



**ZONING BOARD OF APPEALS  
TOWN OF CONCORD  
Meeting Minutes  
March 24, 2022**

Pursuant to notice duly filed with the Town Clerk, a virtual public meeting of the Board of Appeals was held on Thursday, March 24, 2022, at 7:00 p.m. using the Zoom meeting platform.

PRESENT:

Members:

James Smith, Chair

Ravi Faiia

Theo Kindermans

Ray Matte, Building Commissioner

Heather Carey, Admin Assistant

Chair Smith called the meeting to order at 7:00 p.m.

Voting Members: Ravi Faiia, Theo Kindermans, and James Smith

**Public Hearings:**

***Nina Hackel and Ira Goldman, for a Special Permit under Sections 7.1.3 and 11.6 of the Zoning Bylaw to demolish the existing 3,051 sq. ft. non-conforming dwelling and reconstruct a 4,260 sq. ft. non-conforming dwelling at 61 Bartlett Hill Road (Parcel #1248-3).***

Chair Smith opened the public hearing and reviewed the application. The owners, Nina Hackel and Ira Goldman appeared for the hearing. Ms. Hackel explained that they are proposing demolish and reconstruct the house using the existing foundation and will also add on to the rear of the house. The existing house is two-stories and has a non-conforming setback on the right side of the house. The new house will only be one story on the right side where it is non-conforming. Mr. Goldman also explained that the house has a non-conforming side setback and that they are not proposing to increase or create a new non-conformity. He noted that the massing of the new addition, is set back from the lot line and the reconstructed house will not be substantially more detrimental than the existing house to the neighborhood. Mr. Goldman stated that the new house will be a vast improvement to the property and the neighborhood. He noted that they had discussions with their neighbors who welcomed the project and were happy to see the property brought up to modern standards.

Chair Smith asked for questions from the Board. Mr. Faiia confirmed that the lot is conforming but that the side setbacks are non-conforming. Mr. Kindermans asked whether they received any letters from their neighbors saying that they were in favor of the project. The owners commented that the neighbors received the abutters notice and that they spoke to them in person but did not get written confirmation. Chair Smith stated the consequence of building the house on the existing foundation is that they are inheriting the problem with the non-conforming side setback.

Chair Smith opened the hearing for public comment.

Joyce Lamensdorf of 98 Bartlett Hill Road spoke of the neighborhood character and the appearance and maintenance of the house. She questioned the pool and fencing that were shown on the proposed site plan.

Ms. Hackel explained that they had spoken to their abutting neighbors before having the trees taken down and were expecting the project to start a lot sooner. She explained that the pool is drawn on the plot plan to show the potential of where it could be located but that they are not proposing to install a pool at this time. Mr. Goldman explained that front yard had been landscaped and maintained but the back yard was severely overgrown and had many downed trees. He also clarified that they had spoken to their direct neighbors about the proposed plan and while they had not shared the architectural plans with them, the neighbors were both very comfortable with what they were proposing to do in general.

Chair Smith asked for clarification on what was being proposed to be constructed. Ms. Hackel stated that the pool and lower deck are not being proposed at this time. Mr. Kindermans asked for clarification about the height on the non-conforming right setback of the house. Ms. Hackel explained that because the side is so close to the setback, that they had to keep the roof low on that side which will be in line with the abutters one-story garage. Mr. Kindermans commented that the new house will be more symmetrical and the encroachment to the side setback will be the same but will have a lower height than the existing house.

Joyce Lamensdorf of 98 Bartlett Hill Road stated that having all these elements on the plan as proposed was confusing and asked for clarification on what the owner is actually planning to build.

Chair Smith clarified that the Board is only looking at whether the board should approve the Special Permit to maintain the existing non-conforming setback or deny the application which would require the owner to completely demolish the house and reconstruct it at the 15 ft setback.

Mr. Kindermans stated that reducing the height on that side of the house is an improvement to the neighborhood. He noted that the applicant could remove 3 feet off that side of the house and they wouldn't need to appear before the board. Mr. Kindermans concluded that he was in favor of the project as the encroachment was minimal and serves to improve the nonconformity. Mr. Faiia agreed with Mr. Kindermans and spoke in favor of the applicant maintaining the same footprint as it will not be a detriment to the neighborhood. Mr. Kindermans agreed that staying on the same foundation means that the house doesn't move forward and keeps the same profile. Chair Smith reiterated Mr. Kindermans point that the lot is otherwise conforming. He noted that the applicant could rebuild the foundation and build a much larger house which would be a bigger detriment to the neighborhood. This work is in line with other applications for the same type of project and consistent with other houses in the neighborhood.

Mr. Kindermans moved to approve the application of Nina Hackel and Ira Goldman, for a Special Permit under Sections 7.1.3 and 11.6 of the Zoning Bylaw to demolish the existing 3,051 sq. ft. non-conforming dwelling and reconstruct a 4,260 sq. ft. non-conforming dwelling at 61 Bartlett Hill Road (Parcel #1248-3) finding that the new home is not more detrimental to the neighborhood than the existing home and subject to standard conditions. Mr. Faiia seconded the motion. The motion passed (3-0) by roll call vote.

Documents Used: Site plan, photos, plans and elevations

***Justin R. Mello, for a Special Permit under Sections 6.2.13 and 11.6 of the Zoning Bylaw to construct a 93 sq. ft. dormer which causes the site to exceed the maximum floor area ratio by 66 sq. ft. at 314 Thoreau Street (Parcel #0317).***

Chair Smith opened the public hearing and reviewed the application. He clarified what types of measurements in the Zoning Bylaw are considered when an applicant requests a special permit. He also discussed section 6.2.13 and explained the provision about the availability of reasonable alternatives. Justin Mello for Dewing, Schmidt, Kearns architects appeared on behalf of the Dewing family for the hearing. Tyler Dewing, the property owner stated he would like to add an additional bedroom which would require a dormer on the rear of the house on the 3<sup>rd</sup> floor. Mr. Mellow stated there would be no changes to the first-floor footprint. On the second floor they will be redistributing the interior walls of the bedrooms and adding a bay window which will not add to the floor area calculation. On the third floor, they will be adding the dormer which will not be viewable from the street and a bathroom to be accessed by the existing office and bedroom. The proposed layout is needed to provide head room.

Mr. Kindermans stated that he had no comments regarding the proposed design. Mr. Faiia asked if other alternatives were considered in the design. Mr. Mello noted that the existing bathroom is under the slope of the house and reconfiguring it would allow for more privacy and more usable fixtures. Mr. Mello noted the 3 ft. knee walls in the 3<sup>rd</sup> floor bedroom as an additional reason for the proposed design. Mr. Dewing elaborated on the lack of head room. Chair Smith stated that this is a challenging approval to provide. In order to overcome this, they have to determine that not holding the applicant to the maximum floor area would be unreasonable. Mr. Dewing stated that there is more square footage over the garage that they are not comfortable using because it is separate from the remainder of the house. Mr. Mello explained a lot of compromises have been made to accommodate the proposed design including maintaining shared bathrooms.

Chair Smith asked for questions from the Board. Mr. Faiia asked whether switching the office and bedroom had been considered. Mr. Mello stated that such changes would compromise the size of the office and the position of the proposed bathroom is advantageous as there is existing plumbing in that part of the house. Mr. Faiia stated he had no other questions.

Chair Smith opened the hearing for public comment.

Martyn Botfield of 47 Walden Terrace appeared for the hearing and spoke in favor of the project.

Peggy Dowcett of 30 Walden Terrace spoke in favor of the project.

Matt Johnson of 21 Winthrop Street and a member of Select Board and liaison to the Zoning Board of Appeals appeared for the hearing but spoke on his own behalf. He explained the objective of the floor area ratio bylaw was to prevent mansionization and 5,000 square ft houses but the emphasis was on new construction. He commented that this was a tough case as previous approvals have been made for smaller houses but a case could be made that this is a very modest increase. The criteria of no reasonable alternative was made so there would be few exceptions.

Mr. Faiia stated that there are three items worth noting in the bylaw, the modest changes being made are not detrimental to the neighborhood. He reiterated Mr. Johnsons previous statements regarding the bylaw, its intentions for new construction and the previous approvals granted for smaller homes. Mr. Faiia stated that there is a path to approval while still keeping the exceptions limited in this case.

Mr. Kindermans agreed with Mr. Faiia and Mr. Johnson. This work is a reorganizational adjustment on an existing home and not speculative for new construction. It is major work resulting in a small exterior change with a minor increase in the FAR. Chair Smith asked to view the 3<sup>rd</sup> floor again and agreed that alternatives are few because of the slope of the roof. He noted a previous application that wasn't approved because the massing appeared large and another application that was approved as the alternatives presented were more in keeping with the neighborhood. Chair

Smith stated that the proposed work here is not a substantial change to the look and feel of the house. Chair Smith asked for the opinion from the Building Commissioner as he was more inclined to approve now given the issue of the sloped roofs. Building Commissioner Matte reiterated Mr. Johnsons point that the objective of the bylaw was for new construction and it was the Board's decision to make in this case. Mr. Faiia agreed with Chair Smith and stated that previous exceptions provide a roadmap for this application. Mr. Faiia noted that the unique characteristics of this house constitute going over the FAR as there are no reasonable alternatives. The minimum increase is needed to make the proposed changes. Mr. Kindermans agreed with Mr. Faiia.

Mr. Faiia moved to approve the application of Justin R. Mello, for a Special Permit under Sections 6.2.13 and 11.6 of the Zoning Bylaw to construct a 93 sq. ft. dormer which causes the site to exceed the maximum floor area ratio by 66 sq. ft. at 314 Thoreau Street (Parcel #0317) finding that there are no reasonable alternatives and a literal interpretation of the bylaw would be unreasonable and not detrimental to the neighborhood. Mr. Kindermans seconded the motion. The motion passed (3-0) by roll call vote.

Documents Used: Floor plans, existing and proposed renderings

### **Administrative Business**

#### ***Winthrop Street: Junction Village Assisted Living Special Permit Extension***

Mr. Kindermans moved to approve the extension of the Special Permit of The Grantham Group, LLC, for a Comprehensive Permit under M.G.L. Chapter 40B with waivers to the Town of Concord's Zoning Bylaws for an 83-unit affordable assisted living facility at 6X Winthrop Street. (Parcel #2013-1) for an additional year. Mr. Faiia seconded the motion. The motion passed (3-0) by roll call vote.

#### ***Approval of Minutes for December 9, 2021***

Mr. Faiia moved to accept the minutes for the December 9, 2021, meeting as amended. Mr. Kindermans seconded the motion. The motion passed (3-0) by roll call vote.

#### ***Approval of Minutes for January 13, 2022***

Mr. Faiia moved to accept the minutes for the January 13, 2022, meeting as submitted. Mr. Kindermans seconded the motion. The motion passed (3-0) by roll call vote.

There being no further business, the meeting was adjourned at 8:34 p.m.

Respectfully submitted by,  
Hayleigh Walker  
Administrative Assistant