasional meetings
4) When on-site parking is full employees shall be encouraged to park on School Street and Church Street and never at any public parking lots for example the library or Center Park.
5) Any signage shall be authorized pursuant to the Historical Commission.
6) The permit is granted for a period of five (5) years to expire on June 3, 2024.
7) The Special Permit to operate a business is granted to Eric Adams and Angus Beasley DBA Adams + Beasley Associates only and cannot be transferred to any person(s) through sale or assign.
8) There shall be no outside parking of commercial vehicles over 10K gross weight on the premises.

Appeals

The Applicants were advised that the written Decision will be prepared and signed within fourteen (14) days. A copy of the signed Decision will be mailed to the Applicant and abutters at which time the twenty (20) day appeal period begins. At the end of the appeal period, if no appeal is filed, the Applicant shall pick the original copy of the Decision along with the Town Clerk certified Grant of Special Permit which must be recorded with the Register of Deeds in Lowell, MA and filed with Building Commissioner before a building permit can be issued.

Adjournment

Chair Snell asked those present if there were any additional issues to discuss. When none were offered the meeting adjourned at 11:15 pm.

Respectfully submitted
Peggy Wang