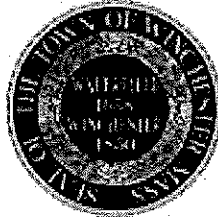


TOWN OF WINCHESTER**PUBLIC MEETING NOTICE and AGENDA****REVISED**

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**) Town Clerk's staff requests submissions **72 hrs. prior** to the meetings to allow for processing time.

Board/Committee Name: Board of Appeals

Type Check one: In Person: Remote: Hybrid:

Link:

Date: October 19, 2023

Time: 7:00PM

Place: Select Board Meeting Room

Email: jviarella@winchester.us

Agenda:

- Review September 21, 2023 minutes
- Petition No. 3988 – 19 Hancock Street (continued from September 21., 2023)
- Petition No. 4005 – 149 Highland Avenue
- Review draft decision – Petition No. 4002– 75 Bacon Street

If you need an accommodation pursuant to the American Disabilities Act, please contact the Town's ADA Coordinator, Michael Towne, at humanresources@winchester.us or (781) 721-7157.

Please submit posting: townclerk@winchester.us



CONTINUED TO OCTOBER 19, 2023 AT 7:00PM IN THE SELECT BOARD
MEETING ROOM

BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

The WINCHESTER BOARD OF APPEALS will hold a PUBLIC HEARING on THURSDAY, FEBRUARY 16, 2023 at 7:00 P.M. in the SELECT BOARD MEETING ROOM, TOWN HALL, 71 MOUNT VERNON STREET, WINCHESTER, MA on the following matter:

PETITION NO. 3988 - That of 19 HANCOCK ST., LLC concerning the property at 19 HANCOCK STREET, WINCHESTER, MA. The petitioners are seeking a Special Permit under Section 4.5 and 9.4 of the Winchester Zoning By-Law in accordance with Chapter 40A, Section 9 of the Massachusetts General Laws so as to be permitted to divide the existing property into two lots (Lots 15A and 15B) creating new non-conforming lots. Lot 15A will not meet the lot area, lot frontage and lot width requirements and the existing two-family dwelling will be located closer to the side property line than permitted as of right. Lot 15B will not meet the lot frontage and lot width requirements. The property is in the RG (General Residence) zoning district, Lot 15A contains 7,522 +/- square feet and Lot 15B contains 7,522 +/- square feet.

WINCHESTER BOARD OF APPEALS

Petition may be viewed at the Building Department during regular office hours or on the Board of Appeals web page www.winchester.us



BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

The WINCHESTER BOARD OF APPEALS will hold a PUBLIC HEARING on THURSDAY, OCTOBER 19, 2023 at 7:00 P.M. in the SELECT BOARD MEETING ROOM, TOWN HALL, 71 MOUNT VERNON STREET, WINCHESTER, MA on the following matter:

PETITION NO. 4005 - That of JACK and CYNTHIA GREINER concerning the property at 149 HIGHLAND AVENUE, WINCHESTER, MA. 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 additions that will be located closer to the front property line (Lincoln Street) than permitted as of right. The property is in the RDB (Single Residence) zoning district and contains 7,452 +/- square feet.

WINCHESTER BOARD OF APPEALS

Petition may be viewed at the Building Department during regular office hours or on the Board of Appeals web page www.winchester.us

TOWN OF WINCHESTER
BOARD OF APPEALS

 **DRAFT**

PETITION NUMBER 3999 – 75 BACON STREET

- PETITIONER(S):** Jon and Emily O'Donnell
- APPLICATION FOR:** Special Permit Under Section 5.1.10(1) of the Winchester Zoning By-Law in accordance with Chapter 40A, Section 9 of the Massachusetts General Laws so as to be permitted to have the width of the driveway entrances greater than 10 feet.
- DATE OF HEARING:** September 21, 2023
- VOTING BOARD MEMBERS:** David L. Feigenbaum (Chair), Dorothy Simboli (Vice Chair), Gerard M. Marino (Regular Member)
- MATERIALS CONSIDERED:**
- Form 2, Board of Appeals Application for Hearing
 - Form 2H, Other Special Permits
 - Photographs of the outside of the property and existing conditions
 - Plot Plan (June 20, 2023)
 - Proposed Site Plans submitted before and at all hearings

FACTS:

Petitioners are seeking a Special Permit Under Section 5.1.10(1) of the Winchester Zoning By-Law in accordance with Chapter 40A, Section 9 of the Massachusetts General Laws so as to be permitted to have the width of the driveway entrances greater than 10 feet. The property is located in the RDB (Single Residence) zoning district and contains 18,210 +/- square feet.

The proposal is to relocate a currently existing driveway to create an easier approach to a newly constructed garage. The current width of the driveway entrance is 18.6' and the proposed relocation of it will create a new entrance 14.5' in width.

The Planning Board voted in favor of the application: 5-0

The Design Review Committee voted against of the application: 5-0

The Historical Commission finds no adverse impact on a historical or cultural resource from the changes in nonconforming use and voted in favor of the application: 5-0 (2 absent).

RELEVANT BY-LAWS

Section 5.1.10 (1) of the Winchester Zoning By-Laws (the “By-Laws”) governs dimensional requirements for driveway entrances of single-family homes and provides as follows (emphasis added):

For single-family dwellings in any district: The maximum width at the street line shall be 20 feet. Any driveway shall be at least ten (10) feet wide at the street line. One (1) driveway shall be permitted per single-family dwelling. A second entrance to the driveway on a single lot may be permitted if a minimum of 40 feet of separation is provided between entrances, and the maximum width of each entrance at the street line is no more than ten (10) feet. The separation between entrances shall be defined by granite curbing, change in elevation, or other means to deter vehicles from driving over the separation.

Section 5.1.10 (4) of the By-Laws allows the Zoning Board of Appeals (the “Board”) the ability to grant relief from Section 5.1.10 (1) via Special Permit.

Section 9.4.2 of the By-Laws details the criteria for granting a Special Permit, which reads:

Unless otherwise specified in Section 3.5 or elsewhere in this bylaw, a special permit may be granted by the Special Permit Granting Authority (SPGA) only if it finds that the beneficial impacts of the proposed use or structure will outweigh its adverse effects on the town or the neighborhood in view of the particular characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this bylaw, the SPGA shall consider, and its written decision shall address, each of the following, as well as any recommendations by other Town agencies and officials:

- 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 the prevailing scale and character of buildings in the neighborhood;*
 - b. Architectural features add visual character to the neighborhood (for example, dormers, lintels, bay windows, open porches, chimneys); and*
 - c. Patterns and proportions of windows are consistent;**
- 5. Adequacy of proposed screening and buffering;*
- 6. Impacts on the natural environment, including, but not limited to, changes in topography, installation of retaining walls, or the removal of mature trees;*
- 7. Fiscal impacts, including impact on Town services, tax base and employment; and*
- 8. Impacts on historic resources, as defined in Section 10.*

If the SPGA disagrees with the recommendations of any other Town agencies or officials, it shall explain its position in its written decision.

Finally, Section 10 of the By-Laws defines “Special Permit” as:

SPECIAL PERMIT. *A use authorized by special permit is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood would promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special permits if specific provision for such special permits is made in this Zoning Bylaw.*

DISCUSSION:

The petitioners have been renovating their home at 75 Bacon Street. As part of that previously approved and permitted work was the construction of a new garage. This petition seeks permission to move the currently existing driveway approximately 10 feet to better align with the new garage. The current driveway exits onto both Bacon Street and Cottage Avenue and though it has the requisite 40 feet of distance between those two entrances, the entrance at issue here is currently 18.6’ and, as proposed, will become 14.5’. This new width is wider than the allowed 10’ feet per 5.1.10 (1).

The proposed relocation of the driveway moves a wider driveway entrance of 18.6’ to a new location and in doing so, shrinks that entrance by approximately four feet. The lessens a driveway that is currently larger than allowed under the By-Laws. It will also update the quality of the current entrance and portions of the current sidewalk will be updated.

Section 5.1.10 (4) of the By-Laws allows the Board to grant relief via Special Permit from the dimensional requirements of 5.1.10 (1) provided it finds that the beneficial impacts of the proposed use or structure will outweigh its adverse effects on the town or the neighborhood in view of the particular characteristics of the site and of the proposal in relation to that site. We do so in this case.

Having determined that, the Board must then apply the standards in Section 9.4.2 for approving a special permit. Each is addressed in turn:

1. Community needs which are served by the proposal;

No evidence was presented relating to this standard, however, given the nature of the proposal, there do not appear to be any impacts relevant to this criteria and the board so finds.

2. Traffic flow and safety, including parking and loading;

The Board finds that traffic and safety concerns are no worse than at present and improved upon, as the driveway is being moved and shrunk in

its size. In addition, petitioners will be updating some affected areas of the sidewalks, which is a benefit to the neighborhood safety.

3. *Adequacy of utilities and other public services;*

No evidence was presented relating to this standard, however, given the nature of the proposal, there do not appear to be any impacts relevant to this criteria and the board so finds.

4. *Impacts on neighborhood character, including the extent to which:*

a. *Building forms and materials are compatible with the prevailing scale and character of buildings in the neighborhood;*

The board finds that the proposed materials are so compatible.

b. *Architectural features add visual character to the neighborhood (for example, dormers, lintels, bay windows, open porches, chimneys); and*

No evidence was presented relating to this standard, however, given the nature of the proposal, there do not appear to be any impacts relevant to this criteria and the board so finds.

c. *Patterns and proportions of windows are consistent;*

No evidence was presented relating to this standard, however, given the nature of the proposal, there do not appear to be any impacts relevant to this criteria and the board so finds.

5. *Adequacy of proposed screening and buffering;*

No evidence was presented relating to this standard, however, given the nature of the proposal, there do not appear to be any impacts relevant to this criteria and the board so finds.

6. *Impacts on the natural environment, including, but not limited to, changes in topography, installation of retaining walls, or the removal of mature trees;*

No evidence was presented relating to this standard, however, given the nature of the proposal, there do not appear to be any impacts relevant to this criteria and the board so finds.

7. *Fiscal impacts, including impact on Town services, tax base and employment; and*

No evidence was presented relating to this standard, however, given the nature of the proposal, there do not appear to be any impacts relevant to this criteria and the board so finds.

8. *Impacts on historic resources, as defined in Section 10.*

As noted above, the Historic Commission found no adverse impact on a historical or cultural resource from the changes in nonconforming use and voted in favor of the application. We agree.

DECISION: Granted, 3-0 in favor of Petitioner

CONDITIONS: Petitioners shall adhere to all representations made to the Board and other Town authorities both in writing and during all relevant hearings and that the proposed addition shall be in substantial conformity to the plans submitted and reviewed by the Board in its hearings.

BOARD OF APPEALS, BY:

Mark J. Andersen

DECISION DATED: