

## Zoning Board of Appeals – Public Hearing

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*Tuesday November 16<sup>th</sup>, 2021 7:00 p.m.*

**Members Present:** Chair David Lavenburg, Marissa Komack, Jane Mantolesky, Jim Tourtelotte, Jerry Plumb, Ellen Freyman.

**Members Absent:** Mike Michon, Steve Bennett, Suzanne White.

**Applicants Present:** David & Lisa Moulton, Chris Askins, Amber Berberich, Joe Lyons, Ysroel Gesin.

The **ZBA Hearing** was called to order at 7:05 p.m. by Chair David Lavenburg, who reminded the public of the protocols for proper conduct at virtual meetings that are being conducted per Chapter 20 of the Acts of 2021, which allows for virtual hearings to continue.

### **Petition #2021-18 – Special Permit (Home Occupation for Yoga Instruction) for 75 Maple Rd., Amber Berberich:**

Prior to the hearing an error related to the application's scope of work was discovered in the notification to abutters and such technicality prevented the board from opening a hearing on this matter; it was noted that no members of the public were present in connection with this application. Consequently, the hearing was scheduled to December 14, 2021 and corrected notifications will be resent by the Community Development Department. The board apologized to the applicant and thanked her for her understanding.

### **Petition #2021-17 – Special Permit (Addition) for 32 Williams Ct., Kiriakos & Oksana Christoforakis:**

Mr. Lyons, on behalf of the applicants, indicated that the homeowners wish to build a 12' x 17' one-story addition in the ranch-style dwelling unit's rear to accommodate an additional room.

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

- None.

Marissa Komack 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) lot size is 14,558 sq. ft. instead of the required 18,750 sq. ft.; (2) on frontage there are 83.23' instead of the required 125'; (3) front yard setback is approximately 29.3' instead of 40'; (4) on side yard setbacks the are between 6.6' and 8.9' on the northeast corner of the home. Roll call vote - Mr. Plumb: yes; Mr. Lavenburg: yes; Ms. Komack: yes; Ms. Freyman: yes; Ms. Mantolesky: 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 further decreasing the open space within the lot. Roll call vote - Mr. Plumb: yes; Mr. Lavenburg: yes; Ms. Komack: yes; Ms. Freyman: yes; Ms. Mantolesky: 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, the lack of members of the public opposing said petition. Roll call vote - Mr. Plumb: yes; Mr. Lavenburg: yes; Ms. Komack: yes; Ms. Freyman: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

### **Petition #2021-19 – Special Permit (Deck Extension) for 429 Frank Smith Rd., Ysroel Gesin:**

The applicant has been a town resident for a short period of time and acknowledge unawareness of the need for a ZBA special permit or building permit to alter the existing deck of his dwelling unit soon after moving into it. The new deck mirrors its predecessor in height, width (14') and rail design but it is 10' deeper. On the south side of the deck there is a frame installed over the rails to allow for the mounting of privacy.

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

- Lisa Moulton (439 Frank Smith Rd): a direct abutter to the south of the property in question, Mrs. Moulton explained concern the loss of privacy that she has endured as a consequence of, in her opinion, the increased height of the new deck as it towers over her 6'-high privacy fence. Images provided by Mrs. Moulton via email displaying views of the Gesin deck from her home.

During his presentation, Mr. Gesin confirmed, with the display of old photographs showing the old deck as images of the new deck's construction, that there was no change in the deck's height. While the deck does not have a roof, the family has installed temporary elements to enclose the deck and create a sukkah during the 7-day celebration of Sukkot every year.

Chair Dave Lavenburg indicated that the photographic evidence contradicted the claims of the new deck being higher and further reflected on the fact that Mr. Gesin's shades, when mounted, would offer an additional layer of privacy. With a high number of non-conforming lots in town, he acknowledged that some residents may encounter privacy challenges. The rest of the board members had no concerns related to the deck and Ms. Freyman encouraged the applicant to explore the planting of green vegetation that would further increase the privacy between the two neighbors.

Ellen Freyman made a motion, and was seconded by Mr. Lavenburg, that based on MGL c40A s6 the property does not conform with respect to lot size and therefore is deemed "pre-existing non-conforming" requiring finding by the board for any alteration or modification to the property. Roll call vote - Mr. Tourtelotte: yes; Mr. Lavenburg: yes; Ms. Komack: yes; Ms. Freyman: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Ms. Freyman made a second motion, and was seconded by Mr. Lavenburg, that the board make a finding based on said foregoing facts that the deck's extension would be adding an additional 140 sq. ft. of improvements to the property, therefore intensifying the aforementioned non-conformity of the lot by increasing overall construction size. Roll call vote - Mr. Tourtelotte: yes; Mr. Lavenburg: yes; Ms. Komack: yes; Ms. Freyman: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Ms. Freyman made a third and final motion, and was seconded by Mr. Lavenburg, that the board make a finding that the additional square footage of the new deck increases the overall construction of the property by 0.8%, and as such the 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. Tourtelotte: yes; Mr. Lavenburg: yes; Ms. Komack: yes; Ms. Freyman: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0. The applicant and abutter were reminded of the appeals process to follow after the written decision is issued.

*Documents presented: photographs submitted by Lisa Moulton and Ysroel Gesin.*

**Meeting Minutes Review:**

1. September 27<sup>th</sup>, 2021 Public Hearing: minutes will be reviewed at a subsequent meeting.

The meeting was adjourned at 7:58 pm.

Respectfully submitted,

*Bianca Damiano*