



TOWN OF TEWKSBURY ZONING BOARD OF APPEALS

1009 Main Street
Tewksbury, MA 01876

Robert Dugan, Chairman
Len Dunn, Vice Chair
Gerald Kutcher
Associate Members:
Jaime Doherty
Dianne Bartalamia

DEPARTMENT OF COMMUNITY DEVELOPMENT

MEETING MINUTES February 4, 2016

The meeting was called to order by Rob Dugan, Chairman, at 6:30 p.m. at the Town Hall. Present at the meeting were Len Dunn and Diane Bartalamia.

Gerald Kutcher and Jaime Doherty were not in attendance.

CONTINUED HEARINGS

FTO Realty Trust for Lorraine Bradley (co-owner Irene Fiore & Marie Romano, C/O Paula Barry) for a variance from Section 3600, Paragraph 3640 and Special Permit under Section 3600, Paragraph 3651 and 3670 of the Tewksbury Zoning Bylaw. The applicant proposes to construct a single family residence within the front yard as show on plans filed with this Board. Said property is located at **20 Riverview Avenue**, Assessor's Map 98, Lot 121, zoned Residential.

Present was Attorney Richard O'Neill, on behalf of the applicant, and Jim Hanley from Civil Design Consultants.

Mr. Hanley explained that since the last hearing they have taken the time to revisit two of the concerns that were discussed by abutters. The first concern being the site line issue, specifically in regards to 95 Bridge Street. Mr. Hanley explained that they have determined that there are two rather large trees that are impacting site lines. The applicant is willing to remove these trees should the town and abutters be in agreement.

Mr. Hanley explained that the second concern was regarding drainage and the impact to 95 Bridge Street. Mr. Hanley noted that they are now proposing two under drains that run along the side the home. These will be connected to the roof drains and will now drain to the backyard due to the shifting of the contours a little. Mr. Hanley noted that the proposed changes have been presented to DEP and they are in agreement.

Mr. Dugan noted that these are items that the applicant is offering to do and are not being required and Mr. Hanley confirmed this.

Ms. Bartalamia expressed concerns with the drainage and the impact it could possibly have on the abutters and asked what type of guarantee the abutters have that this will not cause a flooding problem and have them incur expenses as a result. Mr. Hanley explained that there are no guarantees; however, they are not allowed to increase the flow of water and suggested a condition that the town engineer monitor this.

Attorney O'Neill explained that most homes constructed prior to the storm water management regulations in 1995 have the possibility for flooding problems. As a result, preconstruction meetings are held with the various required town departments to ensure that the project will work. Attorney O'Neill noted that he would be in agreement with a condition that the town engineer monitors the project as he feels both the town engineer and building commissioner are more than capable of doing so. Attorney O'Neill explained that although he may have come aboard late, there are many who have spent a great deal of time on this project. Attorney O'Neill explained that the sight line issues are existing concerns and should not be a reason for denial and that they are willing to do whatever they can to improve this situation. Attorney O'Neill noted that the only relief being sought is for the front setback; otherwise, there would be no need to come before the Board.

Mr. Dunn requested the paperwork from DEP regarding the superseding order and denial and Attorney O'Neill noted that this can be provided.

Ms. Bartalamia noted that the most important issue for her is the drainage.

Mr. Dugan opened the hearing to the public.

Bill Connors of 110 Bridge Street came forward and requested the two changes be reviewed again and Mr. Hanley provided an additional explanation of the modifications being proposed.

Kyle Boyd, Town of Tewksbury Conservation Agent, came forward and explained that this has been a very lengthy process and all required departments have reviewed and approved the plans being presented.

John Costa of 95 Bridge Street came forward and noted that he has requested the two trees be removed several times and has been told by the town that they cannot be removed. Mr. Boyd explained that when a tree is in the right of way, approval of the DPW superintendent is required and a public hearing is held.

Jim Bruce of 2 Riverview Avenue came forward and suggested that Riverview Avenue be widened for safety reasons prior to any construction beginning. Attorney O'Neill explained that the problem with this would be the right of way. Attorney O'Neill discussed the Planning Board's process to grant a waiver to not have sidewalks and funds are collected and put into a town sidewalk fund and used towards other areas in town. Attorney O'Neill noted that the safety concerns being expressed are existing.

Mr. Dugan noted that he did some research on this matter and presented the Subdivision Plan from 1923. Mr. Dugan noted that this parcel received 8 lots from the original subdivision and Attorney O'Neill confirmed this. Mr. Dugan noted that the porch of the existing home currently faces the street; which caught his attention as one would think it would face the river. Mr. Dugan explained that when he looked into this further he determined that the river had

significantly come back. Mr. Dugan noted that there are four lots also known as 61 Bridge Street and asked who owns this land. Jim Bruce of 2 Riverview Avenue stated that he owns this land. Mr. Dugan noted that 2 Riverview is the exact same lot as this lot and Mr. Bruce confirmed this. Mr. Boyd noted that over time, rivers often go in different directions and they cut into the point of least resistance.

Greg Romano came forward and noted that he is one of the owners of this property and explained that his grandfather constructed this home and he spent his summers there as a child. Mr. Romano noted that as a property owner and tax payer he should also have rights and a say. If nothing can be constructed on the property they will continue to have to pay taxes on a property that they cannot use or sell.

Bill Connors came forward and provided the Board with a copy of a document from the abutters requesting their rights also be considered. Mr. Connors reviewed what he believes to be the detriments including, but not limited to, it does not meet the set back requirements, it will be the closest two homes in the neighborhood, it could possibly flood Mr. Costa's leaching field, snow removal and storage areas, increase of possible flooding to the neighborhood, worsen sight lines, etc. Mr. Connors noted that there are 28 abutters affected and only one has stated that they are sick of looking at the existing cottage. Mr. Connors suggested the home be reduced in size.

Karen McCarthy of 50 Riverdale Avenue came forward and noted that there is currently a home on this property now that has been there for years and has not increased flooding. Ms. McCarthy explained that there is always a possibility of flooding in this area due to the river.

Mr. Costa noted that the increased runoff is his concern.

Mr. Hanley noted that the existing cottage is only 5 feet from the river and explained that during a significant storm event there is a possibility the home will lift and get swept away. Mr. Hanley feels that they have done everything possible to mitigate the concerns of the abutters.

Attorney O'Neill noted that a detriment cannot be that there needs to be 30 feet between the properties as the neighbor is only 8 feet and not 15 feet.

Mr. Dugan suggested taking a five minute recess.

MOTION: Mr. Dunn made the motion to take a five minute recess; seconded by Ms. Bartalamia and the motion carried 3-0.

The meeting was called back to order by Mr. Dugan.

John Costa of 95 Bridge Street came forward and noted that he is not sure what happen in 1926 and he is not an expert on the Zoning Bylaws, but he does know that this project was denied once and he feels it should still be denied. Mr. Costa discussed the safety issues including sight lines and noted that there is no guarantee that this will not cause flooding. Mr. Costa noted that there were less safety concerns with the first plan and it was denied.

Ms. Bartalamia noted that one of the modifications that were made was a reduction in the footprint to 26 x 36 and asked if there is a possibility to reduce it even more. Mr. Hanley noted that they have already reduced the footprint by 20% and explained that 26x36 is already relatively small and as small as they feel they could go. Attorney O'Neill explained that the home would also have to be marketable and would be the same as Mr. Costa's home.

Karen McCarthy of 50 Riverdale Avenue came forward and noted that if the existing home falls into the river it will cause even more problems for everyone.

MOTION: Mr. Dunn made the motion to close the public hearing; seconded by Ms. Bartalamia and the motion carried 3-0.

MOTION: Mr. Dunn made the motion to approve FTO Realty Trust for Lorraine Bradley (co-owner Irene Fiore & Marie Romano, C/O Paula Barry) for a Special Permit under Section 3600, Paragraph 3651 and 3670 of the Tewksbury Zoning Bylaw. The applicant proposes to construct a single family residence within the front yard as show on plans filed with this Board. Said property is located at 20 Riverview Avenue, Assessor's Map 98, Lot 121, zoned Residential; seconded by Ms. Bartalamia and the motion failed to carry 2-1. Mr. Dunn was opposed.
DUGAN, DUNN, BARTALAMIA

MOTION: Mr. Dunn made the motion to approve FTO Realty Trust for Lorraine Bradley (co-owner Irene Fiore & Marie Romano, C/O Paula Barry) for a variance from Section 3600, Paragraph 3640 of the Tewksbury Zoning Bylaw. The applicant proposes to construct a single family residence within the front yard as show on plans filed with this Board. Said property is located at 20 Riverview Avenue, Assessor's Map 98, Lot 121, zoned Residential; seconded by Ms. Bartalamia and the motion failed to carry 1-2. Mr. Dunn and Ms. Bartalamia were opposed.
DUGAN, DUNN, BARTALAMIA

New Business

There was no new business.

Old Business

There was no old business.

Adjourn.

MOTION: Ms. Bartalamia made the motion to adjourn; seconded by Mr. Dunn and the motion carried 3-0.

Approved: March 31, 2016

No new information was submitted.