

TOWN OF LANCASTER  
BOARD OF APPEALS  
Lancaster Town Hall Auditorium  
Thursday, May 24, 2018

Present: Matthew Mayo, Chair; Jeanne Rich; Sarah Gulliver; Hannah Meyer; Scott Miller, David Stadtherr and Robert Baylis

Absent: Frank Sullivan

Also Present: Noreen Piazza, Planning Director and Legal Counsel for the Town Brian Winner, from Mead, Talerman and Costa

List of Documents:

- Board of Appeals Agenda
- Request for Continuation of Public Hearing, Accessory Apartment (Section 220-9 (G)), 29 Mill Street, Claudia Kelley
- Application for a Special Permit-Accessory Apartment, 127 Harvard Road, Joe and Debra D'Eramo, Owners.
- Application for a Variance for Side Yard Setback (Section 220-11 (B)), 26 Bradbury Road- Sharon Poch, Owner
- Amendment to Comprehensive Permit, Jones Crossing Development, Tyrone Jones, Arcadia Construction
- Draft Minutes: April 26, 2018

\*\*\*\*\*

There being a quorum present, Chair Mayo called the meeting to order at 7:02 PM.

**Continuation of Public Hearing, Accessory Apartment (Section 220-9 (G)), 29 Mill Street, Claudia Kelly, Owner**

Chairman Mayo said the applicant has requested a continuance until the July 26, 2018 meeting. The request was read into the record.

**At 7:03 PM Jeanne Rich motioned to continue the hearing until July 26, 2018. Scott Miller seconded the motion. No discussion. VOTE: 5-0-0.**

**Public Hearing, Special Permit for Accessory Apartment (Section 220-9 (G)) 127 Harvard Road, Joe and Debra D'Eramo, Owners**

*Present: Joe and Debra D'Eramo*

At 7:04 PM, Chair Matthew Mayo read aloud a Notice of Public Hearing thereby convening a public hearing for the purpose of considering a Special Permit under Article III- Use Regulations, Section § 220-9 (G) of the Lancaster Zoning Bylaws for an Accessory Apartment located at 127 Harvard Road.

Chairman Mayo said the following will be voting Board members: Robert Baylis, David Stadtherr, Jeanne Rich, Hannah Meyer and Scott Miller.

Mr. and Mrs. D'Eramo said that they would like to obtain approval for an existing accessory apartment.

Mr. Scott Miller read through all the requirements for an accessory apartment under Lancaster Bylaw Section 220-9 (G) to ensure that Mr. and Mrs. D'Eramo met all the requirements.

- The principle single-family attached dwelling has been lawfully in existence for more than five years prior to the date of application for the special permit. Joe D'Eramo stated that a building permit was issued in 2012, with occupancy occurring in 2014. They have been living in the house since 2014, just one year short of the five-year occupancy requirement. However, he asked about the definition for a lawful structure – when the house is being taxed or when the house is occupied. He has been taxed on the property since 2013. The Board concurred that it is five years from when the Certificate of Occupancy was issued.
- The principal single-family detached dwelling or the proposed accessory apartment will remain owner-occupied. Mr. D'Eramo reported that the principal single-family detached dwelling will remain owner-occupied.
- The primary residence has a finished area of 2,243 SF, of which 672 SF will be for the accessory apartment, which is 24% of the total premises.
- The accessory apartment shall have its own separate entrance from the outside. There shall be no more than one entrance door to the single-family detached dwelling on any single façade. All stairways to upper floors shall be enclosed within the exterior walls of the dwelling. Mr. D'Eramo stated that the accessory apartment, which is located on the second floor of a Cape-style home, has its primary entrance on the first floor on the north side of the house, leading to an interior stairway to the apartment. This primary entrance is on a covered porch, and is next to an entrance door to our house. So there are two entrance doors on the north side of the house (which does not face the street).

The accessory apartment will also have a separate secondary egress on the south side of the house, which is an exterior metal spiral staircase that goes from the existing second-floor door to the ground. This spiral stair is included in the original house plans submitted with our building permit application in 2012, and therefore approved by the Building Inspector at that time. On March 21, 2018, the current Building Inspector confirmed, after checking with a Massachusetts state technical authority, that a spiral staircase can be used for an exterior second means of egress, and that there is nothing in the latest Massachusetts amendments to the new building code that would prohibit it.

- The accessory apartment unit will occupy no more than three persons. Mr. D'Eramo said that they will not allow the apartment to house more than three people.
- The dwelling is served by both Town water and sewer. A letter to the D'Eramo's dated April 6, 2018 from the Lancaster Sewer District Commission states that "The Board does not take issue with this accessory apartment and does not require permitting to be issued for the sewer since the construction is taking place within the confines of the existing structure."

- At least three parking spaces must be provided to service the primary dwelling plus the accessory apartment. Mr. D'Eramo noted that the existing garage can accommodate two cars for the main dwelling, and the existing gravel driveway can accommodate two cars for the apartment.
- There will be net benefits to the community through the proposed housing provision and the design of the proposal. Mr. D'Eramo noted the following:
  - The accessory apartment will provide additional rental property to the center of Lancaster, and possibly provide housing to a family member.
  - The only exterior change is the addition of the spiral stairs. Because the stairs are metal and not wood, they do not have a lot of visual mass, and are therefore not a prominent architectural feature. The setback of the house from the street and from neighbors further minimizes the impact of this change.
  - The accessory apartment should have minimal impact on the character of the neighborhood, as there will be no site changes to accommodate parking and no building expansions.
- The applicant supplied plans and calculations to demonstrate compliance with all requirements. These have been provided as part of the application.

Roy Rezac, 125 Harvard Road, stated that he is an abutter and he supports the application. He asked the Board to grant the special permit.

There was some discussion on the first requirement for five-year occupancy. The Board stated they did not have the authority to deviate from the requirements, thus the applicant could either withdraw the application without prejudice allowing them to re-apply at any time, or the Board would have to deny the application and the applicant could not re-apply.

At 7:23 the applicant Joe D'Eramo withdrew the application without prejudice.

**At 7:24 PM Jeanne Rich motioned to accept the withdrawal without prejudice. Scott Miller seconded the motion. No discussion. VOTE: 5-0-0.**

The Board noted that he can re-apply at any time, but should wait until he has concluded five years of occupancy.

**Public Hearing, Variance for Side Yard Setback (Section 220-11 (B)(4)), 26 Bradbury Road, Sharon Poch, Owner**

*Present: Daniel and Sharon Poch, Owners*

At 7:47 PM, Chair Matthew Mayo read aloud a Notice of Public Hearing thereby convening a public hearing for the purpose of considering a Variance under Article IV- Dimensional Requirements, Section § 220-11 (B) (4) side yard setback of the Lancaster Zoning Bylaws for Sharon Poch, 26 Bradbury Road.

Chairman Mayo said the following members will be voting members: Scott Miller, Sarah Gulliver, Frank Sullivan, Hannah Meyer and David Stadtherr.

The applicant proposes to construct an above ground pool that is within (14) feet from the side property line.

Ms. Poch said the area where the pool will be located is sloped, and their best location to avoid a steep slope is closer than twenty (20) feet to the property line. The back side of the pool will be partially in ground to accommodate the slope. The front of the pool will be fully above ground.

Ms. Poch said due to the size of the lot, the location of the house on the lot, the slope of the land and the easement that the Town has through the property, there is no place on their land where they can put an above ground pool without being within twenty (20) feet of the property line.

**At 7:38 PM, Scott Miller motioned to close the public hearing for the Variance request under Section 220-11 (B) (4) of the Lancaster Zoning Bylaw. Robert Baylis seconded the motion. No discussion. VOTE: 5-0-0.**

**At 7:40 PM, Scott Miller motioned to grant a six (6) foot Variance from Section 220-11 (B) (4) of the Lancaster Zoning Bylaw, as requested to allow a pool to be constructed no more than six feet into the required twenty (20) foot side yard setback and any future attachments (decks) be outside the twenty (20) foot setback. The barrier on the side of the pool that extends into the setback must be installed on the pool to not increase the setback. Jeanne Rich seconded the motion. No discussion. VOTE: 5-0-0.**

**Discussion, Amendment to Comprehensive Permit-Jones Crossing Development**

*Present: Tyrone Jones, Arcadia Construction*

Chairman Mayo said the following members will be voting members: Scott Miller, Sarah Gulliver, Robert Baylis, Hannah Meyer and David Stadtherr.

Scott Miller said the Board at their last meeting asked Mr. Jones to seek input from Public Safety to see if there are any issues with the proposed amendment. Chairman Mayo read the responses from the Fire Department and Police Department into the record. Both department Chiefs had no issues with the changes.

Tyrone Jones said he is requesting an amendment to the Comprehensive Permit. He is requesting to decrease the side yard lot setback from eight (8) feet to four (4) feet. He said the houses will have side setbacks of four feet with variations of ten feet. He discussed the septic systems and informed the Board he has to go back to the Board of Health for approval.

**At 7:50 PM Scott Miller motioned to approve the applicant's request for a minor amendment to the Comprehensive Permit to decrease the minimum setback from the side yard lot lines from eight (8) to four (4) feet. No two houses shall be closer than ten (10) feet apart. No relief is to be given to the setback for Title 5 requirements and the distance from any adjacent structure has to be at least ten feet. David Stadtherr seconded the motion. No discussion. VOTE: 5-0-0.**

**Continued Public Hearing, Comprehensive Permit, Goodridge Brook Estates Development**

*Present: Iqbal Ali,, Crescent Builders, Inc.; Dean Harrison, Development Consultant; Rob Truax, GLM Engineering Consultants, Inc.; and Paul Haverty, Blatman, Bobrowski and Haverty, LLC.*

*Also Present: Attorney Brian Winner, Mead, Talerman & Costa, LLC*

Jeanne Rich presented a completed Mullins Certificate. Chairman Mayo read it into the record.

Chairman Mayo said the following members will be voting members: Scott Miller, Sarah Gulliver, Robert Baylis, Hannah Meyer and David Stadtherr.

Chairman Mayo said the Board received more public comments that have been uploaded onto the Town's website. The Board hasn't received any new information yet. The purpose today is to discuss with the applicant and make sure there is a schedule moving forward.

Attorney Brian Winner read a letter into the record from Attorney Adam Costa, Mead, Talerman & Costa, LLC. to the Board of Appeals concerning the regulations mandating a hearing not extending beyond one hundred and eighty days from date of opening so long as the applicant has made timely submissions of materials in response to reasonable requests of the Board that is consistent with the Board. The hearing is thirty days in yet the Board is without detailed engineering plans of the development. He recommends the applicant be expected to cooperate in granting reasonable extensions made necessary by its own action or inaction.

Chairman Mayo said the traffic study was sent to a consultant but the review will be on hold until the Board receives detailed plans. There is a water and sewer update that will be discussed. He read a letter from Kevin Bartlett, DPW Superintendent dated April 26, 2018 stating his concerns regarding the Goodridge Estates project.

Paul Haverty, Blatman, Bobrowski and Haverty, LLC, came forward. He addressed the letter from Attorney Costa. He said his client wouldn't put the Board in that situation.

Mr. Dean Harrison said he met with the Lancaster Sewer District Commission and they are working out capacity and fees. A letter from Lancaster Sewer District Commission will be forthcoming for the June 28 meeting.

Iqbal Ali,, Crescent Builders, Inc. said they met with the Public Works and Water Department and they went through water connections and hydrants they want on the design. He said the DPW has to apply for an increase for the Town's water withdrawal permit from the Department of Environmental Protection. He said the Fire Department didn't have any issue with a four story building because they have a ladder truck that can reach that height.

Mr. Dean Harrison said there were some discrepancies on the traffic study. He will submit an updated study based on 64 single family homes and 135 apartments at the next meeting. The project will be sixty four (64) unit single family homes and one hundred thirty five (135) apartments. They will provide updated detailed plans as well as letters from the Water Department and the Lancaster Sewer District Commission by the next meeting. Chairman Mayo said the plan is to have site plan and the updated traffic study by the next meeting so our consultants can start their review. He also reported that an ANRAD will be filed with the Conservation Commission very soon.

Scott Miller asked if there is numbers for capacity for the Sewer and Water Department. Ali said water and sewer capacity was 27,000 gallons per day roughly based on the number of bedrooms. He also asked about the island on Sterling Road and if they found out any more information concerning ownership. Mr. Dean Harrison said all indications are it is owned by the town.

**At 8:20 PM Robert Baylis motioned to continue the public hearing until June 28, 2018. David Stradtherr seconded the motion. No discussion. VOTE: 5-0-0.**

**General Business:**

**Minutes from March 22, 2018**

The Board reviewed the minutes from the April 26, 2018 meeting.

**Scott Miller made a motion to accept the minutes from the April 26, 2018 meeting. David Stadtherr seconded. No discussion. VOTE: 5-0-0.**

**At 8:24 PM Jeanne Rich made a motion to adjourn. Scott Miller seconded the motion. No discussion. VOTE: 5-0-0.**

Respectfully submitted,

Debra Dennis, Office Manager