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TOWN OF CARLISLE

OFFICE OF Zoning Board of Appeals

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

Minutes: Board of Appeals, January 3, 2023 Approved April 3, 2023

Call to Order

At 7:31 pm Chair Adams opened the meeting. He informed those who were present that an audio recording was being made and asked those present if anyone else was recording. Nathalie McCarthy, reporter for the Mosquito, said she was recording the hearing.

Roll Call and Declaration of Quorum

Chair Adams recognized the required quorum of Members. Present were Members Eric Adam (Chair), Steven Hinton, Manuel Crespo and Associate Members Gretchen Anderegg and Jay Lee.

Statement of Compliance

The issue of compliance regarding posting of the meeting was confirmed by the Chair. According to Secretary Wang, the meeting agenda was posted in Town Hall on December 23, 2022.

Approval of Agenda and Public Comments

Chair Adams 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.

Approval of prior minutes

The minutes of the December 8, 2022, meeting was approved as amended.

Chair Recused

As an abutter of the applications, Chair Eric Adams recused himself and left the room.

Old Business – Application 2214

Acting Chair Steven Hinton opened the public hearing that was continued December 8, 2022, on for the application of William and Dean Luther requesting a Special Permit under bylaw Section 3.3.2.1 for the continued operation of an automotive repair and auto body business. The property is located within the Business District other than Carlisle Center Business District at 673 Bedford Road.

Present were the Applicant, Dean Luther, Secretary Peggy Wang, Mosquito reporter Nathalie McCarthy and members of the public. Secretary Wang reported that no correspondence had been received.

Applicant's testimony

The Applicant, Dean Luther, co-owner of the business operating as Carlisle Auto Body Inc., told that the business has been operating for 47 years, he and his brother William purchased the business 30 years ago. The Applicant said that during those 47 years there have never been any complaints. The Applicant requested that the Special Permit be granted for a period of ten (10) years with no five (5) year review as conditioned in the 2018 decision. Mr. Luther explained that banks don't like to see the five (5) year review when applying for a loan, as a result they charge a higher interest rate. This has a substantial impact when purchasing a \$90,000 piece of equipment for example.

Board's comments

In this specific case, the Board noted that they may have overcorrected in terms of using a half-term look back review on the impact to this Applicant. Previous compliance issues with businesses operating in the Town, however, have made the lookback review a valuable tool. They discuss the validity of the Applicant's reasoning for his request for a ten (10) year Special Permit.

Public Comments

No members of the public offered any comments. Member Hinton moved and Member Crespo seconded the motion to close the public hearing. The motion was approved by a vote of 4-0 as follows, Crespo (aye), Hinton (aye), Lee (aye) and Anderegg (aye).

Deliberations and Decision

Member Anderegg moved and Crespo seconded the motion to grant the Special Permit for application 2214 to William and Dean Luther under the same conditions included in the 2018 decision except for the five (5) year review which was to be dropped. The motion was approved by a vote of 4-0 as follows, Crespo (aye), Hinton (aye), Lee (aye) and Anderegg (aye).

Appeal

The Applicant was advised that the written Decision will be prepared and signed within fourteen (14) days. A copy of the decision will be mailed to the Applicant and abutters at which time the 20 day appeal period begins. At the end of the appeal period, if no appeal is filed in Court, the Applicant shall pick up the decision along with the Town Clerk's certified Grant of Special Permit which must be filed with the Register of Deeds in Lowell, Massachusetts before the permit can be considered valid.

Application 2215

Acting Chair Steve Hinton opened the public hearing for the application of Christopher King requesting a Variance pursuant to Section 7.5 to build a garage 31 feet from the lot line where 40 feet is required under Section 4.3.2 and a Special Permit under Section 6.3 to build an addition. The property is located within Residence B District at 27 Maple Street.

Present were the Applicant, Christopher King, Secretary Peggy Wang, Mosquito reporter Nathalie McCarthy and members of the public. Secretary Wang reported that no correspondence had been received.

Applicant's testimony

The Applicant, Christopher King, described the two-phase plan to build a two-car garage with a mud room. He understands that building the garage within the setback would make the structure non-conforming. Mr. King noted that the topography of the land, the location of the septic system and well make it very difficult to find a different location for the proposed garage. He reported to have consulted with the Conservation Commission who advised him against moving dirt into the buffer zone.

Board's Comments

The Members had no questions for the Applicant.

Public comments

No members of the public offered any comments. Member Hinton moved and Member Crespo seconded the motion to close the public hearing, Anderegg (aye), Hinton (aye), Lee (aye) and Crespo (aye).

Deliberations

The Board noted that there is enough room on the lot to build the garage elsewhere, but it made no sense. They discussed their observations during the site visits, the slope of the land, the chimney on the opposite side of the house, the shape of the lot and environmental issues related to the nearby buffer zone.

Acting Chair Hinton said that he had some additional questions for the Applicant and moved to reopen the public hearing, Member Anderegg seconded the motion, and all voted in favor of the motion.

Applicant's testimony

Mr. King said that he was advised by ConsCom that no dirt could be stored in the area and that construction would be not prohibited because of the potential impact on the creek. He reviewed with the Board the location of the old well in relation to the septic system.

Close the public hearing

Acting Chair Hinton moved, and Member Crespo seconded the motion to close the public hearing. All voted in favor of the motion.

Deliberation and decision

The Board reviewed the Applicant's rationale that the proposed location of the garage is influenced by the shape of the existing structure with the location of the chimney, sloping of the land and the location of the buffer zone. The addition of dirt to restructure the topography with the 100' buffer zone is an environmental concern on the property given the shape of the existing structure and physical constraints of the lot. They noted that it made no sense to build the garage in any other location on the property except were proposed by the Applicant.

Member Lee moved and Member Crespo seconded the motion to grant the Variance for application 2215 to build a garage 29.1 feet from the lot line as shown in the plan of record. The Board determined that a Special Permit was not required in this case. The Board voted 4 to 0 in favor of the motion, Hinton (aye), Crespo (aye), Lee (aye) and Anderegg (aye).

Appeal

The Applicant was advised that the written Decision will be prepared and signed within fourteen (14) days. A copy of the decision will be mailed to the Applicant and abutters at which time the 20-day appeal period begins. At the end of the appeal period, if no appeal is filed in Court, the Applicant shall pick up the decision along with the Town Clerk's certified Grant of Special Permit which must be filed with the Register of Deeds in Lowell, Massachusetts before the building permit can be issued.

Application 2301

Secretary Wang reported that the Applicant requested a continuance until the next meeting in order to gather additional information.

Adjournment

Acting Chair Hinton asked those present if there were any additional issues to discuss. When none were offered the meeting adjourned at 8:25pm.

Respectfully submitted
Peggy Wang