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TOWN OF WINCHESTER
ZONING BOARD OF APPEALS

2021 NOV 30 PM 12: 55

Decision No. 3946

22 Mayflower Road, Winchester, Massachusetts 01890
TOWN CLERK
TOWN OF WINCHESTER

NAME OF PETITIONER: Michael Athens and Christine Athens

APPLICATION FOR: The Petitioners are seeking a Special Permit from Section 3.5.7 of the Winchester Zoning By-Law in accordance with Chapter 40A, Section 9 of the Massachusetts General Laws so as to be permitted to demolish a pre-existing non-conforming single family dwelling located on a lot that does not meet the lot width requirement and to construct a new single family dwelling that will meet all setback requirements. The property is located in the RDA (Single Residence) zoning district and contains 29,186 +/- square feet.

DATE OF HEARING: August 19, 2021 (rescheduled due to lack of a quorum), September 2, 2021 and October 21, 2021

BOARD OF APPEALS: Mark Waterbury, David Feigenbaum, Robert W. Tedesco

DECISION: Granted

VOTE OF BOARD: Unanimous

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

1. Construction of the proposed dwelling shall be in substantial conformity with the plans and information submitted with the Petition including the following:

Form 2 - July 2021

Form 2F - July 2021

Assessor Map

Deed and sub-division map

Existing site photos (5 pages)

Proposed building renderings (3 pages)

Exterior Materials Plan - Mellows & Paladino, Inc.

Long Term Pollution Prevention & Stormwater System

Operation and Maintenance Plan - Goldsmith, Prest &

Ringwall, Inc. - July 2021

Groundwater Recharge - Goldsmith, Prest & Ringwall, Inc. -
August 2021

Form 11 – Soil Evaluator Form – Bruce Ringwall, GPR Inc. - August 2021

Stormwater Management Calculations – Goldsmith, Prest & Ringwall, Inc. - Rev. October 5, 2021

Building Permit Plan, Site Plan, Landscaping Plan (3 pages) – Goldsmith, Prest & Ringwall, Inc. – Rev. 10/6/2021

Schematic Design Set – A-1.1 First Floor Plan, A-1.2 Second Floor Plan, A-2.1 Exterior Elevations and A.2.2 Exterior Elevations – Mellowes & Paladino, Inc. – 10/8/2021

2. All representations made by the Petitioners at the public hearing and not memorialized are hereby incorporated into this Decision.
3. Compliance with the Town of Winchester Engineering Department recommendations.

FACTS:

The Petitioners are seeking a Special Permit from Section 3.5.7 of the Winchester Zoning By-Law in accordance with Chapter 40A, Section 9 of the Massachusetts General Laws so as to be permitted to demolish a pre-existing non-conforming single family dwelling located on a lot that does not meet the lot width requirement and to construct a new single family dwelling that will meet all setback requirements. The property is located in the RDA (Single Residence) zoning district and contains 29,186 +/- square feet.

At the hearing on September 2, 2021 the Petitioners presented the above request and they were met with substantial concerns made by several abutters as to the size of the structure. The Board also expressed concerns over the placement of the new structure as it relates to the front yard setback not being similar to those existing homes surrounding the proposed new structure. The Board did acknowledge that the Petitioners would be able to build a home of this size “by right” on the lot, but they also understood that the Petitioners wanted the new structure to not be set so far back on the lot, that it would look completely out of character with the neighborhood as well as loss of privacy. After hearing additional testimony of the abutters, the Petitioners agreed to alter the design of the home to be more compatible with those surrounding homes, in particular to narrow the width of the front façade.

The petition was continued to the Board’s October 21, 2021 meeting. At that time, the Petitioners provided new plans, after having discussed the changes with abutters and area home owners, who further provided a letter of support for the new plan, dated October 19, 2021.

DISCUSSION:

The Winchester Planning Board reviewed the application of the Petitioner and voted to recommend favorable action on the Special Permit Request 3-0-1 (Three in favor; none against; one absent) under Section 3.5.7 of the Zoning By-Law.

The Board carefully reviewed the Planning Board's recommendations and noted same in its deliberations. The Planning Board's recommendations were as follows: To minimize as much as possible any disruption to tree roots, as an alternative to constructing a low wall on the north side of the house as recommended by the DRC, the area could be sensitively regraded so that the slope steps down to the existing grade at the porch with strong attention paid to ensure no compaction of tree roots occurs during construction; the underground storm water infiltration structure east of the house near the 20" Maple should be repositioned to be away from and damage the roots of the tree; plant new trees of similar species and canopies to replace the trees that have been removed, this includes the existing 24" Oak to the east of the proposed terrace and patio and the existing mature tree to be removed to relocate the driveway.

The Town of Winchester Design Review Committee reviewed the application and recommended a favorable action (6-0) and recommended the following: Evergreen trees along the north property line, between 20 and 22 Mayflower shall be protected from damage during construction (tree protection fence recommended); grading on the north side of the house shall be revised to include a low stone wall, this will reduce any impacts on the trees and eliminate the 3 to 1 slope toward Mayflower.

The Board carefully reviewed the Committee's recommendations and noted same in its deliberations.

The Town of Winchester Historical Commission, in accordance with Zoning Bylaw Section 9, notes that the house to be removed was built in 1964 and therefore did not meet the criteria to be considered historically significant under Chapter 14 of the Winchester Code of Bylaws.

The Board noted the Commissions comment in its deliberations.

The Town of Winchester Engineering Department reviewed the petition, issued an initial review dated July 23, 2021 and after the Zoning Board of Appeals requested that the petitioner make changes to the plans, and in a revised memorandum dated August 18, 2021 and further revised in a memorandum dated August 27, 2021 and noted the following findings: To offset the runoff generated

from the increased impervious surface (approximately 1,226 square feet), the Applicant proposed the installation of twenty-one (21) Stormtech SC310 infiltration chambers. Additional findings noted were: Proposed demolition of an existing building; proposed construction of a new dwelling; remove and existing driveway; install a new driveway; remove water service on private property; install a new water service on private property; remove sewer service on private property; and install a new sewer service on private property. The Engineering Department concluded that: Applicant to schedule site visit with the Engineering Department 48-hours prior to excavation for both stormwater infiltration systems. Engineering Department will verify that soil conditions match those made on 8/4/2021. If conditions are different, design of stormwater infiltration system will need to be modified; Applicant shall provide as-built plan and certification by the engineer of record confirming system was installed per the approved plan prior to the issuance of a Certificate of Occupancy permit; Upon completion of work, the engineer of record for the project shall certify as set for in the August 27, 2021 memorandum; If installed and maintained properly, the infiltration system should mitigate increased stormwater runoff on the site.

The Board carefully reviewed the Engineering Department's recommendations, noted same in its deliberations, and incorporates same herein by reference.

The Town of Winchester Conservation Commission reviewed the petition and determined that it did not have jurisdiction over the proposed work. The Board noted the Commission's comment in its deliberations.

DECISION:

The Petitioners' Application for a Special Permit pursuant to Section 3.5.7 of the Winchester Zoning By-Law in accordance with Chapter 40A, Section 9 of the Massachusetts General Laws so as to be permitted to demolish a pre-existing non-conforming single family dwelling located on a lot that does not meet the lot width requirement and to construct a new single family dwelling that will meet all setback requirements, is granted.

BOARD OF APPEALS, BY:



Robert W. Tedesco

DECISION DATED:

November 30, 2021