



**ZONING BOARD OF APPEALS
TOWN OF CONCORD
Meeting Minutes
February 11, 2021**

Pursuant to notice duly filed with the Town Clerk, a virtual public meeting of the Board of Appeals was held on Thursday, February 11, 2021 at 7:00 p.m. using the Zoom meeting platform. Meeting ID: 835 9309 2021 Meeting Password: 189297

PRESENT:

Members:

Elizabeth Akehurst-Moore
Ravi Faiia
Theo Kindermans
James Smith

Elizabeth Hughes, Town Planner
Ray Matte, Building Commissioner
Heather Carey, Admin Assistant

Chair Akehurst-Moore called the meeting to order at 7:00 p.m.

Voting Members: Elizabeth Akehurst-Moore, Theo Kindermans, James Smith

Public Hearings:

Nashawtuc Architects for a Special Permit under Sections 6.2.7, 7.1.3, and 11.6 of the Zoning Bylaw to demolish the existing non-conforming detached 745 sq. ft. garage and construct a new detached 1,312 sq. ft. garage that is 5 ft. from the side property line at 26 Elm Street (Parcel #1720).

Chair Akehurst-Moore opened the public hearing and reviewed the application. The homeowner, Chris Austen appeared for the hearing with the Architect Lisa Adamiak of Nashawtuc Architects. Ms. Adamiak presented pictures of the current garage and a site plan showing the constraints of the property due to the wetlands and its proximity to the Sudbury River. She explained that because they are unable to move the garage because of the wetlands, they are proposing to demolish the existing dilapidated garage and reconstruct a new garage in its footprint. The garage roof will use the existing roof dimensions but dimensions of the exterior walls will increase on the sides about 9 inches and will be reduced about a foot in the back moving it further away from the wetlands. Ms. Adamiak explained that the existing and proposed roof is about 5 feet from the property line requiring the Special Permit. She also explained that the new garage will have a second story with heating and air conditioning but plumbing will not be installed. Ms. Adamiak noted that the Natural Resources Commission and the Historic Districts Commission have approved the project as submitted.

Chair Akehurst-Moore asked for clarification that there is an existing non-conformity and whether the new garage will increase the non-conformity. Ms. Adamiak explained that if they were to construct a new garage that the front face of the garage would need to be completely behind the furthest point of the back of the house which they cannot do because of the wetlands.

She explained that although the garage will be larger, the measurements are taken from the roof overhang and the dimensions of the proposed roof are the same as the existing roof.

Chair Akehurst-Moore asked for questions or comments from the Board. Mr. Smith commented that the existing garage is non-conforming and the new garage will be non-conforming but it will not increase the non-conformity. Mr. Kindermans commented that the graphics were easy to read and didn't have any questions.

Chair Akehurst-Moore opened the hearing for public comment and there was none.

Chair Akehurst-Moore commented that she didn't have anything else to add. Mr. Faiia commented that the new garage is more proportional to the house and noted that there are not any abutters expressing concern that the height of the garage is increasing. Mr. Kindermans also noted that the Historic Districts Commission approved the plan finding it appropriate for the neighborhood. Chair Akehurst-Moore agreed with the other Board Members that this proposed garage is not any more detrimental to the neighborhood than the existing garage.

Mr. Smith moved to approve the application of Nashawtuc Architects for a Special Permit under Sections 6.2.7, 7.1.3, and 11.6 of the Zoning Bylaw to demolish the existing non-conforming detached 745 sq. ft. garage and construct a new detached 1,312 sq. ft. garage that is 5 ft. from the side property line at 26 Elm Street (Parcel #1720). Mr. Kindermans seconded the motion and all **VOTED** in favor.

Documents Used: Floor Plans, Site Plan, Elevations

Comins & Newbury LLP, or a Special Permit under Sections 7.1.3, 7.1.5 and 11.6 of the Zoning Bylaw to demolish 1,974 sq. ft. of the existing 3,675 sq. ft. dwelling and convert it to an accessory structure and to construct a new 4,585 sq. ft. dwelling that is over 50% larger than the existing gross floor area on a non-conforming lot at 18 Windmill Hill Road (Parcel 1225).

Chair Akehurst-Moore opened the public hearing and reviewed the application.

Tom Evarts appeared for the hearing and explained that he had submitted new drawings that include the existing contours of the property with the proposed house. He also commented that he had met with Andrea Solomon of the Cemetery Commission who has submitted a letter as a private citizen. He also noted many last minute letters of support that had been sent prior to the meeting.

Chair Akehurst-Moore confirmed the receipt of the letters and asked if the Board had any questions or comments. Mr. Faiia asked if there was any historical record that would show whether there was ever a windmill on top of the hill. Mr. Evarts noted that there was a windmill on the property to operate a grist mill that was never in operation. Mr. Faiia asked whether the Applicant was in favor of adding ivy or trees etc. to obscure the fence. Mr. Evarts stated that he was in favor mitigating the abruptness of the fence by planting some trees on the cemetery side and was willing to fund it. Town Planner Hughes cautioned the Board that they do not have the authority to condition or approve planting trees etc. on town property. Mr. Faiia commented that it was helpful to understand their constraints and Mr. Evarts willingness to work with the Cemetery Commission. Mr. Smith questioned how they could enforce the landowner to make these landscape improvements to the cemetery side of the fence. Town Planner Hughes suggested that the Board reach out for input from other Town Departments to ensure that they don't create a condition that the Applicant can't fulfill. Chair Akehurst-Moore stated that the Board is in a place where they need to balance private property rights and this really sensitive area. She commented that the story poles helped to see that this proposed house does look over

the cemetery. Mr. Kindermans commented that that the story pole was very effective at showing how the proposed house would overlook the cemetery. He noted that the Applicant had done a lot to diminish the impact by adding a natural wood fence and using natural wood shingles on the exterior of the house but that it would take time but was still struggling with the massing. Mr. Faiia remarked that the height was more impressive once he viewed the story poles. Mr. Faiia commented that there are already many built up structures in most of the field of view from that area of the cemetery. Chair Akehurst-Moore stated that she was struggling with the massing overlooking a cemetery of national importance. Mr. Faiia noted that this is a well thought out project and commented that screening could be added so that it is not as stark. Mr. Kindermans pointed out that the topography of the lot has quite an effect on the view of the house.

Chair Akehurst-Moore opened the hearing for public comment.

Nancy Fresella-Lee of 140 Walden Street presented photos of the site and commented that she has very serious concerns with the totality of all the elements of the project. She noted her concerns including Henry David Thoreau being buried on the hill before his grave was moved for unknown reasons, the fence being a new feature of a very old cemetery on the national list of historic places, the fieldstone wall having been made made from repurposed granite blacks from the 1789 Concord Jail, and the driveway that is parallel to the fence which will create traffic and noise. She commented that the new house should be built in the location on the property where the existing house sits.

David Zuckerman of 27 Windmill Hill Road spoke in favor of the project and noted that the homeowner has always followed through with their previous landscaping commitments.

Nancy Nelson of 1695 Lowell Road, Member of Historical Commission but speaking as a private citizen, commented that with a mutual cooperation and collaboration a more compassionate design might have emerged for this property that would have met the needs of the owners and also respected this historic site. She commented that she hope it might still be possible to work out some changes which would mitigate the overall dominance of the new structure and of the fence itself.

Mr. Smith clarified that the fence is not in violation of any building or zoning codes. Mr. Faiia commented that the homeowner is requesting the Special Permit because their new house takes them over the 50% addition allowed and that if they removed the existing house, they could build this same house without a Special Permit.

Andrea Solomon of 75 Ash Street, Member of the Cemetery Committee but speaking as a private citizen, commented that she was in favor of the project and noted how accommodating the Evarts have been to comments and concerns. She also commented that the Cemetery Commission discussed this project at their February meeting and determined that the new structure was not going to have a major impact on the cemetery and so declined to comment.

Chair Akehurst-Moore closed public comment. She questioned whether the Board could give input to improve the plan or say its fine the way it is. Mr. Evarts commented that he would talk to the architect about lowering the ridge height and would be willing to donate money to the cemetery for screening of the fence and house or for use however they see fit. Chair Akehurst-Moore commented that the Board was getting close to a point where they could be happy with the plan that protects everyone's interest. Mr. Kindermans agreed.

Mr. Evarts explained that he worked with the Cemetery Committee to make changes to the driveway that cut and lowered the grade for the driveway for the specific reason of making it so

that there is an earth berm between the driveway and the cemetery to cut down noise and completely reduce visibility of any vehicles.

Chair Akehurst-Moore asked for other comments.

Mr. Smith commented that it is very hard to imagine that a fence on this property is not a benefit to the public and homeowner so that the homeowner doesn't have people coming on to their property and the public can't see what is happening on the property. He commented that a softening of the fence and reduction in height would be helpful.

Mr. Faiia commented that he was sensitive to the history of the land but that history is never a constant. He also commented that the proposed additional dwelling unit is a benefit to the Town.

Mr. Evarts commented that he would work with the architect to come up with a revised plan lowering the ridge height.

Mr. Kindermans moved to continue the application of Comins & Newbury LLP, or a Special Permit under Sections 7.1.3, 7.1.5 and 11.6 of the Zoning Bylaw to demolish 1,974 sq. ft. of the existing 3,675 sq. ft. dwelling and convert it to an accessory structure and to construct a new 4,585 sq. ft. dwelling that is over 50% larger than the existing gross floor area on a non-conforming lot at 18 Windmill Hill Road (Parcel 1225) to the January 14, 2021 meeting at 7:25 pm. Mr. Faiia seconded the motion and all **VOTED** in favor.

Documents Used: site plans, cemetery story pole photos

Concord Country Club, for a Special Permit under Sections 7.5 and 11.6 of the Zoning Bylaw for the construction of an irrigation pond requiring the removal of 1,200 cubic yards of soil at 246 Old Road to Nine Acre Corner (Parcel #3079).

The applicant requested a continuance without discussion to the March 11, 2021 meeting. Chair Akehurst-Moore asked if they could request that prior to the next meeting that the Applicant submit documentation with their reasoning for why this Special Permit would be appropriate to grant under Section 11.6 of the Zoning Bylaw.

Mr. Smith moved to continue the application of Concord Country Club, for a Special Permit under Sections 7.5 and 11.6 of the Zoning Bylaw for the construction of an irrigation pond requiring the removal of 1,200 cubic yards of soil at 246 Old Road to Nine Acre Corner (Parcel #3079) to the March 11, 2021 meeting at 7:30 pm. Mr. Kindermans seconded the motion and all VOTED in favor.

Documents Used: None

Administrative Business

Approval of Minutes for December 17, 2020

Mr. Kindermans moved to accept the minutes for the December 17, 2020 meeting as amended. Mr. Smith seconded the motion and all VOTED in favor.

There being no further business, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Theo Kindermans, Clerk