



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

April 4, 2018 – Stoops, Tuomi Special Permit/Appeal

Present

Cynthia Maxwell, Chairman
Mark Mulligan, Member
Bruce Easom, Member
Dan McLaughlin, Associate Member
Jen Spencer, Associate Member
Deb Winsor, Associate Member

Not Present

Jay Prager, Member
Berta Erickson, Associate Member

The meeting was called to order at 7:00 pm.

Meeting Minutes

Stoops Special Permit– 29 Champney St., #1-18

Chairman Maxwell convened the hearing by reading the Legal Notice.

Chairman Maxwell read a letter allowing her daughter and son to speak on her behalf.

Glen Stoops, general contractor and son of the applicant, gave a brief bio and said the addition of the first floor bedroom and ADA bathroom for his parents is pretty self-explanatory.

Dorothy Stoops, daughter, said her parents are in their nineties and want to stay together in the house and need a handicapped bathroom and bedroom on the first floor.

Chairman Maxwell asked for clarification of the drawings submitted with the application.

Member Mulligan asked whether the addition would be to the rear of the dwelling.

Ms. Stoops said yes, the addition would be farther by two feet from the side boundary. She said the existing dwelling is eight feet from the boundary and thus non-conforming.

Member McLaughlin asked about the parking area behind the house.

Mr. Stoops said it would only be a temporary use for construction, noting that they will be asking for permission for some use in the future for handicapped access from the school/town.

Discussion ensued regarding the temporary garage and potential access.

Mr. Stoops said they are proposing a rolling gate right on their property line.

Member Mulligan said the board could not grant permission for a property that is owned by another entity.

Ms. Stoops said her parents are very ambulatory now, so this would be something in the future.

Member Spencer said she feels they are basing the project on being able to use a property owned by the town.

Discussion ensued regarding how to get permission to use property via an easement. Member Eason suggested speaking to the town manager about getting an easement.

Member Spencer asked why they couldn't use the access where the existing garage is.

Mr. Stoops said the gravel area in front of the garage is down by about 3 feet and to make it ADA compliant it would require a great deal of fill and paving. He said the southwest corner of the property is the lowest.

Member Spencer said a lot of young kids use that access as a walkway to the school, noting that she doubts they would get permission to use that as an access because it is not safe.

Discussion ensued regarding whether this would work without an easement. Mr. Stoops said it would work without an easement, noting that it would just be more expensive to pave.

Casey Dowgiert, architect, said that it could easily be done without the easement access. She said they currently don't need access even during construction, noting that it would just be easier.

Member Mulligan suggested that they might have a better chance if they are doing the construction over the summer.

Lois Young, 28 Champney Street, said she has known the Stoops for ten years and wants them to be able to stay in their home and this seems like a good, easy solution to put a bedroom on the first floor.

Duane Cromwell, 19 Champney, said he has known them for a long time and would also like them to stay. He said the issue of school children using the walkway is real but they are considerate and cautious.

Ms. Stoops said that neither parent drives.

Mr. Cromwell said there is already traffic because parents use area to park to pick up children walking out.

Member McLaughlin made a motion to approve the special permit as requested, with a contingency that the Board is not addressing the easement access issue, to the Stoops at 29 Champney Street. Of note: The Board makes no representations as to the access issue with the town. Member Easom seconded and the motion passed unanimously.

Tuomi Special Permit– 53 Pleasant St., #2-18

Chairman Maxwell convened the hearing by reading the Legal Notice.

Several abutters were present.

Atty. Gibbons noted that he filed two petitions, and said he wants to hear the appeal first, if possible. Discussion ensued how to proceed.

Tuomi Special Appeal of the Building Inspector– 53 Pleasant St., #3-18

Member Maxwell convened the hearing by reading the Legal Notice.

Atty Gibbons gave a brief history, noting that his clients applied for a building permit for a complete renovation. He said he feels the BI overstepped his bounds by issuing a stop work order, which was not signed or dated. He said it is not supported by zoning bylaw and it exceeds his authority because there is no legal basis and he did not cite a bylaw or sign it. He noted that Chapter 40A §6 allows for protection for renovation. He cited 218.6.1, noting that no special permit is needed under conditions, defined as alterations being performed that are in the footprint of the existing home. He said the stop work order was due to the extent of the alterations, by taking down all walls. He said the BI also said that the addition is not part of the problem, but the extent of the work. He said he feels the building permit was issued correctly.

Member Mulligan asked about the initial application and whether a tear down was mentioned as a requirement.

Mrs. Tuomi said they had to tear it down because the house was in such bad shape, noting that they wanted to save as much of the original structure as possible.

Atty. Gibbons said that it does not increase the non-conformity because they are using the same footprint.

Member McLaughlin said it falls within the 50-foot setback, including the addition and it clearly states that there is an increase in height and thus a special permit is required. He said is most noticeable at the front, noting that he doesn't see how this could be argued as by right.

Atty. Gibbons said there is only a change after the stop work order was issued.

Discussion ensued regarding how and when the height of the dwelling changed.

Member Spencer said they didn't do what they applied for so they did not have permission.

Member McLaughlin said that they are increasing the height and they got permission for plans that did not include any height adjustment.

Ms. Dowgiert said that the plans were for a change in height originally.

Mrs. Tuomi said she spoke to the BI before starting this project to make sure that everything was all set. She said the house is in terrible shape and mentioned that to the BI. She said he said he gave her the wrong information and because of that, approved the permit quickly. She said she was surprised that he issued a stop work order after all that.

Mr. Premru, 54 Pleasant, said he lived across the street, noting that the house has been derelict for years. He said he wants something to be done but is upset with the extent of changes. He said he never saw a plan, noting that this was the oldest house on the street and it is now gone. He said the existing structure was a story and a half and this seems taller, noting that he is concerned.

Discussion ensued regarding the permitting process.

Member Spencer said she felt that they applied for one thing and proceeded to do something else.

Ms. Dowgiert said that the BI told her she did not need a special permit. She said she planned on going before the ZBA but was told it was not necessary.

Atty. Gibbons said this project could be reconstructed by right.

Member Mulligan said the bylaw has caused some confusion, but reconstruction by right is because something such as a tornado or fire gives protection.

Member Winsor said they could not bind fire and destruction by human hands under the same umbrella.

Member Easom said they have made a false statement because the structure does not meet side or front boundary setbacks: they have 8+ feet when need the requirement is 15 feet and 12.5 feet when the requirement is 50 feet.

Discussion ensued regarding what the setbacks are on the addition.

Member Easom said they are asking for additional construction within the 50-foot setback and thus a special permit is required.

Member McLaughlin said the BI should not have issued a permit without review and that the stop work order is correct.

Member Mulligan suggested getting a special permit and then the stop work order is moot.

Atty. Gibbons said it is not detrimental to the neighborhood and will improve the neighborhood, noting that it doesn't increase the non-conformity and is beneficial.

Member Mulligan said it is an unfortunate series of events and wants to see the improvement, but the applicant should have gotten a special permit first.

Mr. Premru said he wants the improvement but said it should be in keeping with the neighborhood.

Abutters looked at plans.

Member McLaughlin said that what they applied for isn't what they did. The special permit will be for the final plan.

Mrs. Tuomi said the only increase in height is to bring it to code by using two by fours. She said it is otherwise a 1.5 story building.

Some abutters said they feel the situation seemed underhanded.

Ms. Dowgiert said it would be the same height, 20 feet 4 inches.

Member Winsor asked whether the dwelling is on the existing grade.

Ms. Dowgiert said yes, it is the existing grade and she will make 20.4 work for the height, although she would like 21'4".

Mrs. Tuomi said that the parcel is smaller than they originally thought because a survey showed the original plan was incorrect. She said they just want to get it done.

Member Easom made a motion to issue a special permit for 53 Pleasant St., for the construction of a house and addition as shown on the plan submitted. The motion was seconded.

Member McLaughlin made a motion to amend the motion to include that construction proceed as show on the plans dated August 2017 and the height does not increase above 20.4 feet. The motion was seconded.

Discussion ensued regarding what plans are being submitted and what is being proposed to be constructed.

An abutter from across the street said he wants to see the new plan. Members of the board wanted to see the new plan.

Another abutter suggested that the BI should be here.

Member McLaughlin withdrew his motion to amend and Member Easom withdrew his main motion to approve.

Member Easom made a motion to continue both hearings until the 18th of April at 7:15 pm. The motion was seconded and passed unanimously.

Other business

Minutes and Bills

No Groton Herald bills were signed.

Member Mulligan made a motion to approve minutes from 1/24/18.

Member Mulligan made a motion to approve minutes from 1/31/18. Both motions were seconded and passed unanimously,

Member Easom made a motion to adjourn at 8:10 pm. The motion was seconded and passed unanimously.

Minutes approved 6/13/18.