

Zoning Board of Appeals – Public Hearing

General access via web at www.zoom.us or call (646) 558-8656 with Meeting ID: 978 7743 2989 Password: 827936

Tuesday June 1st, 2021 7:00 p.m.

Members Present: Chair David Lavenburg, Jane Mantolesky, Steve Bennett, Mike Michon, Marissa Komack, Ellen Freyman, Jim Tourtelotte.

Members Absent: Jerry Plumb.

Applicants Present: Michael and Carole Hirshberg, Britt Van Valkenburg, Minoo Tehrani, Jeff Mard, Jeffrey Bednarz, Jim Rosenthal, Harry Auerbach, Andrew Fox, Mary Young, Halina Wiczzyk, Patrick Murphy, Rosemarie Rice, Kara Downey, Jamie Donais, Jonathan David.

The **ZBA Hearing** was called to order at 7:03 p.m. by Chair David Lavenburg, who reminded the public of the reasons for virtual meeting settings as well as the protocols to follow during this hearing.

Petition #2021-3 – Special Permit (Keeping of Domestic Fowl) for 71 Knollwood Circle, Brit Van Valkenburg:

Jim Tourtelotte recused himself from the case due to his relationship with the applicant's parents. Since the last time Mrs. Van Valkenburg presented her petition before the board on March 23rd, she has incurred in extensive research that focused on a number of issues. Pertaining fencing alternatives, she presented images of predators jumping over high fences, indicating that backyard fence for her property would be cost-prohibitive, restrictive and won't guarantee the safety abutters wish to have. On documented health risks associated with keeping of domestic fowl she stressed that all evidence points to direct handlers of livestock and poultry as those being at risk as opposed to individuals who remain at a distance. On municipal records, both Longmeadow and East Longmeadow have not received complaints pertaining to the domestic fowl owned by residents; additionally, she did not find any records of increase in predator presence or predator attacks in a given neighborhood influenced by presence of domestic fowl in said area. In conclusion, she feels that, in looking at the town records of special permits that have been granted and/or denied in Longmeadow (and set the example of the Kattan special permit granted in 2020 for their unfenced property at 55 Prynwood Rd) her petition does not present any glaring issues that would warrant a denial.

Chair Lavenburg revisited the issue of predator presence in the neighborhood and the concerns raised by some of Mrs. Van Valkenburg's abutters, especially direct abutter Mrs. Bloom (who was pregnant at the time of the March 23 hearing), concerns that were not raised by the abutters of 55 Prynwood Rd at the time of that hearing; as these special permits are handled on a case-by-case basis, the board relies heavily on the legitimate information raised by both applicant and abutters. Additionally, Ms. Mantolesky indicated that Mrs. Bloom had raised safety concerns for her growing family and, in this instance, there is no fencing between the two properties; for Ms. Mantolesky, seeing a friendly attempt among neighbors to come to an agreement on how to manage the domestic fowl and its potential impact on both families would substantially aide in the board's decision making process but there is no evidence that such a dialog has taken place.

Comments from the public in favor of or against the petition:

- Michael and Carole Hirshberg (166 Brookwood Drive) indicated that the concerns raised in their letter filed back in March still stand, specifically to hens' loud nature and health risks.
- Patrick Murphy (98 South Park Ave) is not an abutter but was expressing his concerns on behalf of his daughter, Ms. Shannon Bloom who was not present at the hearing. He pointed to the bylaw's intent of safeguarding the health and safety of town residents, especially those who raise concerns during procedures. His daughter recently shared with him a surveillance video showing an animal resembling a coyote or fox on her driveway, which confirms the presence of predators in the area and aligns with his reflection that, as the town grew and became fully developed, native species have seen their natural environment shrink, forcing them into residents' properties. He encourages the board to deny the special permit based on the safety issues that have been raised and recommends that the town reconsider the granting of these special permits altogether in light of what he deems an increase of predator sightings throughout town in recent times.

Some board members offered comments, with Suzanne White noting that she was recently involved in the sale of abutting property 144 Brookwood Drive, who's custodian prior to the sale, Ms. Linda Pilvelis, submitted a letter in recent months opposing the petition: while the new owners were not present at tonight's hearing, Ms. White feels that the Pilvelis letter may no longer be eligible for review; she also reflected on the evident rise in ZBA applications requesting special permits for keeping of domestic fowl in recent years, its polarizing effect on residents and whether the town should look into any long-term impacts. Steve Bennett has reached out to Baystate medical professionals and veterinarians in an effort to look into the various and similar health claims raised in the last domestic fowl hearings and, per his findings, there only health risks associated with livestock are tied to direct handlers, with the same risks being present for bird keepers; he pointed to rabbits as being pets that could also attract the predators already living in the region and countered Mr. Hirschberg's comments pertaining to noise that hens are quiet pets. Mike Michon believes domestic fowl keeping is an issue aligned with pet ownership and care versus agricultural practice but is concerned over the clutter found in Mrs. Van Valkenburg's property, which could serve as a hideout for small predators. Finally, Chair Dave Lavenburg does not consider this case to pose health risks for the neighborhood, this after doing extensive research in the materials received over time; he pointed out to his vote to deny the Williams Street application in 2020 as one driven by the Board of Health's recommendations at the time due to specific health conditions of two direct abutters. That said, he is concerned over the predator presence in the area and the description of these particular properties.

Steve Bennett made a motion, and was seconded by Ellen Freyman, to approve the Special Permit for Keeping of Domestic Fowl filed by Mrs. Brit Van Valkenburg for the property 71 Knollwood Circle. Roll call vote - Mr. Lavenburg: no; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: no; Ms. Mantolesky: no. Two in favor and three opposed 2-3, motion failed and consequently, permit denied.

Petition #2021-9 – Variance for 577 Longmeadow St., Bay Path University:

Bay Bath University has acquired the corner-lot property 577 Longmeadow Street, directly across from the main campus' entrance, which will serve as the institution's Public Safety Department headquarters. In order to emphasize the institution's commitment to maintaining its student population safe, Bay Path' sign vendor Agnoli Signs has submitted a proposal for a 7 sq. ft., single-sided post-and-panel sign to be installed 85' feet from the Longmeadow Street curb; the sign has already been approved by the Longmeadow Historical Commission after changes to the size, shape, font and color originally proposed by the vendor. Bay Path is seeking a variance for this sign as the property is zoned residential and the proposed sign size exceeds the maximum area allowed per the bylaws.

Comments from the public in favor of or against the petition:

- None.

The petition herein fails to identify the specific soil condition, shape or topography that exist in the property that affect the structure or land in question and, consequently would require a variance as stated in the town bylaws. That said, the bylaws as presented do not provide the needed clarity for the board to make a determination in this unusual case. Considering the unique safety nature of the case and its substantial impact in the neighborhood, the board feels that it would be in the best interest of the community to have the matter be continued to a future date in order for the applicant to properly present the variance documentation as well as explore other forms of structure identification (signs attached to buildings, blue lighting, both) that would fulfill the intent of public safety without necessarily triggering a variance procedure.

Chair Dave Lavenburg made a motion, and was seconded by Ms. Freyman, to continue the hearing to July 20th to allow the applicant more time to complete the application and also consider other building identification options. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Petition #2021-10 – Special Permit (Addition) for 5 Lexington Rd., Minoos Tehrani:

The applicant intends to build a 16'x15' one-story, all-season addition on the south side of her dwelling unit using a sustainable design. It was clarified that, while the application states a two-story addition, the project will only be one story with the roof to align with the existing dwelling unit's height. The addition will sit on an existing patio and any stormwater captured by gutters would be redirected to existing below-grade drainage pipes within the lot.

Comments from the public in favor of or against the petition:

- Mary Young (17 Lexington Rd.) is a direct abutter and inquired about aspects of the design pertaining to the addition's height and foundation/earthmoving activities that would alter the topography of the lot; she wishes to obtain assurance that the construction activity does not increase water runoff into her lot.

Marissa Komack made a motion, and was seconded by Mr. Lavenburg, that the board makes the following findings of a corner lot and non-conforming property effective based on Article VI of the Zoning Bylaws: (1) On lot size there are 11,101.39 sq. ft. instead of required 18,750 sq. ft.; (2) on frontage there are 145.84' on Lexington Road and 74.98' on Emerson Road instead of the required 140'; (3) on front yard setbacks there are 29.8' to Lexington Road and 31' to Emerson Road instead of 40'; and (4) on east side yard setbacks there is 10.7'. Roll call vote - Mr. Lavenburg: yes; Ms. Mantolesky: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Freyman: yes. All in favor, motion passed 5-0.

Ms. Komack made a second motion, and was seconded by Mr. Lavenburg, that the board make a finding based on said foregoing facts that the proposed project would further intensify the aforementioned non-conformities of the lot by increasing overall construction size thus reducing overall open space within it. Roll call vote - Mr. Lavenburg: yes; Ms. Mantolesky: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Freyman: yes. All in favor, motion passed 5-0.

Ms. Komack made a third and final motion, and was seconded by Mr. Lavenburg, that the board make a finding that the proposed project won't be substantially more detrimental to the existing structure or neighborhood based on the project's scope generally conforming to the neighborhood. Roll call vote - Mr. Lavenburg: yes; Ms. Mantolesky: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Freyman: yes. All in favor, motion passed 5-0. The applicant was reminded of the appeals process to follow the decision made this evening.

Petition #2021-11 – Special Permit (Addition) for 19 Lorenz Street, Jeffrey Mard:

The project consists of the renovation and expansion of an existing and deteriorated deck. The proposed material is IPE wood and railings will enclose the deck, which will have a total surface of 760 sq. ft. The property's backyard is fenced.

Comments from the public in favor of or against the petition:

- Kara Downey (187 Westmoreland Ave) is in favor of the project and praised Mr. Mard as a good neighbor.
- Jamie Donais (450 Laurel Street) is in favor of the project.
- Jim Rosenthal (20 Lorenz Street) is in favor of the project and praised Mr. Mard as a good neighbor.
- Andrew Fox (29 Lorenz Street) is a direct abutter and inquired about the typical procedure for cases such as this considering that the deck appears to be completed.

Mr. Mard acknowledged that in the early stages of the project's permitting process he misunderstood Building Commissioner Paul Healy's directive of proceeding with the construction of the portion of the deck that did not fall under the ZBA application and began construction on the entire footprint. However, upon notification from the Building Commissioner work was halted pending the final outcome of the ZBA hearing; he apologized to the board for the mishap.

Steve Bennett made a motion, and was seconded by Mr. Lavenburg, that the board makes the following findings of property non-conformity effective based on Article VI of the Zoning Bylaws: (1) On lot size there are 11,063 sq. ft. instead of required 18,750 sq. ft.; (2) on frontage there are 90' instead of the required 120'; (3) on side yard setbacks there are just over 8' on both sides instead of 15'; and (4) on structure setback there are 39' instead of 40'. Roll call vote - Mr. Bennett: yes; Mr. Lavenburg: yes; Ms. Komack: yes; Ms. Freyman: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Mr. Bennett made a second motion, and was seconded by Mr. Lavenburg, that the board make a finding based on said foregoing facts that the proposed project would further intensify the aforementioned non-conformities of the lot by increasing overall construction size thus reducing overall open space within it. Roll call vote - Mr. Bennett:

yes; Mr. Lavenburg: yes; Ms. Komack: yes; Ms. Freyman: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Mr. Bennett made a third and final motion, and was seconded by Mr. Lavenburg, that the board make a finding that the proposed project won't be substantially more detrimental to the existing structure or neighborhood based on the project's scope generally conforming to the neighborhood, the lack of members of the public opposing said petition and the location of the proposed addition is within the town's setback requirements. Roll call vote - Mr. Bennett: yes; Mr. Lavenburg: yes; Ms. Komack: yes; Ms. Freyman: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0. The applicant was reminded of the appeals process to follow the decision made this evening.

Meeting Minutes Review:

1. April 22nd, 2021 Public Hearing: Mr. Lavenburg made a motion, and was seconded by Mr. Bennett, to approve the minutes as presented. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Mantolesky: yes; Ms. Komack: yes.

The meeting was adjourned at 9:10 pm.

Respectfully submitted,

Bianca Damiano