

TOWN OF WENHAM
ZONING BOARD OF APPEALS 2021 DEC 22 PM 1:48
RECORD AND DECISION

AMENDMENT TO SPECIAL PERMIT

21 Longfellow Road, Wenham Massachusetts
Petitioners Pamela and Yianni Katsiris

The Zoning Board of Appeals for the Town of Wenham, Massachusetts, conducted a public hearing at Town Hall on **Wednesday October 13, 2021 at 7:00 p.m.** on the petition of Pamela and Yianni Katsiris, 26 Ravenwood Rd, Peabody, MA for an amendment to a Special Permit dated July 5, 2017 for property at **21 Longfellow Road Wenham, MA (Assessors Map 7, Lots 50 and 52)** to allow for an adjustment to the location of the structure, size of the garage and associated landscaping, septic and other site improvements.

Notice of the public hearing on Petitioners' application was advertised and posted as follows and a true copy of the notice is on file in the Zoning Board of Appeals Office:

1. Published in *The Salem News*, a newspaper of general circulation in the Town of Wenham, on Tuesday September 28, 2021 and Tuesday October 5, 2021.
2. Posted at the Town Clerk's office on October 1, 2021.
3. Mailed on October 1, 2021 to Petitioners, abutters, owners of land directly opposite the Property on any public or private street or way, and abutters to abutter within 300 feet of the Property.

The public hearing opened on October 13, 2021 and closed on December 15, 2021. Present at all public hearing session were Board Members Anthony M. Feeherry (Chairman) and Dana Begin. Associate member Kelly Schmidt was present at all meetings and Associate member Richard Modliszewski was present at all meetings except the October 13, 2021 meeting. Evan Campbell missed the October 13, 2021 session and supplied an affidavit to the effect that he had watched a video recording of the missed meeting and was now able to vote.

RELEVANT FACTS AND BYLAW PROVISIONS

The Property is located in the Residential District and the Aquifer Protection Overlay District. The Proposed Reconstruction is shown on a 2 page plan entitled: "Single Family Construction Site Plan, 21 Longfellow Road, Wenham, MA 01984" as prepared for Petitioners Pamela and Yiannis Katsiris by Fodera Engineering of 28 Harbor St. Suite 204, Danvers, MA and dated September 21, 2021, as revised through December 14, 2021, and as stamped by Professional Engineer Giovanni Gaetano Fodera and Professional Land Surveyor David Philip Terenzoni.

The Petitioners had been granted a Special Permit on July 5, 2017 for the demolition of a nonconforming single-family dwelling and the reconstruction of a single-family dwelling in a

volume that exceeds the volume or area of the original nonconforming structure and with the new structure to be located other than on the original footprint. On September 22, 2021 the Petitioner requested approval to make the following amendments to their Special permit:

- The garage be closer to grade with main house and garage door moved to side.
- Approve new location of building (The house was built in the wrong location approximately 20' east of the approved location).
- Change in location of septic system due to new location of house.
- a rip rap wall on the west side of the property instead of block retaining wall. The walkway to the lower level is now below the rip rap.
- Return similar material to Town property and to construct a cement retaining wall along the rear lot line and the right of the lot along Fairview Street (paper road) to minimize erosion.
- Remove hemlock tree that is on Town land
- Add metal roof to outdoor patio
- Change from a core gravel driveway to a pervious bituminous driveway
- Increase the size of the driveway
- Adjustment of the position of the hammerhead onto Oak Street (paper road). To be used by delivery vehicles, city vehicles, trash collection and snow removal.
- Adjusted locations for Dry wells
- Be allowed to keep a POD on site through the end of construction to store material and tools.

DECISION

Action on Application for an Amendment to Special Permit Relief: APPROVED 3 to 0.

VOTE: (Yes) Anthony M. Feeherry (Chairman), (Yes) Evan Campbell, (Yes) Dana Begin

On December 15, 2021, after holding three public hearings and taking testimony from the Petitioners, peer review consultant, Town staff and members of the public and after reviewing all materials and comments received, the Board voted to close the public hearing and then deliberated toward a decision.

The Board made the following findings of fact:

- The Board determined that all notice provisions of G.L.c.40A, §§9 and 11 and ZBL §13.4 were satisfied.
- The Board determined that the structure and site work was done in error resulting in the house being approximately 20 feet to the east of the approved location on the site. And due to this error other site improvements needed to be adjusted.
- That the Petitioner acted in good faith while constructing the single family home and that they relied on the advice of their engineers and Town Building Officials. The Petitioner filed an affidavit stating that the project was constructed in error.
- The Proposed amendments were taken up individually and determined that some of the proposed amendments were not in keeping with the original intent of the special permit.
- The Conservation Commission reviewed and approved the proposed changes.
- The Petitioner's plans showed that a new septic system can be built on the site in the amended location which was approved by the Board of Health.
- The Board determined that the increase in the size of the garage and the change in location of the structure would not have a greater adverse impact on community needs, traffic flow, existing utilities (water and electric service), neighborhood character, the natural environment or fiscal impacts than the originally approved structure and site work.
- The site is within the Aquifer Protection District and the impervious lot coverage does not exceed 20%.

The Board addressed each item requested as follows:

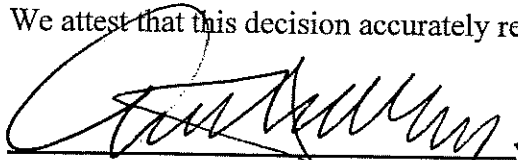
- The garage be closer to grade with main house and garage door moved to side. APPROVED
- Approve new location of building (The house was built in the wrong location approximately 20' east of the approved location). APPROVED
- Change in location of septic system due to new location of house. APPROVED
- A rip rap wall on the west side of the property instead of block retaining wall. The walkway to the lower level is now below the rip rap. APPROVED
- Return similar material to Town property and to construct a cement retaining wall along the rear lot line and the right of the lot along Fairview Street (paper road) to minimize erosion. APPROVED PER THE REVISED PLAN DATED 12-15-21
- Remove hemlock tree that is on Town land DENIED – The tree warden has requested that the hemlock be saved. The Petitioner has submitted a revised plan


showing the retaining wall being built to allow for a circle around the tree which will be backfilled with soils to secure the tree.

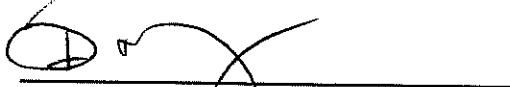
- Add metal roof to outdoor patio. DENIED
- Change from a core gravel driveway to a pervious bituminous driveway APPROVED
- Increase the size of the driveway APPROVED
- Adjustment of the position of the hammerhead onto Oak Street (paper road). To be used by delivery vehicles, city vehicles, trash collection and snow removal. APPROVED WITH CONDITION- The hammerhead driveway is to be built in the location as shown on the plan and no additional trees or vegetation are to be removed from the right of way.
- Adjusted locations for Dry wells DENIED – Drywells are to be constructed as per the approved plan. The drywell that was built in the Fairview Road layout is to be relocated to the originally approved location as shown on the approved plan.
- Be allowed to keep a POD on site through the end of construction to store material and tools. ALLOWED – POD will be removed within 30 days of the issuance of the certificate of occupancy.

All other provisions of the original special permit dated July 5, 2017 will remain in full force and effect.

We attest that this decision accurately reflects the Boards determinations.


Anthony M. Feeherly (Chairman)


Evan Campbell


Dana Begin

DATE: 12-20-21

FILED WITH THE TOWN CLERK ON: 12-22-21

Notice to Petitioners and Interested Parties on: 12-22-21

Any appeal, by an aggrieved party, shall be filed within twenty days of the filing of this decision with the Town Clerk, in accordance with the requirements of G.L. c.40A, §17.

I hereby certify that either: (i) 20 days have elapsed from the date this decision was filed with the Office of the Town Clerk and no notice of appeal was timely received; or (2) a notice of appeal was timely received and I have been afforded evidence that the appeal is final and affirmed the decision.

Wenham Town Clerk