

CITY OF WALTHAM

BOARD OF APPEALS

_____)	
APPLICATION OF)	
)	Case No. 2020-36
JOHN BIANCHI and)	
KAREN E. BIANCHI)	DECEMBER 15, 2020
)	
FOR ZONING RELIEF)	
_____)	

PROPOSED FINDINGS OF FACT

The Board of Appeals of the City of Waltham makes the following findings of fact after a hearing on the above captioned Petition for variances and an amendment:

1. This Board of Appeals, having met all legal prerequisites by proper publications and posting as provided in Massachusetts General Laws, Chapter 40A, §11 and having by mail notified all parties in interest and having heard all the evidence, is now empowered to exercise the power to grant or deny the variances sought by the Petitioners.
2. The locus is 60 Mountain Road and is situated in a Residence A-2 Zoning District.

3. The locus is shown as Lot 15 on the plan entitled “ Plan of Lots at Goldencrest Park in Waltham, Mass.”, dated July 1952, by Thomas Worcester, Inc., Engineers, recorded as Plan No. 1311 of 1952 at Book 7940, Page 222, at the Middlesex South Registry of Deeds.
4. The Petitioners are John Bianchi and Karen E. Bianchi. The Bianchi acquired the property in 2018 and reside therein and hope to remain.
5. The existing single family residence was constructed on the locus lot in 1953.
6. The Petitioners propose to construct, use and maintain a single story addition onto to the existing single story residence and to also construct, use and maintain a pool house or accessory building adjacent to the existing pool.
7. The zoning relief requested is as follows:
 - (1) Variance. §4.11 states that structures in a Residence A-2 Zoning District shall have a front yard setback of forty (40) feet. The 2008 Notice of Decision granted a front yard variance of 24.5 feet. Here, the proposed addition shall have a front yard setback of 22.85 feet.
 - (2) Variance. §4.11 states that structures in a Residence A-2 Zoning District shall have a side yard setback of twenty (20) feet. Here, the proposed side yard setbacks shall be 12.65 feet on the south side of the residence and 4.30 feet on the north side of

the residence. The existing side yard setback on the north side yard is 4.30 feet. The 2008 Notice of Decision granted a variance for the north side yard setback of 3.8 feet.

(3) Variance. § 4.222 states that swimming pools and all accessory buildings related thereto shall have a side yard setback of 10 feet. Here, the proposed accessory building to the swimming pool shall be 4.30 feet from the south side yard.

(4) § 3.775 that pre-existing nonconforming single-family residential structures may be altered, reconstructed or extended provided such alteration does not increase the nonconforming nature of said structure. The Petitioner seeks relief here as the proposed alteration into the existing nonconforming south side yard setback shall be cured by the variance proposed above.

(5) Amendment. In Case No. 2008-13, the Board of Appeals granted certain zoning relief to the locus property for lot area, front and side yard setbacks. The Notice of Decision provides at Condition No. 2 that all use of the property shall be substantially in accordance with the plans filed therein, excluding the width of the driveway. The Petitioners request an amendment to said Decision pursuant to § 7.2 so that all construction and use of the locus shall now conform to the plans filed herein in this current petition.

8. The variances requested are dimensional and the Board of Appeals has the power (M.G.L. c.40A §10 and 14) and authority to grant them.

9. As to facts concerning the petition for variances, the Board takes note of the following:

a. The locus contains 13,670 square feet of land according to the survey;

- b. The locus Lot was originally created as Lot 15 on the plan entitled “Plan of Lots at Goldencrest Park in Waltham, Mass.”, dated July 1952, by Thomas Worcester, Inc., Engineers, recorded as Plan No. 1311 of 1952 at Book 7940, Page 222, at the Middlesex South Registry of Deeds.
- c. The existing single family residence was originally permitted in 1953 as permit # 46 on February 10, 1953.
- d. The original single residence was situated in 1953 at 26.0 feet from the front yard lot line.
- e. The locus at 60 Mountain Road is abutted by single family residences to the south, north and a wooded area to the west.
- f. The locus property received variances in 2008 from the Board of Appeals which permitted the conversion of an existing garage into livable space. The variances granted pertained to lot area (13,670 square feet), front yard setback (24.5 feet), and a north side yard setback (3.5 feet).
- g. The property was acquired by the Petitioners in 2018.
- h. The existing residence is a single story single family home with six rooms, including two bedrooms.
- i. The topographic plan indicates extreme elevation changes in the rear yard of the locus.
- j. The elevation at the west boundary of the lot is 265 feet and descends to 255 feet at the southerly side of the lot.

- k. As one travels west to east on the lot, the elevation descends from 265 feet to 252 feet at the south east corner of the lot.
- l. The grade change from west to the east side of the locus results in a slope from west to east.
- m. The contour line which runs along the western boundary of the lot is 265 feet whereas the contour line running along the easterly side measures between 252 to 257 feet.
- n. The property has ledge and rock formations thereon. The original residence constructed with no basement, on slab concrete.
- o. The shape of the lot is triangular. It resembles a wedge shape or the shape of a slice of pie.
- p. The lot narrows dramatically as one travels from the east to the west or rear of the lot.