



TOWN OF WEST NEWBURY

381 Main Street, West Newbury, MA 01985

ZONING BOARD OF APPEALS

Meeting Minutes 12-08-2021

Approved 04-06-2022

APPLICANT(S): Alex & Dorothy Moerlein

OWNER(S): Alex & Dorothy Moerlein

ADDRESS: 40 Maple Street, West Newbury, MA 01985

ASSESSOR MAP: R-10

PARCEL: 45

DEED REF.: BK. 32257, PG. 238

DEED DATE: 3/1/2013,

DOC.# 2013030100366

ZONING DISTRICT: Res C, **REQUEST:** Finding for relief from Section 4.A.1 of the West Newbury Zoning Bylaw, specifically to allow for the change in use from one-family dwelling to a two-family dwelling by converting the garage to a dwelling that includes the enlargement of the pre-existing structure on a non-conforming lot. Located in a Residence Zoning District C which requires 150' of frontage, the non-conforming lot has a frontage of 71.45' and Lot Area = 18,490 s.f. (20,000 s.f. Required), Front Yard Offset = 18.8' (40' required), Side Yard Offset = 5.3' (20' required).

Meeting Minutes of Continued Hearing 12-08-2021 for:

Finding for relief from Section 4.A.1 requirements

Application of Alex & Dorothy Moerlein

40 Maple Street, West Newbury, MA 01985

Previously, Alex & Dorothy Moerlein, owner/applicant of the property located at 40 Maple Street, West Newbury, MA 01985, filed an application for a building permit to "replace existing garage with in-law apartment", the West Newbury Building Commissioner denied the application on September 20, 2021, pursuant to Section 4.A.1 of West Newbury Zoning Bylaw. On October 4, 2021, Alex & Dorothy Moerlein, owner/applicant of the property located at 40 Maple Street, West Newbury, MA 01985, filed an application for a Finding for a relief from Section 4.A.1 of West Newbury Zoning Bylaw as per Section 8.A.1 and M.G.L. 40A §8. The applicant proposes to replace the existing non-conforming (20'x24') garage with a new expanded combination garage and 2nd dwelling unit structure (48'x28'/22') to be used as an in-law apartment. During the November 3, 2021 Hearing, the Board voted to be continued the Hearing to December 8, 2021, while seeking legal guidance.

West Newbury Zoning Board of Appeals Chairman Paul O. Kelly opened the public meeting and continued the hearing at 7:17 PM on Wednesday, December 8, 2021. In attendance were, Chairman Paul O. Kelly, members: Richard Davies, Patrick Higgins, Dennis Lucey, and Kim Monahan Borgioli was remotely participating. It is duly noted that requirements for posting and notice of the continued public hearing on the application for Finding were sufficiently met.

Alex Moerlein, owner/applicant, was in attendance, and Dorothy Moerlein participated remotely.

Neighbors that directly about the applicants attended the hearing and spoke against the relief requested. (1B) Brian & Claudia Conn, of #38 Maple Street, re-stated that they are adamantly opposed to application and felt that the scale and style of the addition is not in keeping with the neighborhood, no expansion was acceptable.

Due to the number of changes and relief requested on a non-conforming site and what seemed like many increases to non-conforming use, the board had asked for Town Counsel to review the site issues, the application and concerns of the Board.

Town Counsel, Robin Stein, Esq., of KP Law, responded with guidance and case law, Comstock V. Zoning Board of Appeals of Gloucester, 98 Mass..App.Ct. 168, (2020) Appeals Court of Mass., decided 08/03/2020, 153 N.E.3d 395. Board discussed the Court ruling and facts.

The Board reviewed the 40 Maple St. site issues, proposed changes, proposed structures, and each discussed how they felt about the application and relief for proposed changes. Four Board members stated that they felt that what was proposed seemed to go too far or was too much, the expansion of structures on site, doubling dwelling, adding second family unit, conversion and expansion, limiting access to S.S.D.S. in rear of parcel. One Board member spoke in favor of the application.

The Board suggested the applicants talk to their “team” of architect, land surveyor, lawyer for guidance and to the neighbors, to the Building Inspector, to discuss options, and to review what may be more acceptable.

Applicant & Board discussed possibility of the applicant withdrawing the application for relief without prejudice and Board recommended to talking Building Inspector, Architect, Land Surveyor and Attorney.

West Newbury Zoning Board of Appeals members voting: Chairman Paul O. Kelly, Richard Davies, Patrick Higgins, Kim Monahan Borgioli, and Dennis Lucey.

After affording all interested parties present an opportunity to speak on the application for the Finding for relief in the application, a motion to continue the hearing was moved and seconded, and voted 5-0 to continue the hearing to 7:00pm, on Wednesday January 19, 2022.

The ZBA reviewed and discussed the amended Meeting Minutes for the following hearing: West Newbury ZBA Meeting Minutes for 08-10-2021, No Vote.

A call to close the meeting was seconded, Voted 5-0 to close the meeting, the meeting was adjourned at 8:30pm. Respectfully submitted, Patrick Higgins, ZBA Member.