

Zoning Board of Appeals Meeting Minutes

Minutes of June 7, 2017

Hearing on the petition of Michael Lombardozzi of 26 Crestwood Drive, Leicester, MA for two variances from the Leicester Zoning Bylaw to construct a 768sf addition to an existing home for an accessory apartment: 1) to exceed the 700sf limit for accessory apartments (Section 1.3), and 2) to construct the addition 12.7-feet and 36-feet from the south and west boundary lines, respectively (40 foot setbacks required in the SA Zoning District).

Members present: David Kirwan, Chair; Vaughn Hathaway, Paul Schold

Alternate members present: Jim Reinke, Mary Moore, Dick Johnston, Acting Clerk

Meeting called to order at 7:30PM

Instructions given on hearing procedures

Voting at tonight's meeting: Dick Johnston, Jim Reinke, Vaughn Hathaway, Paul Schold and Dave Kirwan

Mr. Johnston read the Notice, Application and letter from the Building Inspector into the record.

Submitted into evidence: Registered Plot Plan, and return receipts from the Certified Mailing to abutters

Correspondence received: Site Consideration from the Building inspector, read into the record by Mr. Kirwan.

Mr. Kirwan opened discussion to the applicant to present his petition.

Mr. Michael Lombardozzi said Crestwood Road is a residential neighborhood having 95% ranch houses that was developed back in the late 1950s. This home was his mother's parent's home. He is a lifelong resident, along with his parents. His parents moved into a Condominium complex some years back and as they age, are now finding it difficult getting around.

He would like to have his parents move in with him to live out their golden years. It will give him the ability to watch over them, bring them to doctor appointments and be there for them when needed.

The addition will not change the atmosphere or the looks of the neighborhood. It will be the same height as the existing roofline and won't go any higher. It will face the street, instead of being parallel to the street.

Mr. Schold asked having the addition face the road, will there be a garage.

Mr. Lombardozzi said yes, there will be a garage underneath, with a set of stairs leading into the main one level living space. There will be a ground level access out to the backyard.

Mr. Kirwan asked how many rooms the addition will have.

Mr. Lombardozzi said there will be 4-rooms. A kitchen that will open up to the living room, one bedroom, one bathroom and another small room.

Mr. Kirwan said the plan shows the addition being a little less than 4-feet off the frontage of the 40-foot required and there was plenty of room in the back, but leaves the side setbacks off from the 40-feet required.

Mr. Lombardozzi said on the side where the setbacks don't meet the requirement, is a double lot owned by his neighbor. It is a wooded lot and it's all ledge. There are new owners there now and if he knew about the setbacks when he started planning for this addition, he would have approached the previous owners to try to purchase that wooded lot, and alleviate the setback issue.

Mr. Kirwan asked if there was Town water and sewer.

Mr. Lombardozzi said there was Town water when he bought it and he put in Town sewer before he moved in.

Mr. Kirwan said potentially, if the proposed addition were to be moved back 4-feet, there would no longer be the frontage issue.

Mr. Charles Brouillard, Contractor/Builder said the reason the addition was offset by 4-feet was to provide access due to the way the stairway will be configured and the sewer line was in the way. They could relocate the sewer line at a huge expense to the homeowner.

Mr. Lombardozzi said the sewer line goes to the back of the house and doesn't come out the front of this house. It goes down his driveway and wraps around the back of his house.

Mr. Brouillard said the majority of the homes in that neighborhood were closer than 40-feet. There was a zoning change made at some point after the neighborhood was originally built and made most of those houses in that neighborhood nonconforming.

Mr. John Gerrard, 6 Crestwood Road, asked which side of the house the addition was going.

Mr. Lombardozzi said on the right side of the house.

Mr. Brouillard said the driveway won't be changed, the addition won't be going beyond the driveway.

Mr. Hathaway asked why the addition needed to be 768-square feet versus the 700-square feet allowed.

Mr. Brouillard said they needed the extra 68-feet to fit a stairway/hallway that will accommodate a chairlift.

Mr. Lombardozzi said his parents are at the stage where they need the additional help and having them close by, will allow him to provide the care they need.

Mr. Reinke felt this was a good plan and felt the requirements had been met.

Mr. Brouillard noted it would not be financially feasible to build a house on the wooded lot next door because of the depth of the sewer line and the lot is full of ledge.

Mr. John Gerrard, 6 Crestwood Road, said he was sympathetic to Mr. Lombardozzi's elderly parent needing additional help. His concern was with the apartment and what it held for the future of the neighborhood. He asked when the apartment becomes vacant or the owners should move away, does that now become a rental unit.

Mr. Kirwan said he did not think rental properties were allowed in that zone.

Mr. Hathaway said technically the Town doesn't have a bylaw stating everyone living under the same roof has to be related in some way. Even though the zone doesn't allow multi-family, it would be hard to say someone was violating the bylaw if a non-family member lived in the apartment.

Mr. Lombardozzi said he purchased that house from his mother's youngest brother and before that, his mother's parents lived there. No one can tell what the future will bring, but that house has been in the family for 40-years and there are no plans for the house to leave the family. The opportunity opened for his folks to live there and he was not building the addition for any other purpose.

Mr. Hathaway noted the bylaw allows 700-square foot addition done by right. The reason this is before the ZBA was for the extra 68-feet, as well as the setbacks.

The concern about an apartment wasn't the issue before the Board, it's whether the extra 68-feet should be granted.

Ms. Moore said the bylaw states, the owner needs to reside on the premises. If Mr. Lombardozzi were ever to sell the house, whoever becomes the owner, needs to live there.

Mr. Hathaway agreed.

Mr. Gerrard understood that, but if the house sold and the new owner didn't live at the house or the apartment, what happens then. His concern was how this was to affect the other properties in the neighborhood.

Mr. Hathaway wasn't sure what type of proof would be needed to prove relationship. The fact that the owner has to live there means it couldn't be rented out to two sets of college students.

Mr. Kirwan said there was nothing stopping someone from moving out of his or her house and renting it.

Mr. Lombardozzi said he upkeeps his house and felt it was a good testament to the neighborhood and his intent was to keep it that way. He noted the addition would not be a detriment to the neighborhood.

Mr. Kirwan asked for any further comments or questions, hearing none, asked for a motion on the first variance on exceeding the square footage.

MOTION: Mr. Schold moved to approve the petition of Michael Lombardozzi of 26 Crestwood Road, Leicester, MA to construct a 768s.f. addition to existing home for an accessory apartment.

SECONDED: Mr. Reinke – Discussion: None – VOTE: All in Favor

Finding of Facts:

Paul Schold voted in favor of the motion because he felt hardship was satisfied. The extra 68s.f. was needed to provide the additional space to accommodate for a staircase and chairlift.

The addition will not be a detriment to the neighborhood and is in harmony with the intent and purpose of the bylaw.

Vaughn Hathaway voted in favor of the motion because he felt it did meet the requirements for hardship and would not be a detriment to the neighborhood.

David Kirwan voted in favor of the motion because he felt the hardship requirement was met because of the need to provide a staircase and chairlift to accommodate the needs of elderly parents.

Dick Johnston voted in favor of the motion for the same reasons stated that the extra square footage was needed to accommodate a staircase and chairlift.

Jim Reinke voted in favor of the motion for the same reasons stated, the extra space was needed for the future need of a chairlift. This is keeping with the harmony of the neighborhood.

Mr. Kirwan asked for a motion on the second variance regarding construction of the addition and not meeting the setback requirements.

MOTION: Mr. Schold moved to approve the petition of Michael Lombardozzi of 26 Crestwood Road, Leicester, MA to construct an addition 12.7-feet and 36-feet from the south and west boundary lines respectively.

SECONDED: Mr. Reinke – Discussion: None – VOTE: All in Favor

Finding of Facts:

Jim Reinke voted in favor of the motion because of the topography of the land and it was in harmony with the intent of the Bylaw.

Dick Johnston voted in favor of the motion because he felt it would not have a detrimental effect to the neighborhood and was in harmony with the intent and purpose of the Bylaw.

Paul Schold voted in favor of the motion for the same reasons states, it would not be a detriment to the neighborhood and was in harmony with the Bylaws.

Vaughn Hathaway voted in favor because he felt that the hardship was demonstrated as far as the care for elderly parents. The property was unique due to being in a split zone, part SA and part R1 and was in harmony with the neighborhood.

David Kirwan voted in favor for the same reasons stated. Also due to the placement of the sewer line on the property, didn't allow the addition to be pushed back in order to meet the setback requirements and would create a financial burden to relocate the sewer line.

Instructions were given on the appeal process and the filing of this Decision with the Registry of Deeds.

MOTION: Mr. Reinke moved to close the hearing

SECONDED: Mr. Johnston – Discussion: None – VOTE: All in favor

Meeting adjourned at 8:23PM

Approval of Minutes

3/8/2017, Staffordshire Properties

MOTION: Mr. Schold moved to approve the minutes of March 8, 2017 for Staffordshire Properties with corrections as discussed

SECONDED: Mr. Johnston – Discussion: None – VOTE: All in Favor

3/8/2017 - Town Library

MOTION: Mr. Reinke moved to approve the minutes of March 8, 2017 for the Town Library with noted corrections as discussed

SECONDED: Mr. Johnston – Discussion: None VOTE: All in Favor

3/22/2017 26 Lakeshore Drive

MOTION: Mr. Schold moved to approve the minutes of March 22, 2017 for 26 Lakeshore Drive with noted corrections as discussed

SECONDED: Mr. Johnston – Discussion: None – VOTE: All in Favor

3/22/2017 Town Library continued

MOTION: Mr. Hathaway moved to approve the minutes of March 22, 2017 on the continued meeting for the Town Library with noted corrections as discussed

SECONDED: Mr. Reinke – Discussion: None – VOTE: All in Favor

4/5/2017 26 Lakeview Drive continued

MOTION: Ms. Moore moved to approve the minutes of April 5, 2017 on the continued meeting for 26 Lakeview Drive with noted corrections as discussed

SECONDED: Mr. Reinke – Discussion: None – VOTE: All in Favor

Reorganize the Board

Chairman

MOTION: Mr. Schold moved to nominate Vaughn Hathaway as Chair

SECONDED: Mr. Reinke – Discussion: None – VOTE: All in Favor

Vice Chairman

MOTION: Mr. Reinke moved to nominate David Kirwan as Vice Chair

SECONDED: Mr. Johnston- Discussion: None – VOTE: All in Favor

Clerk

MOTION: Mr. Johnston moved to nominate Paul Schold as Clerk

SECONDED: Mr. Hathaway – Discussion: None – VOTE: All in Favor

Meeting adjourned at 9:50pm

Respectfully submitted:

Barbara Knox

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