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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, March 4, 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 said they were recording.

Roll Call and Declaration of Quorum

Chair Snell recognized the required quorum of Members. Present were Members Travis Snell (Chair), Manuel Crespo (Clerk), Steven Hinton and Associate Member Gretchen Anderegg.

Statement of Compliance

The issue of compliance regarding posting of the meeting was confirmed by the Chair. According to Secretary Wang, the Meeting Notice was posted in Town Hall on February 27, 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.

Acceptance of Prior Minutes

The Board voted to accept the minutes from January 7, 2019 and February 4, 2019 as amended.

Old Business – Hearing for case 1705

The Board reopened the hearing continued on February 4, 2019 for the application of 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.

Secretary Wang reported that the Applicant has requested a continuance.

New Business – Hearing for case 1904

Chair Snell opened the public hearing for application 1904, the application of Robert and Laura Schofield requesting a Special Permit under bylaw 6.3 to build a garage on a lot that is less than one acre as required under Zoning Bylaw Section 4.1.1.1. The property is located in the Residence A District at 88 School Street.

Present were the Applicant Robert Schofield, Secretary Peggy Wang and members of the public. Secretary Wang reported that no correspondence had been received regarding the application.

Applicant's Testimony

The Applicant, Robert Schofield, presented the plans to build a 30 foot by 34 foot, free standing, two car, one story garage, from Country Carpenters. The design is post and beam, similar to the one built by his abutters at 74 School Street. He informed the Board that the proposed structure would include electricity but no heat or plumbing. Mr. Schofield added that the proposed structure would have a storage loft and porch. The propose structure would be conforming in all

respects. He noted that the existing driveway would be moved from the present location to line up with the proposed garage and to negate a safety issue with the entrance to the school.

Board's comments

The Board reviewed the Applicant's plan and asked if the Planning Board would require approval for the change in the location of the driveway. The Applicant told the Board that the Building Commissioner informed him that Planning Board approval was not required.

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

Deliberations and Decision

The Board deliberated the case and determined it appropriate to grant the Special Permit. The Board voted 3-0 in favor of the Special Permit to build a 30 foot by 34 foot, free standing, two car garage with electricity but no heat or plumbing, Snell (aye), Crespo (aye) and Hinton (aye). Non-voting Associate Member voted 1-0 in favor, Anderegg (aye). The Board based their decision on the standard findings and the specific finding that the lot is nonconforming, being less than one acre as required under Section 4.1.1.1 and the existing structure is nonconforming by being 18 feet from the street where 40 feet is required under Section 4.2.1. The Decision is subject to the standard conditions.

Appeals

The Applicant was 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 will receive an original signed copy of the Decision which must be recorded with the Register of Deeds in Lowell, MA before the Building Commissioner will issue a building permit.

Hearing for case 1905

Chair Snell opened the public hearing for case 1905, the application of Brian Cruise requesting a Special Permit under bylaw section 6.3 to purchase a portion ("Parcel X") of property of a nonconforming lot that lacks the shape required under bylaw section 4.1.3.3. The property is located within the Residence B District at 288 Stearns Street.

Present were the Applicant, Brian Cruise, the current owner of the affected property, David Moreau, Secretary Peggy Wang and members of the public.

Public comments

Lee Stevens, 44 Rodgers Road, questioned the Board about the process of the public hearing notice that was mailed to abutters. As an abutter of 71 Rodgers Road, he asked why he did not receive a notice. Mr. Stevens noted that he wants to know what the Applicant intends to do once he purchases Parcel X.

Marco Rivero, an abutter at 251 Stearns Street, asked what the total acreage will become for 71 Rodgers Road. The Applicant told the Board that his lot would have 5.2 acres with the addition of Parcel X.

Board's comments

The Board noted that this application is an unusual situation and did not want to compromise any decision based on improper notification of abutters. After reviewing the Assessor's abutter list, Member Hinton noted that the notification was technically correct because the property that would be receiving the Special Permit is 288 Stearns Street not the Applicant's property at 71 Rodgers Road. When the property owner of 288 Stearns Street, David Moreau, was asked by the Board if he wanted to request a continuance of the public hearing, Mr. Moreau declined. He stated that he did not want to wait for another hearing. Chair Snell asked the Applicant, Brian Cruise if he objected to moving forward with the public hearing. Mr. Cruise informed the Board that he did not want a continuance of the public hearing.

When asked by the Board how the owner of 288 Stearns Street discovered its nonconformity, Engineer Kirchner said it was during a survey by Stamski and McNary, Inc. for the sale of the land. The application for the Special Permit was based that a request of the Building Commissioner.

Applicant's comments

Paul Kirchner, Engineer for Stamski and McNary, Inc. representing the Applicant explained that 288 Stearns Street is a nonconforming lot which contains 2.68 acres of land and an existing dwelling. He reviewed the location of Parcel X on the Plan of Land (ZBA_1905_01) which the Applicant wants to purchase. Kirchner said that the sale of the land would not expand the nonconformity of 288 Stearns Street and that the Applicant and owner of 71 Rodgers Road, is not proposing the addition of any structure on Parcel X.

The Applicant, Brian Cruise, told the Board that Mr. Moreau is selling 288 Stearns Street and Parcel X. Cruise wants to purchase Parcel X to create a buffer in case the new owner of 288 Stearns Street wants to build a barn behind the existing structure.

Deliberations and Decision

The Board deliberated the case and determined it appropriate to grant the Special Permit. Member Hinton moved to grant the Special Permit under section 6.3 to allow for the sale of Parcel X as shown on the plan of record dated January 4, 2019 that said sale shall not increase the nonconformity of Map 9 Parcel 9 Lot 7 at 288 Stearns Street. The Board Members voted 3-0 in favor Snell (aye), Crespo (aye) and Hinton (aye). Non-voting Associate Member also voted 1-0 in favor, Anderegg (aye).

The Decision was based on the standard findings and the following specific findings

- 1) The existing property shown as Assessor Map 9 Parcel 9 Lot 7, 288 Stearns Street, contains without the sale of Parcel X, 2.68 acres of land and contains an existing dwelling. Per Section 4.1.3.3 the existing parcel is nonconforming as the required ellipse cannot be placed entirely within the lot at the site of the existing dwelling.
- 2) Map 9 Parcel 11 Lot 7, 71 Rodgers Road, is located to the rear of 288 Stearns Street and without the acquisition of Parcel X contains 4.72 acres and contains an existing dwelling. It is a conforming lot and is owned by the Applicant.
- 3) The sale of Parcel X will not expand on the existing nonconformity of 288 Stearns Street as the property lines that inhibit conformity will not be impacted.
- 4) The acquisition of Parcel X will not impact the conformity of 71 Rodgers Road.
- 5) No construction related to the land sale is proposed at either of the two properties.

The Decision is to subject the standard conditions and the following specific condition; The Special Permit allows for the sale of Parcel X as shown on the plan of record prepared by Stamski and McNary Inc. dated January 4, 2019 and said sale shall not increase the nonconformity of Map 9 Parcel 9 Lot 7 at 288 Stearns Street.

Appeals

The Applicant was 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 not appeal is filed, the Applicant will receive an original signed copy of the Decision which must be recorded with the Register of Deeds in Lowell, MA and submitted to the Building Commissioner before being considered final.

Other business

Stacy Lennon, 39 Stearns Street, appeared before the Board requesting clarification of Bylaw Section 6.3, specifically the Board's interpretation of 50% expansion rule in Case number 1503 at 15 Stearns Street. According to Lennon the measurements recorded in the Decision do not agree with the realtor listing's measurements and she asked who calculated the total area for the Decision.

Member Hinton noted he remembered that the Board had concerns about the measurements submitted with the application for 15 Stearns Street and set the Building Commissioner to look at the structure. Board Member Marty Galligan and the Building Commissioner were exceptionally careful in recording the structure's measurements to avoid any dispute in the future. Hinton advised Lennon that the Board never relies on measurements from a realtor.

Chair Snell explained that there are no guidelines when interpreting Section 6.3, which is a subjective bylaw that was ambiguously written. The Board deliberates each case based on their understanding of the intent of the bylaw.

Lennon informed the Board of her desire to increase the habitable space in her home, likely more than 50% of the existing space but did not want to waste money on detailed architectural plans if the Board will deny the expansion. The Board advised her to submit concise drawings for review to receive guidance before investing in costly architectural plans.

Adjournment

Chair Snell asked those present if there were any additional issues to discuss. When none were offered the meeting adjourned at 8:40 pm.

Respectfully submitted
Peggy Wang