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Massachusetts

Board of Appeals

MINUTES

Zoning Board of Appeals

September 15, 2022

Teleconference/Virtual Meeting

Members Present: Jennifer Platt, Bob Breen, and Vincent Ragucci

Also present: Kathy Morgan, Secretary and Gerry Noel, Building Commissioner

Attendees noted: Shawn Ferris, Joe Keyes, Tina, Phil Healy (NORCAM) Lily Albano, Steven's
ipad, Sury Ceron Argueta, and David Rudcliff

Chair, opened the meeting at 7:05 pm

Continued Public Hearings

475 Park Street - Special Permit to raise chickens

Chair read the hearing notice and opened the meeting. Ms. Argueta and her daughter were present. The hearing was continued because abutter notification was not completed. Receipt of proof of mailing was received. David Rudcliff, CPC member, was present and asked if there was a second driveway to the right of the house, which he showed as appeared on Google Maps. Mr. Rudcliff doesn't feel that the plan showing the location of the chicken coop, as presented, is accurate. A portion of the Septic Plan was submitted showing the location of the chicken coop to be 10' off the side property line. Mr. Noel, Building Commissioner, visited the site and didn't see anything out of the ordinary. There was a sign from a septic installation company posted in the Google image. Mr. Cannelli, an abutter who spoke at the August meeting was not present. Mr. Ragucci asked how many chickens the applicant intends to raise. Ms. Argueta said six. The applicant was advised that they will also need to get a permit from the Board of Health for the chickens. Mr. Noel said that he and the health agent go out to the site and look over the coop and check for safety measures.

Mr. Breen moved to grant a Special Permit to raise up to six (6) chickens at 475 Park St, subject to Board of Health regulations and all public health and building department requirements and oversight. The coop is to be no closer than 20 feet to the front lot line and no closer than 10 feet from the side and rear lot lines as shown. No roosters are allowed. Mr. Ragucci seconded the motion; and it was voted, Mr. Breen – yes, Mr. Ragucci – yes and Ms. Pratt – yes. Ms. Platt mentioned that the use to raise chickens has been approved from the Zoning Board, but a permit from the Board of Health is still required. The applicant was advised of the 20 day appeal period.

172 Park Street – Variance for upgrading the lighting

The applicant withdrew their application.

110 Main St. – Appeal of the Building Commissioner's Decision

Chair read the continued hearing notice and opened the hearing. Shawn Ferris, representative for RECR Realty, LLC, was present. Mr. Ferris gave an update on the progress at the site. He advised members that East Coast Tree Company will be off the property before September 30th and any disturbance to the wetlands will be corrected. He said he is still working on relocating some of the other tenants from the right side of the property. Some of those tenants may try to prove that their business is essential to, or goes hand in hand with Reading Lumber and will go before the Planning Board. The Chair said that she appreciates the efforts to clean up the site and said the Board has been trying to work with the applicant. The Board has kept the hearing open to make sure that progress is made. East Coast had 22 pieces of equipment and now they only have 6 pieces left. Some of Reading Lumber's tenants may try to go to the back of the property. Chair said she would like to see the owners for those businesses at the next meeting. Mr. Noel noted that heavy equipment is not allowed in the Highway Business District, so he doesn't see how CPC can permit a site plan for this type of business without changing the Zoning Bylaws. The Board granted the applicant's request to continue the hearing to October 13th

142 Main St. – Special Use Permit – Landscaping/Stone cutting business

Chair read the hearing notice and opened the meeting. Attorney DiGirolamo was present and gave the Board an update of what has been happening at the site. Explained that he has had to hire a new engineer to complete their site plan to go to Community Planning. Chair asked if they have filed with CPC. Attorney DiGirolamo said no, because they need the plan to file.

Attorney DiGirolamo requested a continuance and the Board granted the applicant's request to continue the hearing to October 13, 2022.

25 Maple Road – Appeal of the Building Commissioner's decision

Chair read the legal notice and opened the Public Hearing. Attorney Joe Keyes and Bill Smith were present. Attorney Keyes explained that Smith Sons Construction has entered into a contract with the owner of the property, Tracey Janino. Attorney Keyes submitted a plan of the original site with all the properties broken up and explained the history of the area. He said that the lots consist of 53, 53A, B and C lot 55, 55A, B and C, eight parcels that amount to 2.2 acres according to the Assessor. Attorney Keyes said they are looking for clarification. He read a letter from the previous Building Commissioner, Jim DeCola, stating that he reviewed the application for a separate lot exemption from current Zoning requirements under 40A section 6, and he said that the lot does meet grandfathering status, but this does not guarantee a building permit would be issued. When his client, Bill Smith, talked with Gerry Noel, the current Building Commissioner, he sent an email saying that the lot would meet the requirements for a buildable lot under the Table of Dimensional and Density regulations. Attorney Keyes said they are not looking for a building permit or safe and adequate access, they are only looking for a determination of grandfathering status of 40A section 6 and also exemption under the Town's zoning bylaws Article 4 section 200-8. He went on to explain that the Town has a checklist of requirements to qualify for 40A section 6, 4 items that meet the requirements; the lot has to be for a single family or two family residential use at the time of the recording of the plan; the property couldn't be held in common ownership with other lots – he provided titles of the other lots back to 1920's, before zoning, he said this lot has been separate since 1918; the lot has to conform with existing zoning at the time the plan was filed – there were no requirements at that time; the lot has to have at least 5,000 s.f. of area – this lot meets; and 55 feet of frontage – this lot has at least 200 feet of frontage. He also feels they meet the exemption under Article 4 section 200-8. If a lot exists prior to zoning, it's exempt.

Chair questioned why the Board should consider grandfathering status when this lot has already been determined by the Building Commissioner as compliant with current zoning. Attorney Keyes said his client doesn't want to give up any rights he may have. He explained that grandfathering would allow them more flexibility, say if the topography doesn't allow for building in a certain area, then they don't have to come back for a variance. Chair said that she believes that once a property comes into conformity, grandfathering protection is lost, but she would like to confirm that. Attorney Keyes said in most cases properties seeking grandfathering status are for undersized lots, this one is not. Mr. Breen asked if they have talked with the Building Commissioner about the 2018 letter. Mr. Noel said that, after reviewing the

information provided to him, consulted with KP Law and they agreed with his determination. Attorney Keyes said that he also sent information to KP Law and never heard back from them. Chair read the memo received from KP Law through the Planning Director.

Mr. Smith is hard of hearing and has a hard time hearing the meetings through ZOOM and through his attorney, Mr. Keyes, requested that the next meeting be in person. A few abutters were present. Tim Sutherland, 17 Maple Rd, a neighbor and Jenna Albano, 21 Maple Rd, next door to this site were present. Ms. Albano had concerns about her well. Attorney Keyes said they would be required to build at least 100' away from her well. Tim said that people have tried to purchase the property in the past and were unsuccessful because of all the wetlands and wouldn't want to see a precedence for variances made. Tina Demambro, 56 Oakdale, inquired about access, Maple Rd? She asked how many homes would go on the lot. Attorney Keyes said they don't know yet. Attorney Keyes went through the process they may have to take and if they have to go before CPC, then they would have a more definitive plan. Mr. Breen asked if any comment from CPC has been made about the project. Mr. Rudcliff said it was brought up in their CPC meeting, but there wasn't a plan to comment on. Attorney Keyes mentioned prior CPC meetings where this topic was discussed, April of 2013 and January 2015. Chair read the memo from CPC dated 8/31/22, in which they support the decision of the Building Inspector and say if 25 Maple were to come before CPC for a Determination of Access, they anticipate requiring street improvements. Attorney Keyes requested a continuance to October 13, 2022. He also asked for an in-person meeting. Chair said the Board hasn't been doing in-person meetings due to COVID concerns and some of the logistical concerns of the Board. She will consult members again on that.

Minutes:

Mr. Breen moved to accept the minutes of August 11, 2022, seconded by Mr. Ragucci; and voted Mr. Breen – yes, Mr. Ragucci – yes, and Ms. Platt – yes.

New & Old Business: Members received material from CPC for their comment on a senior housing project at 146 Park St. Mr. Rudcliff spoke of the historical house, to be moved as part of the project, but he felt was not being moved back off the street enough. He said the applicant spoke to the retaining wall along the grade change. Chair asked if the traffic flow was addressed along Park St? Mr. Rudcliff said the residents are age restricted so not a huge morning traffic issue. They have a traffic engineer looking into it. More resources for the residents and walking paths were discussed. Mr. Breen also noted other items such as maintenance and a property manager.

Members and Mr. Rudcliff discussed the request in the applicant's proposal for 25 Maple Rd and how that differed from what the applicant said he was asking for in the public meeting. Mr. Rudcliff said at CPC's meeting, which he did not attend, they agreed with the Building Inspector's decision, but were they being asked for what was proposed at the public hearing tonight? They just looked at whether the site conforms to the zoning bylaw. What was KP Law asked to comment on?

Mr. Ragucci submitted his resignation. Chair thanked Mr. Ragucci for his dedication and hard work on the Zoning Board of Appeals and said the Board will miss his input.

Mr. Ragucci moved to adjourn, seconded by Mr. Breen, and it was voted unanimously in favor.

Approved DocuSigned by: Jennifer Platt Dated 10/14/2022
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