



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
January 21, 2021**

Members present in person: Members Barney Ovrut, David Brown, Kim Mellen and Associate Members Lorraine Brue and Kurt Yeghian

This meeting was held entirely virtually via the Zoom video platform. Chairman Ovrut opened the meeting by reading a statement explaining how comments would be addressed during the meeting and to state that the meeting is also being broadcast on Foxboro Cable Access. It was also noted that all votes would be taken by roll call and if there are any technical difficulties that cannot be resolved, the item would be continued to the next ZBA meeting.

Mr. Ovrut also welcomed the new Building Commissioner Barry Ringler.

7:00 p.m. Stephanie Silvi seeks a Variance pursuant to Section 4.1.4. of the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, as well as any other required special permit(s), finding(s) and/or variance(s) to allow the existing garage to be converted into a second residential dwelling structure on the property located at 15 Baker Street in the R-15 Residential and Agricultural District. The property is also located within the Historic District. Mr. Ovrut noted an error in the notice, the Variance is pursuant to Section 4.1.4 not 4.14. Mr. Ovrut also disclosed that he filed a Disclosure Conflict of Interest Notice with the Town Clerk that he had spoken with Atty. Spillane previously about tonight's application but feels that he can perform his official duties objectively and fairly.

Atty. Frank Spillane represented the applicant, who was also present. Atty. Spillane explained that this petition is to convert an existing garage/barn into a second residential structure on a single lot. The existing property has 22,730 square feet and contains a single family home and a barn; both were constructed in approximately 1850. The current home has 2,975 sq. ft. and meets zoning requirements. The garage/barn is a two story unfinished 25 feet x 31 feet (775 square feet on each story). The structure is currently not being used as a garage and is a pre-existing non-conforming structure that is located approximately 11.2 feet from the side yard where 15 feet is required. Atty. Spillane noted that two family dwellings are permitted by right in the R-15 district where this property is located. This property is also located in the Foxboro Historic District which states that no building alterations are allowed unless the Historic District Commission approves.

Atty. Spillane stated that under the existing Zoning Bylaws, the barn could be connected to the main structure via an addition by right but the applicants would rather not take this route as it would take away from the historic perspective of the property, the architecture would be altered. Instead the applicant is asking for a Variance under Section 4.1.4 of the bylaws which states "One dwelling per lot. Only one dwelling structure shall be located on a lot, unless otherwise expressly permitted by these bylaws." Atty. Spillane also submitted a letter from the Historic District Commission stating that the Commission would prefer the structures remain separate. Pictures were also submitted by the applicant. Mr. Ovrut asked if the pictures show finished areas in the barn. Atty. Spillane stated that the picture are taken from inside the house towards the barn. The barn is completely unfinished space at this time.

The conversion would be to both stories of the barn/garage. The bottom story would contain the kitchen and living room area, the second story would contain a bedroom, a full bath and a studio area the applicant would use for a personal pottery studio. Applicant Stephanie Silvi stated that she always wanted to convert an old barn into studio space for her pottery hobby.

Mr. Brown asked if there are other examples in town where the two structures were connected. Atty. Spillane stated that it was done at 7 West Leonard Street.

Atty. Spillane noted that there are different grades between the two structures which would cause hardship in trying to connect the two. The applicant would also like to keep the historic look of the property. The connection point of the house contains a bathroom and kitchen area, the basement is fieldstone with utilities throughout (plumbing, electrical, heating, etc.). There is also a financial hardship in connecting the two structures. Atty. Spillane feels that the desired relief from the bylaws would not be a detriment. The Bylaws also state in Section 3.1.G.6 that single family dwellings are allowed in the R-15 District, Atty. Spillane feels that the plural use of dwellings could be taken to mean that more than one dwelling could be allowed as Section 4.1.4 states "unless otherwise expressly permitted by these bylaws."

Mr. Ovrut read the correspondence from the Historical District Commission into the record. Tom Kraus, Chairman of the Commission stated that the applicant does not have any plans before the Commission but the Commission would prefer the two separate structures be maintained.

Abutters Mike and Patricia Selby, of 13 Baker Street, stated that the barn blocks view to their backyard, if the conversion is allowed, windows could be added that would overlook their yard and they would lose their privacy. Ms. Selby had many questions about setbacks, pre-existing structures and accessory dwelling units.

A motion to close the Public Hearing was made by Mr. Brown and seconded by Ms. Mellen. Roll call vote: David Brown - yes, Kim Mellen - yes, Barney Ovrut – yes, motion passed.

The Board immediately moved into deliberations. Mr. Ringler questioned common ownership, two owners with two dwellings could be possible in the future if one of the dwellings was sold. A condition that the use expires upon loss of the common ownership and it be required to be converted back to a garage/barn structure could be added. Mr. Ringler is also concerned that this will set precedence for other properties in town.

Mr. Ovrut feels that the single or plural of the word dwelling(s) in the bylaw is not the issue, he is considering this structure as an oversized garage which are not allowed to have residential uses in the bylaw. In regards to 4.1.4 stating unless otherwise permitted, in Section 9.6.7.1 the Chestnut Payson Overlay District allows more than one dwelling unit; that is the only exception he could find in the bylaws.

Mr. Brown feels that the structure was built as a carriage house/garage, the request is for a use variance is not permitted under the bylaws.

Ms. Mellen is also concerned with setting precedence for other properties. Ms. Brue agrees.

Mr. Ovrut pointed out the Section 10.2.2.3 stated that the Board of Appeals shall not have authority to authorize a use variance, the bylaw would need to be changed by Town Meeting.

Mr. Yeghian feels that the grade change could be overcome and is not a legitimate hardship in his opinion.

A motion to not grant the requested Variance to allow the existing garage to be converted into a second residential dwelling structure on the property located at 15 Baker Street was made by Mr. Brown and seconded by Ms. Mellen. Roll call vote: David Brown - yes, Kim Mellen - yes, Barney Ovrut – yes, motion passed.

The applicant was reminded that the two structures are still allowed to connect by right in the R-15 Zoning District. Mr. Ovrut further stated that the Board is not rejecting the historical aspects of the property but the Bylaws are the abiding rules the Board follows.

GENERAL BUSINESS

The Board reviewed the minutes of October 15, 2020.

A motion to approve the minutes of October 15, 2020 was made by Mr. Brown and seconded by Ms. Mellen. Roll call vote: David Brown - yes, Kim Mellen - yes, Lorraine Brue – yes, Kurt Yeghian – yes, Barney Ovrut – yes, motion passed.

A request has been received from Metrovision LLC to transfer the Billboard Decision (Case No. 19-15) to a newly formed entity named Media Partners MRV LLC. Condition #6 of their Special Sign Permit requires they come back to the Board for any changes to the ownership of the billboard. Metrovision has consolidated into Media Partners, the ownership remains the same. The applicant has not had their hearing before the state board yet so no building permits have been pulled yet. Atty. Spillane represented the applicants at the hearing, Mr. Ovrut asked if the required bond has been posted yet, Atty. Spillane said it has not. Mr. Ovrut noted that it seems that, at least for some of the issued billboard permits the required bonds have not been submitted. Mr. Ringler suggested that future decisions add that prior to the issuance of the building permit the bond is required to be posted.

The Board determined that the Special Sign Permit may be transferred from Metrovision to Media Partners.

Mr. Ovrut also noted that he sent out the annual report of the Board to the members for review.

Mr. Ovrut also stated that he received an email from Atty. Lovely in regards to the Neponset Heights Avenue demolition and reconstruction. They are considering a floorplan change that would increase the total square footage by 49 square feet. Mr. Ovrut advised that the applicant would need to come back before the Board as the permit limited the square footage.

The meeting was adjourned at 8:30 p.m.

Respectfully Submitted,

Diana Gray

Signed on behalf of the Board


Barnett Ovrut, Chairman