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TOWN OF WINCHESTER
BOARD OF APPEALS
Decision No. 3932
247 Swanton Street

2021 APR -7 AM 9:47

TOWN CLERK
TOWN OF WINCHESTER

Name of Petitioner: David and Kristina Nissen

Application For: 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 property lines than permitted as of right. The property is located in the RG (General Residence) zoning district and contains 8427 +/- square feet.

Date of Hearing: March 18, 2021

Board of Appeals: Kevin Sarney, Mark Waterbury and Mark Regan

Decision: Granted

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 and information submitted with the petition, including the following:
 - a. Form 2 Application for Zoning Hearing, dated January 3 2021.
 - b. Form 2F Special Permit (Non-conforming, 1 and 2 family) Supporting Statement, Requested Findings, dated January 3 2021.
 - c. Town of Winchester Assessor's Maps 28 and 39, dated May 25, 2006
 - d. Two page -letter to the ZBA from the petitioners summarizing their request for a special permit, dated January 4, 2021.
 - e. Plot Plan existing and proposed, Keenan Survey 8 Winchester Place Suite 208 Winchester, MA 01890, dated January 29, 2021.
 - f. Ten-page set of plans prepared by Kerl Murray Architecture, Sharon, MA 02067, dated January 2021, including the following:
 - i. A1 - Existing Plans, First Floor, Basement, Second Floor and Roof
 - ii. A2 - Existing Elevations, North, South, East and West
 - iii. A3 - Proposed Foundation Plans

- iv. A4 – Proposed First floor and Second Floor Plans
 - v. A5 – Proposed Elevations, South and West
 - vi. A6 – Proposed Elevations, East and North, and Window schedule
 - vii. A7 – Existing Photos, Six Views
 - viii. A8 – Landscaping
 - ix. A9 – 3D rendering of proposed structure, two views
 - x. A10 – 3D rendering of proposed structure, three views
- g. Letters from 2 neighbors supporting the proposed addition.
 - h. Two letters from a neighbor concerned about the height of the addition, dated March 17, 2021.
2. All representations made by the petitioners at the public hearing and not memorialized are hereby incorporated into the decision.
 3. Work with Engineering to evaluate and mitigate stormwater impacts from the by-right addition, which will add a significant amount of new impervious area.

Facts:

The petitioners own the existing single family wood framed dwelling located at 247 Swanton Street. They propose a second story enlargement over and the existing first floor, enclosing the front porch and adding a covered porch on White Street. The petitioner is also adding to the back of the house, by-right, a garage and addition. The petitioner is also changing the "front of the house" from Swanton Street to White Street.

The existing property is non-conforming at its front setback (4.7 feet from White Street and 14.5 feet from Swanton Street, 20 ft required). The house was built around 1891 and the non-conformities are original to the house. The proposed additions are no closer to the front lot lines than the existing house.

The petition was reviewed by the Winchester Planning Board (dated March 11, 2021) and recommended favorable action, 4-0. Planning Board recommends the porch on Swanton Street be retained and that a door remain on Swanton Street. They also recommend continuing the sidewalk on White Street to the driveway.

The application was reviewed by the Winchester Conservation Commission on February 16, 2021 and indicated they had no jurisdiction.

The petition was reviewed by the Winchester Design Review Committee (dated March 10, 2021) and they voted for favorable action by a vote of 7 -0 with no conditions. They noted that the addition was modest in scale to the existing house and improves the house.

The Historical Commission reviewed the petition on March 8, 2021 and voted for favorable action 6-0 with no conditions, finding no adverse effects on a historic or cultural resource.

The petition was reviewed by the Engineering Department on March 8, 2021. They noted that the part of the project falling under ZBA review reduces the impervious area from 1868 sq ft to 1629 sq ft, and is therefore not subject to stormwater mitigation. However, engineering notes that the by-right part of the addition may impact drainage and stormwater runoff and that the petitioner needs to ensure that the project does not adversely impact neighbors.

Discussion:

Pursuant to Section 3.5.5 of the re-codified Zoning By-Law, the Board of Appeal 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 existing non-conformity for this petition is the existing insufficient front yard setbacks.

The addition is a well thought out design that is appropriate for the house and fits well with the neighborhood. The design proposed a massing that is sympathetic to preserving the main house and reinforcing the neighborhood's aesthetic qualities. The proposed modifications are designed to preserve the historic integrity of the home and neighborhood and not overwhelm the existing home.

Eliminating the front door entry on Swanton Street was a design consideration of the petitioner. The practical impact of closing off the entry and utilizing the interior space more efficiently outweigh the design benefit to the neighborhood of retaining a door entry on Swanton Street, when the primary entry to the house will be changing to White Street.

The massing and height of the structures being added under the Special Permit are modest and fit very well with the neighborhood and the existing structure. Concerns by a neighbor regarding the project mass, scale and height are not justified in the Special Permit requested additions to the property.

Based on all the information presented at the hearing, including the submissions of the Petitioners, the Board finds that the proposal will not be substantially more detrimental to the neighborhood than the existing nonconforming 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 historic 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; 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 Historic Resources, as defined in Section 10 of this Bylaw.

This board finds that due to the de minimis nature of this Petition, the criteria listed above at numbers 1, 2, 3, 5, 6, 7 and 8 are not relevant to the Petition. In addition, the Board finds that the neighborhood character (number 4) is improved by the proposal.

Thus, the Petitioners' request for a Special Permit to construct an addition to the existing nonconforming structure is granted, subject to the above-described conditions and limitations.

Board of Appeals



Mark Regan

Date of Decision: April 6, 2021