

CITY OF WALTHAM
ZONING BOARD OF APPEALS

July 31, 2018

The Zoning Board of Appeals held a public hearing at 7:00 P.M., Tuesday, July 31, 2018, in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA.

In attendance were Chair Barbara Rando, and members Sarah Hankins, Oscar LeBlanc, John Sergi and Michael Squillante.

Mrs. Rando: Tonight we have three new cases before us: Case 2018-19, John & Elizabeth Wissler, 113 Farnum Road, Waltham; Case 2018-21 Margie Brenner, 79 Mokema Avenue and Case 2018-22 Elis and Mark Coco, 765 Lincoln Street and they are all for variances.

The first action this evening is for a motion to accept the minutes of July 10th and July 17th.

On motion of Mr. Sergi, seconded by Ms. Hankins, the board approved the minutes of July 10, 2018, and July 17, 2018.

Mrs. Rando: Would the clerk please read the petition win Case 2018-29, John and Elizabeth Wissler?

Acting Clerk John Sergi then read the Petition of John and Elizabeth Wissler in an application for variances to allow for the addition of 507 sq. ft. +/- of living space by constructing a one story addition at the rear of the structure. Location and Zoning District: 113 Farnum Road, Waltham.

Mrs. Rando: May we hear from the Petitioner or the Petitioner's representative please?

Bret Francis, Esquire, Scafidi and Juliano, 10 Hammer Street, Waltham came forward.

Mr. Francis: I am here tonight on behalf of John and Elizabeth Wissler who are here as well. They are the co-owners of a single family house located at 113 Farnum Road, Waltham.

Mr. Francis read his brief into the record along with going over the plan of the locus.

Mr. Francis: I would just add one last thing. The petitioners did speak to their immediate abutters and no objections from any of them and John is here and he can answer any questions that the board may have regarding these conversations with the abutters.

Mrs. Rando: I made a site view today and I noticed that the back yard has a large foundation for the house that is on Main Street. But I did not see that the shape of the lot, and I mentioned this to Mr. Wissler, that it is not affecting generally the district that it is in. The house next to it has a very, very narrow back yard and it's at a slant. If you go down the street, they're all upper not straight grades but they are up. I don't see that the lot - -

Mr. Francis: Well, if you look at these lots, these actually have rectangular regular square lots. So to suggest that this lot is not irregularly shaped in comparison with them, and again if you are looking at the district as a whole, not just the neighborhood, so it's not fair to say, well, this one has an odd shaped lot. It's when compared with the district as a whole and most in this area, you can see from this map, generally it's rectangular shaped.

Mrs. Rando: It's all uphill. There's no level- -

Mr. Francis: I am going by the elevations that was provided by the Bibbo's and I see it's about a foot from the front of the yard to the rear of the yard to their property and that's all i can go on is their property, not what's behind us.

Mrs. Rando: I'm not going behind. I'm going next to and down on Farnum on the same side.

Mr. Francis: The elevations don't affect this lot. I wish I had an addition, you know you could use the shape of the lot, topography of the lot or soil conditions, Unfortunately, I go with what is given to me which is this property is relatively flat despite the surrounding ones but again I would suggest that the subdivision that was made for this property was in 1941 and they got the end property. These properties (referring to the plan) were already laid out. It wasn't until later that they were then re-subdivided but the subdivision plan for this property has, this is the last property in the line and it got stuck with this irregular shape lot. It wasn't anything that was sold off. It wasn't anything that was changed, especially not from the petitioners who have only been there seven or eight years. This is since the beginning of the property, its had this irregular shaped lot. Had it gone straight down with every other property that it's in line with we wouldn't be here tonight. We would have the gross total area that would allow this minimal two percent increase. So I think the lot shape directly affects this situation. And then on top of that the fact that having spoken to all the neighbors and all the abutters have no objection, I think satisfies that it doesn't take from the derogation or substantially derogate from the intent of the provisions.

Mrs. Rando: It's just that that was one of the requirements.

Mrs. Rando: Mr. Squillante, do you have any questions at this time?

Mr. Squillante: No questions.

Mrs. Rando: Mr. Sergi?

Mr. Sergi: I am just curious. What is the addition going to be?

Mr. Wissler, 113 Farnum Road, Waltham: So this is a perspective drawing of the addition. It will add on our living room and have an open floor plan with the kitchen (Mr. Wissler went over the plan and the rendition with the board). And then on the other side of the house, we'll have a master bedroom suite with a new bathroom.

Mrs. Rando: Ms. Hankins, do you have any questions at this time?

Ms. Hankins: So the issue was the lot area. Is there any thought about having an addition that would go up because isn't it just a one story right now?

Mr. Francis: It's just a one story. It's only a one and a half story house. There's not a full second floor anyway and that would make it a larger impact, a higher roof line. This is modest and they are not looking to make it an eyesore. They are trying to fit it in with the existing house and I think that's what they have really done. Again it's 570 square feet plus or minus. Adding another floor to it with the dormer would increase the cost substantially because you are adding another floor and it's just not what they had in the cards and what they wanted. This was worked out with their engineers. Again, the thought of avoiding this board to cut off the garage was a real legitimate option. In this case, it's such a modest addition and where they've gotten the support, the non objection of the immediate abutters. This addition will not be seen from the front of the property and technically I think you would have to look down in the rear to see it from the rear. This is the project that they have worked out several hours with their engineers and this is the one that we think best fits the neighborhood.

Mrs. Rando: Mr. LeBlanc, do you have any questions?

Mr. LeBlanc: I think it's a good fit there.

Mrs. Rando: What did you use for your hardship?

Mr. Francis: The fact that we would have to cut off a portion of the garage to otherwise make this fit or scale down an already small project. Five hundred and seven square feet is not, you know, as far as additions go, it's not a large addition. To cut it down another two, three hundred square feet, then it's not worth it. So the hardship is either cut off the garage or cut it down to a project that you probably don't want to do.

Mrs. Rando: I wish you had added that they were sleeping in a bedroom upstairs and a half or so.

Mr. Francis: I wish I could say that but if it's not the case, I don't represent that to the board.

Mrs. Rando: I don't have a problem with the addition in the back because no one can see it. It's just that the hardship.

Mr. Francis: I think we made it.

Mrs. Rando: All right. Is there anyone in favor of this petition?

Three people raised their hands in favor.

Is there anyone in opposition? Seeing none. Is there anyone seeking information? Seeing none. You may continue with your Proposed Findings of Fact.

On motion of Mr. Sergi, seconded by Mr. LeBlanc, the board voted to waive the reading of the Proposed Findings of Fact since they have been on file in the Law Department.

Mrs. Rando: You may continue with your Proposed Decision.

On motion of Mr. Sergi, seconded by Mr. LeBlanc the board voted to waive the reading of the Proposed Decision since it has been on file in the Law Department.

Mrs. Rando: I am ready for a motion on the Proposed Findings of Fact.

On motion of Mr. Sergi, seconded by Mr. LeBlanc, the board voted to adopt the Proposed Findings of Fact.

Roll call: Mr. Squillante, yes; Mr. Sergi, yes; Ms. Hankins, yes, Mr. LeBlanc, yes and Mrs. Rando, yes.

Mrs. Rando: Do I have a motion on the Decision?

On motion of Mr. Sergi, seconded by Mr. LeBlanc, the board voted that the Proposed Decision becomes the Board's decision.

Roll call: Mr. Squillante, yes; Mr. Sergi, yes; Ms. Hankins, yes, Mr. LeBlanc, yes and Mrs. Rando, yes.

Mrs. Rando: It is granted.

Ms. Hankins: Madam Chair, as an abutter on 79 Mokema, I don't know Ms. Brenner, so I feel like I can rule.

Mrs. Rando: And it won't affect your decision at all?

Ms. Hankins: I don't think it will.

Mrs. Rando: Will the clerk please read the petition in Case No. 2018-29, Brenner on Mokema Ave.

The clerk then read the petition of Margie Brenner in an application for a variance - Parking Requirements. Petitioner seeks to convert garage of a single family residence into more living space for family Petitioner seeks relief from parking requirements. Location and Zoning District: 79 Mokema Avenue Residence A-4 Zoning District.

Mrs. Rando: May we hear from the petitioner or the petitioner's representative, please?

Margi Brenner, 79 Mokema Avenue, the petitioner, came forward.

Ms. Brenner: Thanks for taking the time to come to this hearing tonight. As mentioned, I have a single family dwelling and I currently have a parking space that is currently ten feet wide by eight and a half feet long. Currently when I park my car it comes to the sidewalk and beyond the sidewalk as well and then my car fits exactly to the curb. So, my home was built in 1922 when there were no parking variances. So, it met the standards at the time and so I inherited this locus as it is. I have a photo that I would like to share with everyone.

So as you can see, I inherited the parking situation as it sits and I'm looking as is described to convert the garage for more living space for my family and currently we have about nine hundred square feet of living space and it's just very small. So, I would like to add a hundred and twenty feet of living space and in order to do that there's three parking ordinances that require a test that allows for a five foot buffer which I don't have right now. It also requires the spot that's nine feet by eighteen feet long which is a hardship for me and if I tear down my entire frontage in front of my house because as you can see in the photo I have a rock retaining wall on either side of my garage door. So what I am proposing to do is create a compact car size space whereas I can pull in and park parallel to my home and if I took down the wall to the left of my garage that would allow me to have sixteen and a half feet long and I could utilize the already existing eight and a half feet wide so my car could literally just pull right in and fit in that spot. I have a compact car and I am a single car family. Its just me I'm a single parent.

So that is the current situation and I'm seeking relief of three variances, as mentioned. I would like the ability to park my car in an eight feet by sixteen feet long paved area and within five feet of my home, and I'm hoping the board looks favorably upon the request.

Mrs. Rando: Where are you going to put the other car?

Ms. Brenner: I only have one car.

Mrs. Rando: You have two parking spaces.

Ms. Brenner: I'm seeking a variance to allow for one parking space instead of two parking spaces. If I were to create two parking spaces that would take away the entire curb appeal of my home. I don't have anywhere to go except for, I have stairs leading up to my front door and it would be a very big expense for me to, I don't even think it would be possible to take down my stairs and access my home if I actually want to create a driveway.

Mrs. Rando: Who's driveway is it to the right?

Ms. Brenner: That's my neighbor's driveway and he allows me to park there. My driveway is actually, well it's not a legal driveway not according to the ordinances because the home was built before they had ordinances. But currently that paved area you are looking at is ten feet wide by eight and a half feet long. And then there's another eight feet of sidewalk and curb, so the total is sixteen feet from my garage door to the street so my car fits in there perfectly now.

Mrs. Rando: You have eight feet from the garage door to the street?

Ms. Brenner: It's eight and a half feet from the garage door to the sidewalk. And then it's another eight feet from the sidewalk to the street.

Mrs. Rando: Don't you need nine feet? Nine by eighteen.

Ms. Brenner: Right. I would have to take down this wall and go long ways and park parallel to the house. I'm asking for eight by sixteen instead of nine by eighteen. Since I think that's the minimum size allowable for compact cars, I was told that.

Mrs. Rando: How many rooms do you have in the house, now?

Ms. Brenner: I currently have two bedrooms so I am seeking to create a third room.

Mrs. Rando: And why do you need the third bedroom?

Ms. Brenner: I have a teenage son and he has a lot of friends and we just don't have a lot of living space in our nine hundred square feet. It's one floor right now. So that would allow us to have some overflow room for him to go in and have a place for him and his friends to hang out.

Mrs. Rando: So it's not for rental.

Ms. Brenner: No. And I have a neighbor here tonight who lives across the street from me who is in favor of my proposal and I talked to all my abutters and in your packet you should have a copy of a signed petition by six of my abutters. And they are all in favor.

Mrs. Rando: And the abutters on both sides are in favor?

Ms. Brenner: Yes, they are.

Mrs. Rando: Mr. Squillante, do you have any questions?

Mr. Squillante: So you're going to park cars in the street?

Ms. Brenner: Yes.

Mr. Squillante: Except it will be more in front of your house.

Ms. Brenner: Correct. I'm going to knock down the wall to the left and put up a retaining wall. Where the wall comes down, I have to put up a retaining wall on either side for it to hold up the land.

Mrs. Rando: Mr. Sergi?

Mr. Sergi: No, I don't have any questions.

Mrs. Rando: Ms. Hankins:

Ms. Hankins: No, not at this time.

Mrs. Rando: Mr. LeBlanc?

Mr. LeBlanc: Did people park in the street there?

Ms. Brenner: That was something I meant to say. Everyone parks on the street.

Mr. LeBlanc: That's the way it is. There's no parking there.

Ms. Brenner: There are many homes like mine.

Mr. LeBlanc: Most people park in the street, that whole area. This is basically so you can park your car when it snows and get it off the street.

Ms. Brenner: I currently can but right now I utilize the sidewalk and the curb.

Mr. LeBlanc: Everybody does that.

Mrs. Rando: So if you do this why wouldn't you use it all the time?

Mr. LeBlanc: She probably will use it for one car but it's hard to pull your car in and out.

Mrs. Rando: Your son must have a car.

Ms. Brenner: Not yet. He just got his learner's permit so he doesn't have his own car yet and he may not. We might share a car.

Mrs. Rando: What year is he in?

Ms. Brenner: He's a sophomore.

Mrs. Rando: Is there anyone in the audience in favor?

Pennie Weinberg, 84 Mokema Avenue: I live right across the street and I am very much in favor. I think Margie does a great job with her yard. Everything that she does is beautiful and I've seen what she's done in the back with her new fences and things. So I am absolutely confident that this will be done and slightly better that she has more room to park at the end of the day. So, I'm quite in favor of it. I have a big driveway, four car driveway. So I'm happy if sometimes a neighbor sometimes uses that driveway during a storm. I don't know why I'm the only person in the neighborhood with a four car driveway...

Mr. LeBlanc: Consider yourself lucky.

Ms. Weinberg: I do, except when I shovel. So, I'm quite in favor.

Mrs. Rando: Anyone else in favor?

(Three people raised their hands in favor.)

Mrs. Rando: Is there anyone in opposition? Seeing none. Is there anyone seeking information? Seeing none.

All right. I am ready for you to continue with your Proposed Findings of Fact.

Mr. Sergi: I think these have been on file, you sent them in.

Ms. Brenner: Yes.

Mr. Sergi: I've read them. I think they came out different times, but I think they came in. So I make a motion that we waive the reading of the Proposed Findings of Fact.

Mr. Squillante seconded the motion and the board voted to waive the reading of the Proposed Findings of Fact.

Mrs. Rando: You may continue with the reading of your Proposed Decision.

On motion of Mr. Sergi, seconded by Mr. Squillante the board voted to waive the reading of the Proposed Decision since it has been on file.

Mrs. Rando: I am ready for a motion on the Proposed Findings of Fact. Does anyone have any changes?

Mr. Sergi: Maybe we should add that this is a pre-existing nonconforming lot and as we know the hardship for this, there's nothing less she can do here other than what she's done and because of the design in 1921, it hasn't conformed to zoning. It's a small lot. That would be more of a hardship.

Mrs. Rando: And there's no parking available in the area.

Mr. Sergi: Add that to Item #3 in the Proposed Findings of Fact and also

It should be added in the decision, Item #1, similar language, also pre-existing nonconforming lot that was created in 1921 as a hardship.

Mrs. Rando: I am ready for a motion on the Proposed Findings of Fact as amended.

On motion of Mr. Sergi, seconded by Mr. Squillante, the board voted that the Proposed Findings of Fact, as amended, be adopted by the board.

Roll Call: Mr. Squillante, yes; Mr. Sergi, yes; Ms. Hankins, yes; Mr. LeBlanc, yes and Mrs. Rando, yes.

Mrs. Rando: Do I have a motion on the Decision as amended?

On motion of Mr. Sergi, seconded by Mr. Squillante, the board voted that the Proposed Decision, as amended, becomes the board's decision.

Roll Call: Mr. Squillante, yes; Mr. Sergi, yes; Ms. Hankins, yes; Mr. LeBlanc, yes and Mrs. Rando, yes.

Mrs. Rando: At this time I am going to request a five minute recess so we can look over the next case because we just received the brief tonight.

Mr. Sergi seconded the motion and at 8:40 P.M., the board recessed.

The board reconvened at 8:50 P.M.

Mrs. Rando: Will the clerk please read the Petition in Case No. 2018-22, Elis Coco and Mark Coco.

The clerk then read the Petition of Elis and Mark Coco in an application for variances - front and side yard setbacks. The locus consists of a single parcel of land with an exiting single family residence situated thereon. The Petitioners propose to construct,

use and maintain a second story addition and add a roof over a side entry to the existing single story residence. Location and Zoning District: 765 Lincoln Street, Residence A-2 Zoning District.

Mrs. Rando: May we hear from the Petitioner or the Petitioner's representative, please?

Joseph M. Connors, Jr. , Esquire, 404 Main Street, Waltham, the Petitioner's representative came forward.

Mr. Connors: Ellis is here with me tonight and this is her contractor. Her husband and her family are on vacation up in Maine but she drove down from York for the hearing.

Mr. Connors then read his brief into the record. He went over the plan with the board and submitted photos, an architect's rendering of the proposed addition and a list of the abutters that are in favor.

Mrs. Rando: It seems like the lot here is long and narrow.

Mr. LeBlanc: They've got two story houses on the left side of it. Theoretically if they tore the thing down and moved it three feet they could go thirty five feet high. This doesn't make sense to be here.

Mrs. Rando: Why is coverage only 25%?

Mr. Connors: No, eight percent. So it's twelve percent under what we could be. But the problem with that is they are going to have to build a long narrow addition and it's going to go right through the deck, the patio and the pool area. It doesn't make sense.

Mr. LeBlanc: If you look at the pictures, you look at the house on the left hand side that's a two story house. It's not going to look any different.

Mr. Connors: The house on the left, the house across the street. most of them are as you go down the street.

Mr. LeBlanc: As far as I am concerned they should be able to go up without even coming here. They're only coming here because of the side yard part of it.

Mrs. Rando: It's a beautiful place. Are there any questions?

Mr. Squillante: The hardship makes sense. I understand that. The difference between this lot and the lot next door is that the house next door is a lot closer to the lot line.

Mr. Connors: I would say that it is somewhat similar but it is right on the lot line.
(Mr. Connors went over the plan with the board.)

Mrs. Rando: Are there any other questions?

Is there anyone in the audience that is in favor?

(Two people raised their hands in favor.)

Is there anyone in opposition? Seeing none. Is there anyone seeking information?
Seeing none.

You may continue with your Proposed Findings of Fact.

On motion of Mr. Sergi, seconded by Mr. LeBlanc, the board voted to waive the reading of the Proposed Findings of Fact since it had been on file in the Law Department.

Mrs. Rando: You may continue with your Proposed Decision.

On motion of Mr. Sergi, seconded by Mr. LeBlanc, the board voted to waive the reading of the Proposed Decision since it had been on file in the Law Department.

Mrs. Rando: I am ready to entertain a motion on the Proposed Findings of Fact.

On motion of Mr. Sergi, seconded by Mr. LeBlanc, the board voted to adopt the Proposed Findings of Fact.

Roll call: Mr. Squillante, yes; Mr. Sergi, yes; Ms. Hankins, yes; Mr. LeBlanc, yes and Mrs. Rando, yes.

Mrs. Rando: Do I have a motion on the decision?

On motion of Mr. Sergi, seconded by Mr. LeBlanc, the board voted that the Proposed Decision becomes the board's decision.

Roll call: Mr. Squillante, yes; Mr. Sergi, yes; Ms. Hankins, yes; Mr. LeBlanc, yes and Mrs. Rando, yes.

Mrs. Rando: One more motion is in order.

On motion of Mr. Sergi, seconded by Mr. LeBlanc, the board voted to adjourn at 8:15 P.M.

Barbara Rando, chair
8/21/18