



Town of Arlington Zoning Board of Appeals

Meeting Minutes
Tuesday, June 14 , 2016
7:45 PM

Present: Pamela Heidell, Chair , Roger DuPont, Walter Fey, Christian Klein, and Suzanne Spinney
Also Present: Patrick Quinn and Joseph Moen

1. Docket #3505 85 Robbins Road

The Petitioner Stuart J. Landucci applied for a Special Permit under Article 9, Nonconforming Uses, Structures and Lots of the Zoning Bylaw for the Town of Arlington, seeking permission to construct a single family residential dwelling on a lot where there had been a pre-existing residential building. The lot is located in an R-1 zoning district and is 4,725 square feet. A pre-existing residential dwelling was built in the late 1890s and was legally non-conforming with respect to lot size, frontage, and side yard setback, which are less than the current By-law's dimensional requirements. Arlington Inspectional Services issued a Building Permit for an as-of-right for renovation to the pre-existing residential structure. In its Special Permit application, the Applicant stated that the contractor had intended to renovate the pre-existing structure by taking the physical characteristics of the building down to 50% of its size, but during construction it became necessary to take the pre-existing structure all the way down because of the unsafe condition of the structure when taken down to 50%. The removal of the structure down to the foundation was beyond the scope of the Building Permit issued by Inspectional Services. Inspectional Services ordered work to cease and issued financial penalties for non-compliance. The Building Inspector determined that an application for Special Permit should be heard by the Zoning Board of Appeals. It is the position of the Board that the prior legal nonconforming status of the property remains even though the pre-existing building being taken down to its foundation. Under MGL Chapter 40A [Zoning,] Section 6, a special permit granting authority has the right to exercise jurisdiction over prior non-conforming lots. The broad jurisdiction of Chapter 40A is considered in concert with the Arlington Zoning By-law and specifically, Section 9.02 D, Extension and Alteration of a non-conforming structure and Section 9.09, Unsafe Structures. The Plans submitted indicated that the existing front yard depth is conforming at 25 feet and would remain 25 feet, the existing rear yard depth is conforming at 32.58 feet and would be reduced to 25.58 but would remain conforming, the existing right yard depth is conforming at 11.83 feet and would remain 11.83 feet,

and the existing left side yard width is legally nonconforming at 8.33 feet and would not be decreased. The lot size is 4,725 square feet and frontage is 52.6 feet: both are legally non-conforming. The Plans indicate that within the footprint of the pre-existing structure, a second story with dormers would be added and the garage would be expanded. A two-story rear addition would be added, and the addition would be within the required setbacks of the current zoning Bylaw. The proposed alteration would increase the existing gross floor area from 1,404 square feet to 2,814 square feet; of this 744 square feet are outside the foundation of the pre-existing building. The Board found that the extension of the structure to the rear of the lot would not be substantially more detrimental to the neighborhood than the existing conforming structure, and would be in harmony with other structures in the neighborhood. An abutter spoke in favor of the project noting concern with the present status of the property, and another abutter indicated her only concern was that the height of the new structure not impede the performance of her solar cells on the roof. A third abutter requested that the unsafe condition of the lot be corrected immediately. At the close of the hearing the board unanimously approved their request for a special permit with special conditions.

SO VOTED: 5-0

2. Docket #3506 21 Silk Street

The Petitioner, Kira Stiles-Mikl applied for a Special Permit under Section 9.02, (Extension and Alteration), of the Zoning Bylaw for the Town of Arlington, seeking permission to construct a dormer on a two family dwelling located on 21 Silk Street. The property is located in an R-2 zoning district and the lot upon which the building is located is 4,531 square feet. Alison Schoenfield and Kira Stiles Milki appeared before the Board with their attorney Robert Annese and structural engineer, Richard Testa. Mr. Annese stated that the existing structure was built in 1928 and the lot is non-conforming with respect to both lot size and frontage. The structure consists of two condominium units, and the applicant wishes to add the dormers to accommodate additional bedrooms for a growing family. The revised dimensions of the third floor include 611 square feet of floor area that is more than 7'3": 611 square feet represents 49% of the floor area below. Pictures of nearby structures were presented, indicating that the proposed structure is of similar scale as neighboring properties. Attorney Annese further noted that the renovation had been discussed with the other condo unit owner and plans were also shared with neighbors, with none voicing any objections. The existing usable open space on the property is zero square feet, as there is no open space area on the property that is at least 25 feet by 25 feet. Pursuant to the Zoning Bylaw, open space must be free of automotive traffic and parking and shall be deemed usable only if (1) at least 75 percent of the area has a grade of less than 8 percent and (2) no horizontal dimension is less than 25 feet. Therefore, under existing conditions, the structure is non-conforming with regard to the Usable Open Space and would remain zero with the proposed dormer, not increasing the open space non-conformity. The Board discussed the Plans submitted, and noted the absence of a second floor plan. The Board also noted that the worksheet contained several inaccuracies and needed to be corrected for a complete and accurate record of the application. The Board also expressed concern that the building height was extremely close to the 35'

height limit in the Zoning bylaw. At the close of the hearing the board unanimously approved their request for a special permit with special conditions.

SO VOTED: 5-0