

Town of Wenham
Zoning Board of Appeals
Wenham Town Hall, 138 Main Street
Meeting of May 3, 2022

Pursuant to the Open Meeting Law, MGL Chapter 30 A, §18-25, written notice posted by the Town Clerk delivered to all Board members, a meeting of the Zoning Board of Appeals (ZBA) was held on Tuesday May 3, 2022 at 7 pm via Zoom. On February 12, 2022 Governor Baker extended the suspension of certain provisions related to public meetings including members of a public body may continue participating in meetings remotely through July 15, 2022.

The Wenham Zoning Board of Appeals exercises all powers granted to it by Massachusetts General Laws, Chapters 40A, 40B and 41 and the Town of Wenham Zoning Bylaw. The Board hears and decides applications for special permits, appeals or petitions for variances from regulations governing dimensions of land or structures, appeals taken by any aggrieved by reason of his inability to obtain a permit or enforcement action under the provisions of MGL 40A and applications for comprehensive permits. Members are appointed by the Board of Selectmen for a term of three-years from July 1 – June 30. The Zoning Board consists of three Board members: **Evan Campbell (2022)**; Dana Begin (2023). Anthony Feeherry (2024) and (up to) three Associate Members: **Kelly Schmidt (2022)**; Richard Modiszewski (2023); one open seat

Call to Order - *With a quorum present* Mr. Feeherry called the meeting to order at 7 pm announced the meeting was being recorded and those present: A. Feeherry, Chair; D. Begin; E. Campbell; R. Modiszewski; K. Schmidt

Also present: Margaret Hoffman, Planning Coordinator

The minutes were prepared from the recording by Catherine Tinsley, Recording Secretary

Administrative

- Discussion regarding 25 Larch Row Special Permit – Cease & Desist from Building Inspector
 - Letter from R. Mahoney, Inspector of Buildings to B. Harlamert, 25 larch Row Re: Zoning /Building Code Violations, dated April 13, 2022
 - Construction Plans, 25 Larch Row, Olson Lewis Revision 3, dated 4.14.22

Petitioner and property owner Bruce Harlamert was present with his counsel, Attorney Philip Lake and Architect, John Harden, Olson Lewis Architects.

Mr. Feeherry reviewed the Board was informed at their last meeting a Cease & Desist order was issued by the Building Commissioner for 25 Larch Row, but because it was not on the agenda, it was not discussed at that time. This meeting was posted to further discuss the Special Permit issued in October 2020 to Bruce Harlamert, 25 Larch Row for an accessory apartment. Since the Special Permit was issued, Mr. Harlamert turned one of the (3) garage bays into living space for the main house as a multi-purpose room; this change is under the jurisdiction of the Zoning Board.

Mr. Feeherry stated the question before the Zoning Board is if the change to turn one garage bay into a multipurpose room is significant enough of a change from the Special Permit to warrant a public hearing. Mr. Feeherry summarized the law which guides the Boards decision that if the change is minimal, not substantial, and de minimis, the Board may amend the decision/Special Permit without a public hearing.

Mr. Feeherry opened the meeting to the petitioners to speak on their request for relief.

Attorney Lake addressed the Board and reviewed the timeline and summarized the project to date, including the violations as identified in the Building Commissioners letter, and the petitioners request to amend the Special Permit. Attorney Lake noted the accessory apartment was built first with the intention to provide a living space for the family during construction of the main house. From a building code perspective, the change in use of the garage space also changed the insulation and internal framing for a door.

Mr. Harden spoke on the criteria that requires an accessory apartment to be less than 35% of the square footage of the Main house or less than 1,000 square feet; the living space of the accessory unit, which is limited to the second floor, is 953 square feet. The change of the garage bay into living space does not impact the ratio for the accessory unit. Mr. Harden and Attorney Lake reiterated that all space on the first floor, including in that section of the house with rooms identified as an office, tv

room, and the requested multi-purpose room, are a part of the main house and not the accessory unit which is only located on the second floor.

Mr. Feeherry opened the meeting for the Boards' comments, questions and deliberations.

It was noted the neighbors have not indicated objection to the project.

The Board observed the project stays within the original approved footprint, does not impact the accessory unit and continues to meet the square footage requirements for the special permit for an accessory apartment, therefore the change of space does not necessitate a second hearing.

Vote: The Board voted unanimously by roll call to approve the revised plans showing the addition of a fire place and change of one of the garage bays to a multi-purpose room that goes with the main house as shown on the plan by Olson Lewis Architects (Revision 3 4/14/22) and presented to the Board.

- Other matters, as may not have been reasonably anticipated by the Chair (Discussion Only)
An application has been received for a special permit for non-conformance. The Board scheduled a meeting for May 26.

Adjourn-*The Board voted unanimously by roll call at 7:30 pm.*

Respectfully Submitted By
Catherine Tinsley
5.17.22