



TOWN OF BOXBOROUGH

Zoning Board of Appeals

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Mark White, *Chair* • Kristin Hilberg, *Clerk* • Mark Barbadoro • Stefano Caprara • Michael Toups • Shawn McCormack, *Alternate*

APPROVED ON: June 15, 2021

Meeting Minutes

April 06, 2021

7:30 PM

Remote Meeting

Members Present: Mark White (Chair), Michael Toups, Mark Barbadoro, Stefano Caprara, and Kristin Hilberg.

Also Present: Simon Corson (Town Planner)

Several members of the public were also present: Chris Loughlin, 564 Burroughs Road, Carol Dionne, 564 Burroughs Road, Rebecca Rudder, Middlesex Savings Bank, Scott Spaulding, Viewpoint Sign and Awning, and Mark Mitchell, Middlesex Savings Bank.

Mr. White outlined the meeting process.

7:30 Hearing – 564 Burroughs Road

Special Permit for Alteration of Nonconforming Structure

Mr. White read the legal notice and opened the public hearing.

Mr. Loughlin stated that the proposal is to replace an existing portion of the house that is in need of repair. This will be replaced with a new addition, on top of a full foundation. The property was purchased in 1994, and it has been determined that the existing porch is encroaching on the 30' setback requirement. The proposal is to replace the portion of the house that is out of compliance, with one that fits roughly the same footprint. The new structure would not impose on the neighbors any more so than the existing one does. That side of the lot is separated from the neighbor's yard by a stretch of woods. There are no additional bedrooms proposed, but this proposal is to make the house more livable and in better condition. He reviewed the potential plans and existing lot conditions.

Mr. Barbadoro noted that the original house appears to be within the setbacks, but the lot is substandard in that it does not have the required area for the AR District. Thus, it qualifies as a nonconforming structure because it is on a substandard lot. He believes this proposal is introducing a new nonconformity to the lot. He does not believe the bylaw expressly prohibits that, but it does note that it should not be over 100%.

Mr. White stated that the bylaw does allow an increase in the nonconformity, but it does not allow the structure to be expanded by 100%. He asked if the Building Instructor has done an analysis as to how much gross floor area this will add to the building.

Mr. Caprara stated that he does not believe this is going up more than 100%, as it is replacing some amount of square footage.

Mr. Corson stated that the proposed alteration to the preexisting nonconforming building would add approximately 486 gross square feet to the existing 3,020 gross square foot single-family dwelling. This would increase the size of the single-family dwelling to approximately 3,506 gross square feet.

Mr. White noted that the first consideration is that the nonconformity is not increased, and the second is that there is no more encroachment on the lot lines than already exists. This does not appear clear from the plans presented.

Ms. Hilberg stated that the proposed addition will extend 13.2' to the south, while the reconstruction will maintain preexisting, nonconforming 15.1' setback to the abutting property line. This would need to be validated.

Mr. Loughlin stated that the proposed is maybe extended by a foot or two, in order to support the new stairway into the foundation.

In response to a question from Mr. Barbadoro, Mr. White stated that the Board must first decide if there is a nonconformity present and then find that it is not detrimental.

Mr. Barbadoro stated that he is concerned about the neighbor potentially encroached upon. Ms. Dionne noted that she does not believe the abutter has any issue with the proposal. She explained that she has addressed the abutters regarding this project numerous times. Ms. Hilberg noted that there are also woods screening in this section of the property.

There was no public comment at this time.

Ms. Hilberg moved to close the public hearing. Seconded by Mr. Toups.

Roll call: Mark White, Mark Barbadoro, Michael Toups, Stefano Caprara, and Kristin Hilberg – all aye. Motion carried unanimously.

Mr. Corson read the Staff Report items into the record. The Board concluded that the preexisting nonconforming use will remain approximately the same. There will also not be an increase in excess of 100% gross floor area. The proposal meets the social and community needs as proposed. There will be no increase in impact to traffic flow or safety. The driveway will remain the same. The adequacy of utilities and public services will not change. There are no changes in density population or intensity of use. There will be no effects on the natural environment or health. The proposal will allow this citizen of Boxborough to live in this space for years to come. He recommended a few conditions for this application.

Mr. Barbadoro moved to approve the Special Permit application as proposed, with reference to the Town Planner's recommendations for Special Permit criteria, and with the recommendation that the applicant come back for an additional Special Permit if they wish to increase the gross square footage further than this addition. Seconded by Ms. Hilberg.

Roll call: Mark White, Mark Barbadoro, Michael Toups, Stefano Caprara, and Kristin Hilberg – all aye. Motion carried unanimously.

Mr. Barbadoro moved that the Board permit all future decisions to be signed by the Town Planner or Planning Board Chair, until the end of the Governor's COVID-19 order. Seconded by Mr. Toups.

Roll call: Mark White, Mark Barbadoro, Michael Toups, Stefano Caprara, and Kristin Hilberg – all aye. Motion carried unanimously.

8:00 Hearing - 629 Massachusetts Avenue Special Permit for Signage

Mr. White read the legal notice and opened the public hearing.

Scott Spaulding, Viewpoint Sign & Awning, presented the freestanding sign proposed. This is proposed to be setback 8' from the property line. There is no illumination currently proposed.

Mr. Barbadoro stated that he believes the change in signing will be much nicer. He is concerned about the eastbound sight line as one enters the parking lot. Any future lighting does need to be downlit. He has no further objections as to how the sign looks.

Mr. White stated that he has a concern if one were pulling out of the lot regarding the setback of the sign. He suggested that the applicant work with the Building Inspector regarding the best placement for the southern post of the sign to make sure that Mr. Barbadoro's and his concerns are addressed.

Mr. Spaulding agreed that this will be staked out for anyone to view the proposed location.

Mr. Spaulding explained that an awning is needed for the bank because the building juts out and there is an issue with rain and ice buildup in that area. An awning with a logo has been approved, but the dead blue space counts towards square footage of the sign and so a variance is needed.

In response to a question from Mr. Toups, Mr. Spaulding stated that the areas above the bank are commercial. The sign itself is 40.8 square feet, which may be slightly over the allowable amount for signs.

Mr. Corson stated that the allowable amount is 10% and the proposal is approximately 20%.

Mr. White stated that the bylaw does not speak to awnings and signage. It speaks to wall signs and freestanding signs. A wall sign is defined as no more than 6" from the wall. The proposal is clearly not that. The bylaw states that anything outside of these items is not allowed. He is unsure where to place this item under the bylaws.

Mr. Caprara asked if the awning is a separate sign and an extension of the structure. Mr. Spaulding agreed that the awning is a part of the building and serves a purpose as well as decorating the façade. The signage is applied directly to the awning.

Mr. Corson stated that the proposed awning sign would exceed ten percent of the surface area of the wall. The proposed sign is forty (40) square feet, which is in excess of ten percent of the approximately one-hundred eighty-four and five tenths (184.5) square feet of wall surface area. The proposed sign is thirty-two (32) square feet in area, and four and five tenths (4.5) feet in height. Thus, this sign would conform to the signage requirements. The exact location of the sign is to be determined based on ground conditions. As such, the Town Planner is recommending a condition to ensure that the sign is not placed so as to obstruct sight lines along Massachusetts Avenue.

In response to a question from Mr. Toups, Mr. Corson stated that the wall area is calculated using the borders of the blue sign. Mr. Toups stated that this is not accurate, and that he believes the calculation for this allowable area for this signage is approximately 50 square feet.

Mr. Barbadoro stated that the definition for wall sign in the bylaw is one that is painted on, incorporated into, or fixed parallel to the surface of a building, not more than 6". He believes the writing on the awning is a sign, but it appears to be more than 6" from the wall of the building.

Mr. Toups questioned if the awning, in this case, is considered part of the structure.

In response to a question from Mr. Caprara, Mr. Spaulding stated that there can be awnings without signs. Mr. Caprara stated that the awning should be considered part of the structure.

Mr. Corson stated that, in 2009, the original awning was considered as part of the structure. The Planning Board waived the requirements for the original awning in 2009.

Mr. Barbadoro stated that he has an issue with it not extending more than 6" from the building. The awning appears to be the structure to project the sign.

Mr. Caprara stated that, as long as there are no restrictions on putting the awning on the building, then he views this as approving the text on the sign, not the awning itself.

Mr. White stated that, in that case, the sign, per the bylaw, is only allowed to be 10% of the surface area of the awning.

Mr. Spaulding stated that he believes the allowable approximate height of the sign is 38 square feet. The proposal is just over that, at 40 square feet. If the letters need to be reduced in size to meet the bylaw, he believes the applicant would be amenable to that.

There were no public comments at this time.

Mr. Toups moved to close the public hearing. Seconded by Mr. Barbadoro.

Roll call: Mark White, Mark Barbadoro, Michael Toups, Stefano Caprara, and Kristin Hilberg – all aye. Motion carried unanimously.

Mr. Barbadoro stated that he is still having trouble calling an awning sign a wall sign.

The Board discussed if it believes the awning is considered part of the structure or not, and, thus, if a sign is permissible on it.

Mr. Barbadoro read the purpose of the bylaw.

Mr. Caprara noted that there is precedent for this awning having been approved in the past by the Planning Board. Mr. Barbadoro noted that decisions are not precedential because mistakes can be made.

Mr. Barbadoro noted that, if the awning sign is not allowable, one way around this might be the fact that the awning was a preapproved item that has existed for the past six years, thus making it a preexisting, nonconforming structure and allowed by Special Permit.

In reviewing the minutes of the 2009 Planning Board decision, it was determined that the Site Plan Review for the awning was waived. The addition of the awning, in addition to the structure, would normally require that approval. It is unclear what the decision was on the sign. Mr. Corson stated that he was unable to find anything from the ZBA on this item from this time.

Mr. Barbadoro stated that the bylaw requires a Special Permit, but none appears to have been given. The awning sign was put up and has been in view of the public for a number of years, making it lawfully preexisting, nonconforming per 48:6. It could be extended, if not considered detrimental to the public via Special Permit.

Mr. White stated that he is unclear if this application can be processed this way due to how the hearing was noticed.

Mr. Barbadoro moved to approve the freestanding sign and that the sign installer be allowed to review the final location of the sign with the Building Inspector and Town Planner to ensure it will be safe for traffic; and to approve the wall mounted sign in the form of an awning because the awning is preexisting, nonconforming and the extension of the awning sign will not be substantially detrimental to the neighborhood and that the financial benefits to the Town are to have an expanded bank service that will not be damaging to items listed in the Staff Report, such as health, safety, and welfare. Seconded by Mr. Caprara.

Roll call: Mark White, Mark Barbadoro, Michael Toups, Stefano Caprara, and Kristin Hilberg – all aye. Motion carried unanimously.

Minutes – none at this time.

New Business

Mr. Barbadoro noted that the Planning Board is working to retool the bylaws. He believes it would be nice for the Zoning Board to look at the bylaws in terms of what changes would be useful. He asked any Zoning Board members interested to come to the Planning Board meetings to help create these proposed changes.

Mr. Barbadoro moved to adjourn the meeting at 9:10pm. Seconded by Ms. Hilberg.
Roll call: Mark White, Mark Barbadoro, Michael Toups, Stefano Caprara, and Kristin Hilberg – all aye. Motion carried unanimously.

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