

March 16 2023 Winchester Zoning Board of Appeals Minutes

Present: David Feigenbaum, Chair
William McGonigle, Vice Chair.
Gerard Marino

Adam Costa, Town Council
David Robinson
Daniel Belknap
Susan Ladd
Conor Daly
Richard Leaf
Scott Grady

Mr. Feigenbaum is trying to schedule a meeting with the Historical Commission. The Planning Board is moving ahead to present 3.5.5. amendments at the Town Meeting. There are plans to present a site plan review tutorial in the future. He then read the "rules of the road." Dorothy Simboli was elevated temporarily to permanent member. Mr. McGonigle called Mr. Feigenbaum's written decision on 32 Everett Avenue "superb."

While the ZBA has no jurisdiction over the Conservation Commission, its chair, Mr. Miller and Mr. Feigenbaum have gone back and forth on the forms so that they include all information that the Conservation Commission will need in providing its comments to the Zoning Board.

3987 316 Highland Avenue cannot be voted on as Ms. Simboli is not present tonight. David Robinson (landscaping and survey) is representing the owner of the single-family residential house with a large retaining wall on the eastern side that was not approved by the town or Conservation Commission. The owner was ordered by the town to remove the wall and restore the site; the plan is to install a 3:1 vegetative slope and site plantings, trees, and bushes on the flat area. It is now a poorly built eyesore. A trucking pad will be added for construction. There are three types of materials in the current wall. Neighbor Mr. Baldwin did the attend February meeting and voiced support. The compressors should be removed as part of the project. There is a 12-foot wall next to the driveway. Several questions were posted. Should it be a rip rap wall? What will the new wall look like: The ZBA would like to see a rendering. What will neighbors see? Ivy could extend down the wall as screening. The Engineering Department raised several issues that have been responded to, awaiting ED sign-off. Landscaping will need to be planted on the neighbor's land: 314 Highland will pay for 316 Highland plantings, with written permission. ZBA needs Conservation Commission input to issue a decision. Mr. McGonigle made a motion to continue 316 Highland to April 20; which was seconded by Mr. Marino and passed unanimously.

3988 19 Hancock Street: Architect Daniel Belknap is representing his parents. There is going to be a preservation restriction negotiated ahead of time. Mr. Feigenbaum presented his proposed changes to the draft agreement provided earlier by Mr. Belknap. The Select Board will be entering a preservation restriction with the owner. The ZBA will also be reviewing and discussing the terms of the agreement with the owner. The terms of the agreement suitable to the ZBA may be a condition of any approval. The applicant will work with the Historical Commission, review the ZBA comments and incorporate them and will reach out to the Select Board staff. This first Winchester preservation restriction under this

section of the Bylaw will set a precedent. The building qualifies as a historic resource: the ZBA is awaiting a document from Mr. Belknap for the record to establish that fact for the record. Mr. Belknap is now coordinating with the Engineering Department to address drainage concerns. He will submit revised plans to the Design Review Commission and get sign-off from Engineering Department. The final plans will come back to the ZBA. There are no plans to rebuild the old garage. If they do, it would match the current house. The proposal is that the garage will not be protected. The approval will state actual dimensions of the waivers being granted including a five-foot setback for the new lot. The ZBA is looking for dimensional specificity. Additional questions were posed concerning the drainage. Is the drywell going to work? How will it be maintained? The applicant proposes maintenance by a homeowners association. Mr. Feigenbaum asked Mr. Belknap to provide a draft outline of the terms of the homeowners association agreement. One approach to the maintenance issue would be an easement in perpetuity that would require maintenance of both the driveway and storm water management systems. If the system doesn't work, all the water will flow down the street to the neighbors.

Susan Ladd, a neighbor across the street, stated that her major concern is the water. Water gushes out of the 19 Hancock sump pump. There is a stream running down the land, creating a pond for birds and animals. It used to be discharged into the sewer. Three surrounding houses have water in their basements. The current discharge is in front of the house and dumps onto grass. A drainage system needs to be created to integrate the huge amount of water, which often runs down both sides of the street. Mr. Feigenbaum suggested that Mr. Belknap invite the neighbors to one of the meetings with the Engineering Department, as there is a major issue with water on Hancock. There is also a slight issue with the proposed swimming pool. The applicant requested a continuance to April 20. Mr. McGonigle made a motion to continue 316 Highland to April 20; which was seconded by Mr. Marino and passed unanimously.

3991 12 Manchester Road is owned by Tom and Suzanne Kahl. Architect Scott Grady received the updated engineering report today, as well as the Planning Board review. There were thought to be two new existing nonconformities. One is a stairwell on the left: which is not a structure, so it is not a nonconformity. The second is that the distance from the addition to the garage is 12.82 feet (not 15), which requires a variance. According to §3.5.5, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The Planning Board is discussing changing it so that new nonconformities would not require a variance and is bringing revisions to §3.5.5 implementing this policy to the 2023 Spring Town meeting for their approval.

Mr. Marino made a motion to approve the design, on the condition that the distance between the house and garage is a 15-foot setback: Either change the house design or cut the garage. (The Design Review Commission wrote that the blank wall that would ideally have a window. The French doors were drawn incorrectly.) The motion was seconded by Mr. McGonigle and passed unanimously.

3992 181 Mystic Valley Parkway: The homeowners, Conor and Emily Daly, hired Architect Richard Leaf to add an addition, which is too close to the property line. He is extending an existing nonconformity. The Design Review Committee recommended that he incorporate a hip roof, over the new mud room. When asked if he would consider putting a window on the blank wall, Mr. Daly said they were planning to put coat hooks there and that a skylight would provide plenty of light. The new door would be

opposite the existing kitchen door. The motion to approve the design supplemented by a hip roof passed unanimously, Mr. Marino made the motion, which was seconded by Mr. McGonigle. Mr. Marino will write the decision.

The meeting was adjourned at 10:12pm; Mr. McGonigle made the motion, which was seconded by Mr. Marino and passed unanimously.