

CITY OF WALTHAM
ZONING BOARD OF APPEALS
October 30, 2018

The Zoning Board of Appeals held a public hearing at 7 P.M., Tuesday, October 30, 2018, in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham.

In attendance were Acting Chair, John Sergi, and members Mark Hickernell, Glenna Gelineau, Sarah Hankins and Michael Squillante.

Mr. Sergi: The first order of business tonight, can I have a motion to accept the minutes of October 23, 2018.

On motion of Ms. Hankins, seconded by Mr. Squillante, the board voted to accept the minutes of October 23, 2018.

Mr. Sergi: Tonight we have two cases, one continued case, the Emerson Road Waltham Farm Home Realty Trust case and we also have a new case, Rosemary Maynes.

We'll take the first case, the continued case first. Case No. 2017-34. Will the clerk please read the petition?

The clerk then read the Petition of Waltham-Farm Home Realty Trust, Daniel and Christine Wildes, Trustees in an appeal of a "Notice of Violation" dated September 19, 2017, issued by the Inspector of Buildings. Location and Zoning District: 54 Emerson Road/29 AFT Emerson Road; Commercial Zoning District.

Mr. Sergi: May we hear from the Petitioner or the Petitioner's representative, please?

Attorney Kevin Dwyer, 707 Main Street, Waltham, came forward.

Mr. Sergi: We have one member not sitting on the board tonight, Barbara Rando, who was sitting on the case. But we can vote with four members.

Mr. Dwyer: Okay. On behalf of my clients, the petitioners and Mr. Forte, we are asking for a continuance of tonight's hearing. We do have a draft of an agreement that Mr. Forte and I have been working on to resolve all of the issues raised in this Notice of Violation and also on an amended site plan that would cover the issues raised in the Notice of Violation. If we could have some more time just to work out some language, we would appreciate that and we are confident we can resolve all the issues in Mr. Forte's Notice of Violation.

Mr. Sergi: So this is not your first extension, right?

Mr. Dwyer: No, it is not.

Mr. Sergi: Will it be the final extension?

Mr. Dwyer: I hope so. We have been working pretty hard on this trying to get this resolved to everyone's satisfaction, working cooperatively. It's just a question of some language that we have to discuss a little bit more in depth. I had a conversation with Mr. Forte this morning about that.

Mr. Sergi: Open up for questions from the board?

Mr. Hickernell: Is November 20th enough time?

Mr. Dwyer: Yes.

Mr. Sergi: Any other questions from board members?

(There were no questions.)

Mr. Sergi: If there are no further questions, may I hear a motion?

On motion of Mr. Hickernell, seconded by Ms. Gelineau, the board voted to continue the hearing to November 20, 2018 to permit the continued settlement discussions with the inspector of buildings and the petitioner.

Roll call: Ms. Hankins, yes; Ms. Gelineau, yes; Mr. Hickernell, yes and Mr. Sergi, yes.

Mr. Dwyer: Thank you.

Mr. Sergi: Will the clerk read the petition in Case No. 2018-30?

The clerk then read the petition of Rosemary Maynes in an application for a variance and to amend a prior variance. Petitioner seeks to amend a prior variance to allow the construction of a four season room at the rear of an existing dwelling which will also require a new variance. Location and Zoning District: 201 Mokema Avenue, Residence A-4 Zoning District.

The members sitting on this case were Mr. Sergi, Mr. Hickernell, Ms. Hankins, Ms. Gelineau, Mr. Squillante.

Mr. Sergi: May we hear from the petitioner or the petitioner's representative.

Deborah A. Sawin, Esquire, 564 Main Street, Waltham, MA came forward and presented each member with a packet of her brief and a packet of exhibits.

Ms. Sawin read her brief into the record along with going over the site plan, abutters plan and exhibits in regard to this case.

Ms. Sawin: In addition, the petitioner did speak with her immediate neighbors to ask them if they had any questions or concerns, or all of the neighbor's whose properties are outlined in green so all of the people directly around her (referring to the plan) and they did sign a letter of support which I had included in the petition. None of them expressed any objection or concern to the proposal.

Ms. Hankins: What about the person in the back?

Ms. Sawin: She didn't get to this back person.

Ms. Hankins: It seems that he's most affected.

Ms. Sawin: Because of the proximity, no reason, she just doesn't know them.

Ms. Maynes: I did distribute some information to my neighbors on the other street.

Ms. Sawin: We didn't hear back from anyone in that regard.

Mr. Sergi: Thank you counselor.

I took a site visit and it doesn't seem like your proposed addition is out of order in the neighborhood. It seemed like others in the neighborhood have additions, and this is a one story addition that you are making with a similar roof line and the construction would be in the same nature as the existing house, I would assume.

Ms. Sawin: Correct. Everything would be in keeping with the construction.

Mr. Sergi: I will open up questions to the board.

Mr. Squillante: No. It seems pretty straightforward.

Mr. Hickernell: How long has the petitioner lived there.

Ms. Sawin: Over twenty years.

Mr. Hickernell: What's the hardship?

Ms. Sawin: It's just not being able to use the property. She's only at 16% now so she wants to get a little bit more living area on the space that was already covered but not by a three season room. So there's really no place for her to make full use of that property because she can't go on this side closer to the wetlands and the sideyard setback is there.

The neighbors all get the benefit of 4.2181 which they lost by trying to make the property bigger.

Mr. Hickernell: I'm not sure that last one counts as a hardship under the statute. I don't have any more questions.

Mr. Sergi: Would anyone like to speak in favor of the petition?

Leonard Savoy, 236 Seminole Ave: I'm the very third neighbor and I am totally comfortable and approve this project as is.

Mr. Sergi: Very good. You're the missing link.

Mr. Savoy: Yes.

Mr. Sergi: Would anyone like to have a show of hands to vote in favor?

(Three people raised their hand in favor.)

Mr. Sergi: Is there anyone here that would like to voice their opinion against the petition?

Seeing none. Anyone seeking information? Seeing none.

I will close that part of the hearing.

You may proceed with our Proposed Findings of Fact.

On motion of Mr. Hickernell, seconded by Ms. Gelineau, the board voted to waive the reading of the Proposed Findings of Fact since they have been on file in the law department and were available for public inspection.

Mr. Sergi: You may go ahead with the Proposed Decision.

On motion of Mr. Hickernell, seconded by Ms. Gelineau, the board voted to waive the reading of the Proposed Decision since it has been on file in the law department and was available for public inspection.

Mr. Sergi: May I have a motion on the Proposed Findings of Fact.

On motion of Mr. Hickernell, seconded by Ms. Gelineau, the board voted that the Proposed Findings of Fact be adopted by the board.

Roll call: Mr. Squillante, yes; Ms. Hankins, yes; Ms. Gelineau, yes, Mr. Hickernell, yes and Mr. Sergi, yes.

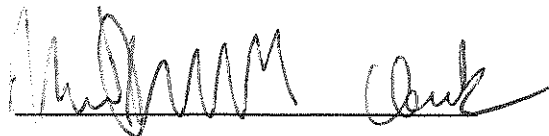
Mr. Sergi: May I have a motion on the Proposed Decision.

On motion of Mr. Hickernell, seconded by Ms. Gelineau, the board voted that the Proposed Decision be adopted by the board as the board's decision.

Roll call: Mr. Squillante, yes; Ms. Hankins, yes; Ms. Gelineau, yes, Mr. Hickernell, yes and Mr. Sergi, yes.

Mr. Sergi: One more motion is in order.

On motion of Ms. Gelineau, seconded by Mr. Hickernell, the board voted to adjourn at 7:30 P.M.

A handwritten signature in black ink, appearing to be "M. Gelineau", written over a horizontal line.