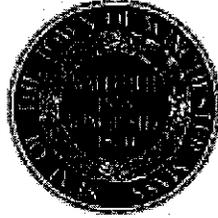


TOWN OF WINCHESTER



PUBLIC MEETING NOTICE and AGENDA

REMOTE PARTICIPATION

(Due to State of Emergency COVID-19)

Pursuant to MGL Ch. 30A, Sec. 18-25 All meeting notices and agendas must be filed and time stamped by the Town Clerk's Office and posted at least 48 hours prior to the meeting (excluding Saturdays, Sundays and Holidays) on www.winchester.us

Board/Committee Name: Board of Appeals

Date: July 30, 2020

Time: 7:00PM

Place: REMOTE PARTICIPATION - Zoom

Join Zoom Meeting

<https://zoom.us/j/94917221260?pwd=Qlo1YzF0Z3p6VlVTR2kwaml3OXdnQT09>

Meeting ID: 949 1722 1260

Password: 520513

One tap mobile

+16465588656,,94917221260#,,,,0#,,520513# US (New York)

+13017158592,,94917221260#,,,,0#,,520513# US (Germantown)

Dial by your location

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 949 1722 1260

Password: 520513

Find your local number: <https://zoom.us/u/alPCiqvVI>

Submitted by: Janine Viarella

Email: jviarella@winchester.us

Agenda: #3902 – 53 Lawson Road
#3908 – 77 Woodside Rd - Continued
Review of draft decision #3905 – 30 Clark Street



REMOTE PARTICIPATION PUBLIC HEARING CONTINUED TO JULY 30, 2020 AT 7:00PM.

BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

The WINCHESTER BOARD OF APPEALS will hold a REMOTE PARTICIPATION PUBLIC HEARING on ~~THURSDAY, JUNE 11, 2020~~ at 7:00 P.M. on the following matter:

PETITION NO. 3902 - That of SCOTT C. and HEATHER B. PENNA concerning the property at 53 LAWSON ROAD, WINCHESTER, MA. The petitioners seek Site Plan Review under Section 9.5.1 of the Winchester Zoning By-Law in accordance with Massachusetts General Laws so as to construct a new single family dwelling where the total floor area is greater than 5,000 square feet. The property is located in the RDB (Single Residence) zoning district and contains 19,360 +/- square feet.

WINCHESTER BOARD OF APPEALS

Petition may be viewed on the Board of Appeals web page under Government/Appointed Boards www.winchester.us

Link to the meeting can be found on the Government Calendar www.winchester.us



REMOTE PARTICIPATION PUBLIC HEARING CONTINUED TO JULY 30, 2020 AT 7:00PM.

BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

The WINCHESTER BOARD OF APPEALS will hold a REMOTE PARTICIPATION PUBLIC HEARING on ~~THURSDAY, JULY 23, 2020~~ at 7:00 P.M. on the following matter:

PETITION NO. 3908 - That of JULIA and PATRICK AQUINO by GUY DIXON concerning the property at 77 WOODSIDE ROAD, WINCHESTER, MA. The petitioners are seeking a Special Permit from Section 3.5.5 of the Winchester Zoning By-Law in accordance with Chapter 40A, Section 9 of the Massachusetts General Laws so as to be permitted to construct an addition that will be located closer to the side property lines than permitted as of right. The property is located in the RDB (Single Residence) zoning district and contains 6,300+/- square feet.

WINCHESTER BOARD OF APPEALS

Petition may be viewed on the Board of Appeals web page www.winchester.us

Link to the meeting can be found on the Government Calendar and the Board of Appeals web page www.winchester.us

TOWN OF WINCHESTER
BOARD OF APPEALS
Decision No. 3905
30 Clark Street

 **DRAFT**

Name of Petitioner: Meaghan Merullo and Brendon Kerrigan – 30 Clark Street

Application For: The petitioners are seeking a Special Permit under Section 3.5.5 of the Winchester Zoning By-Law in accordance with Chapter 40A, Section 9 of the Massachusetts General Laws so as to be permitted to construct an addition that will be located closer to the front and side property lines than permitted as of right. In addition, the petitioners seek Site Plan Review under Section 9.5.1 of the Winchester Zoning By-Law so as to change the slope over 6% of existing grade of an area more than 500 square feet. The property is located in the RG (General Residence) zoning district and contains 4,380 +/- square feet.

Date of Hearing: July 9, 2020

Board of Appeal: Mark Regan, David Bae and Kevin Sarney

Decision: Special permit granted, Site plan approval denied without prejudice.

Vote of the Board: Unanimous

Conditions: The following conditions apply to the grant of this Special Permit:

1. Construction of the proposed addition shall be in substantial conformity with the plans submitted with the petition, as follows:
 - a. Form 2 dated May 12, 2020
 - b. Form 2D dated May 12, 2020
 - c. Form 2F dated May 11, 2020
 - d. Existing Conditions Plan of Land (prepared for Peter Merullo) showing the existing structures located at 30 Clark Street in Winchester, MA, Scale: 1" = 10', Dated: November 7, 2019, by Otte & Dwyer, Inc. Land Surveyors – David A. Dwyer, PSL
 - e. Eight page architectural plans by Marie Mcinnes Inc. architects, Titled 30 Clark St, Winchester MA, Dated May 5, 2020, Scale: no scale noted:
 - i. A1 – Project Scope/Notes – Front view, 2nd Floor and Rear view renderings
 - ii. A2 – Existing Found/3D Exterior
 - iii. A3 – Existing 1st/2nd Floor Plans
 - iv. A4 – Existing Sections/ Elevations
 - v. A5 – New Floor Plans, Sections
 - vi. A6 – New Exterior Elevations
 - vii. A7 – Interior Elevations
 - viii. A8 – Electrical Plans
 - f. Four page structural plans by Lisa J. O'Donnell, Titled 30 Clark St, Winchester MA, Dated May 5, 2020, Scale: no scale noted, Lisa J. O'Donnell P.E. :
 - i. Basement
 - ii. 1st Floor
 - iii. 2nd Floor
 - iv. Roof Framing
 - g. Existing conditions photos – undated (seven photos)
2. All representations made by the Petitioners at the public hearing and not memorialized are hereby incorporated into this Decision.

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Other Information: The following additional information was provided with the applicant's petition for Site Plan Review:

1. Retaining Wall Estimate - 30 Clark Street, Winchester, MA, Scale: 1" = 5', Dated: February 13, 2020, by Summit Geoengineering Services – (draft), no engineering signatures.

Facts:

The proposal is to enclose a porch in the front of the existing structure and build a 2nd floor extension over a current 1st floor bump out, the addition will be over an existing footprint. The improvements will add approximately 84 square feet to the 2nd floor. The existing structure is approximately 1,104 square feet. The additions improve the function of the property by adding a bathroom to the 1st floor and a master bath, laundry area to the 2nd floor. The additions will not increase any of the existing non-conforming setbacks of the structure; the existing foot print is not being changed. The proposed structure is also subject to Site Plan Review, as the petitioners are seeking to change the slope in the rear of the property over 6% of the existing grade in an area of more than 500 square feet. The petitioner also noted they will be removing a shed located on the property, and that parking will remain on the left side of the property.

(from November 15, 2018 Zoning Bylaws)	Requirement	Existing	Proposed
Lot Size	6,500 SF	4,380 SF +/-	unaltered – existing non conformity
Front Setback	20'	5.4'	unaltered – existing non conformity
Rear Setback	10'	75.2'	unaltered – existing conformity
Left Setback	10'	11'	unaltered – existing conformity
Right Setback	10'	2.5'	unaltered – existing non conformity
Frontage	65'	37.48'	existing non conformity
Open Space – Min	70%	unknown	unaltered
Green Space – Min	35%	unknown	unaltered
Hardscape – Max	35%	unknown	unaltered
Site Plan Review	Required if > 6% grade change over 500 sqft.	unknown %	52 - 40 = 12/40 = 30% approx. proposed increase in grade

The existing structure dates from 1952, the proposed additions to the structure will increase the usability of the house with the addition of a ½ bath on the 1st floor and a master bath and laundry on the 2nd floor.

Discussion:

Pursuant to Section 3.5.5 of the re-codified Zoning By-Law, this Board may grant a Special Permit to enlarge or extend an existing non-conforming one or two-family dwelling where the proposed modifications "will not be substantially more detrimental than the existing nonconforming structure to the neighborhood." The neighborhood surrounding 30 Clark Street comprises similar sized lots with similar sized homes, the proposed additions will not be substantially more detrimental to the neighborhood than the existing residence.

The Winchester Engineering Department reviewed the application and submitted a letter dated June 29, 2020 stating that the proposed home improvements fall within the existing footprint and it should have minimal impact on stormwater runoff. The Engineering Department requested additional information for the Site Plan approval in the form of a proposed grading plan of the proposed tiered wall before a building permit is issued. The Engineering Department also noted that the applicant will be required to obtain a fill permit from the Board of Health and that any interdepartmental review of that permit could lead to further changes.

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The Planning Board in its July 8, 2020 memo voted 4-0 (1 absent) to recommend favorable action on the addition associated with the petition, however they could not support the plans for the retaining wall in the rear of the property as they felt the walls as proposed were imposing and potentially uncomfortable for the abutters. They urged the applicant to work with abutters to further design and potentially lower the height of the walls.

The Design Review Committee in a memo dated July 8, 2020 voted favorable action for the construction of the house.

The Historical Commission in a memo dated June 29, 2020 voted favorable action 6-0 (1 absent) as the proposal had no adverse effect on a historical or cultural resource.

The Conservation Committee was okay with the petition as they stated no jurisdiction in a June 8, 2020 letter to the ZBA.

Neighbors sent letters favorable to the proposal, an abutting neighbor was in opposition to the clear cutting and regrading of the rear of the property as well as the additions to the existing structure.

Based on all of the information presented at the hearing, including the submissions of the Petitioner, the Board finds that the size of the structure on this property constitutes a condition pre-existing to the applicable setback requirements of the Zoning By-Law. The Board also finds that the proposal will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.

Under Section 9.4.2, the re-codified By-Law requires that this Board also consider and address how the following criteria have an effect on this petition:

1. Community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Impacts on neighborhood character, including the extent to which ;
 - a. Building forms and materials are compatible with prevailing scale and character of buildings in the neighborhood;
 - b. Architectural features add visual character to the neighborhood; and
 - c. Patterns and proportions of windows are consistent;
5. Adequacy of proposed screening and buffering;
6. Impacts on the natural environment;
7. Fiscal impacts, including impact on town services, tax base and employment; and
8. Impacts on Historical Resources, as defined in Section 10 of the By-Law.

This Board finds that the proposed new addition to the structure will not be substantially more detrimental to the neighborhood than the existing non-conforming structure. Traffic flow and safety are not relevant to this petition. Existing utilities and public services are sufficient for the proposed structure and use. The Board finds that the neighborhood character is improved by this proposal and is architecturally consistent with the neighboring houses. There is no significant change to the existing impervious ground cover that would impact the natural environment and there is no negative fiscal impact from the proposed project on town services, tax base and employment.

Thus, Petitioners' request for a Special Permit under Section 3.5.5 of the Winchester Zoning By-Law to construct an addition that will be located closer to the front and side property lines than permitted as of right is granted, subject to the above-described conditions and limitations.

Pursuant to Section 9.5.7 of the Winchester Zoning By-Law, Site Plan Approval shall be granted only upon determination by the Board of Appeal that the site plan meets the eleven (11) Site Plan Approval standards. The Board finds that these standards have not been satisfied by the plans and documents submitted by the Petitioner, specifically the following:

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- 9.5.7.1 Minimize unreasonable departure from character, materials and scale of buildings in the vicinity (the opening up and significant change in slope would change the character of the neighborhood)
- 9.5.7.3 Minimize the volume of cut and fill, the number of removed trees six inches in caliper or larger, and the threat of air and water pollution. (The significant change in slope request and multiple retaining walls – 13ft will require large volume of fill and clear cutting of vegetation in the rear of the lot – further concerns on environmental impacts of the amount of fill and source of fill as noted by the Town Engineer, the Board also had concerns on getting access to the site to put up the retaining walls would require approvals from abutters that was not obtained at the time of the petition)
- 9.5.7.5 Maximize pedestrian safety on the site. (the multi-tiered site as proposed would have significant retaining walls – 13 ft.)
- 9.5.7.7 Minimize the obstruction of scenic views from publically accessible location (neighbor concerns for opening up the protective vegetation to surrounding abutter's)
- 9.5.7.11 Ensure compliance with the provisions of the Zoning Bylaw, as pertaining to environmental standards.

The Petitioners' request for a Site Plan Review under Section 9.5.1 of the Winchester Zoning By-Law so as to change the slope over 6% of existing grade of an area more than 500 square feet is denied without prejudice.

Board of Appeals

Kevin G. Sarney

Date of Decision: July 1, 2020

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