



ZONING BOARD OF APPEALS

Town of Chelmsford
50 Billerica Road
Chelmsford, MA 01824

MEETING MINUTES

March 2, 2023

(Approved 4/6/2023)

TIME: 7:00 PM

LOCATION: Town Offices, 50 Billerica Road, Chelmsford, MA

ROOM: 204

Members Present: Brian Reidy, Chair
Jamie Outland-Brown
Steven Mendez
Nancy Morency
Erin Drew, Associate Member
Peter Casserly, Associate Member
Glenn Diggs, Associate Member

Members Not Present: Charles Wojtas, Vice Chair

Others Present: Jose Negron, Building Commissioner and Zoning Enforcement Officer
Becky DaSilva-Conde, Community Development Departmental Assistant
Jonathan Silverstein, Town Counsel

Chair Reidy called the meeting to order at approximately 7:00 p.m.

PUBLIC INPUT: None

ADMINISTRATIVE REVIEW:

1) **3 Summit Avenue – Rob and Christen Fragala – inground pool proposal**

Resident request to review and discuss Section 195-11 “Accessory Buildings/Structures” as it pertains to inground pool requirements on corner lots, and previously approved variances for corner lots and/or front yard pools.

Mr. and Mrs. Fragala wanted to get feedback on their options for installing an inground pool, before spending resources on design plans and public hearing application costs. They presented a slide show depicting their property. Their home is a deck-house style house that is situated sideways on Summit Avenue with their functional backyard along Robin Hill Road. The house was likely situated that way due to sun direction and the bedrock in the area. The proposed pool would be located within the current fenced in area, and the Fragalas propose to install a taller privacy fence. Furthermore, they are also on well water. The well is located

along the side setback area (which is along the actual front of the house), creating another challenge. They prefer not to install the pool toward the rear of their property, because that area is part of their actual front yard (based on house orientation) and faces their abutting neighbors front door/yard. Their property is a conforming lot.

Due to the property being a corner lot, the property has two frontage setback requirements per zoning code. The property also has five lot lines.

Mr. Fragala presented two variances for comparison that were approved by the Board years ago for inground pools within the corner/frontage setbacks; one on the corner of Sylvan Avenue and Dalton Road, the other on Lady Slipper Lane.

The Board analyzed Section 195-11. A swimming pool is considered an accessory structure. A swimming pool shall not be located nearer than 10-feet to a principal building and it must be at least 10-feet from any side or rear lot line. The bylaw is written such that no structures are allowed in the front yard. This is where a variance is needed; to allow a swimming pool in the frontage of a corner lot.

The Board discussed the property and concluded that the Fragala's property does present a legal hardship due to lot shape (corner lot and lot lines), and likely soils too due to the neighborhood composition. The members individually expressed that they would vote in favor of a variance if the Fragalas return with a formal application request.

NEW PUBLIC HEARING(S):

1) 42 Westview Avenue – Paul and Colleen Synan

House is located on Heart Pond and was built in the 1930, making it a pre-existing nonconforming structure and lot size. The second-floor proposed addition will not change the footprint of the dwelling.

The existing dwelling is 728 sq.ft. The lot size is 2,799 sq. ft. (0.0642 acre). The second-floor proposed addition is 520 sq.ft. The renovated home will be 1340 sq.ft. total, consisting of 3 bedrooms and 2 baths. Increasing the existing FAR from 0.26 to 0.48. The conforming lot FAR threshold is 0.20 maximum for 40,000 sq.ft. lot.

Chair Reidy the departmental comments from Town Engineer and Fire Prevention Office, and one letter of support from an abutter.

Motion by Mr. Mendez to CLOSE the public hearing for 42 Westview Avenue.
Seconded by Ms. Brown. **Motion carries, unanimous, 5-0.**

Motion by Mr. Mendez to APPROVE the special permit for 42 Westview Avenue for exceeding the FAR, as presented and discussed. Seconded by Ms. Brown.

Motion carries, unanimous, 5-0.

2) 42 Woodbine Street – Michael J. Welch

Jackie Welch represented the applicant. The Welchs are the builders for this project. She distributed revised plans to the Board. The changes include the date on each page to reflect the latest revision today, and the LAA square footage was recalculated to include the nook area, and the renderings were updated to reflect a different roof style.

Chair Reidy clarified that per the proposed LAA layout, the $\frac{3}{4}$ bathroom is part of the and in-law apartment due to the connecting door. If they want to exclude this bathroom from the LAA square footage calculation, then they need to remove the connecting door to this bathroom, and move the LAA access door further down the hallway; separating this $\frac{3}{4}$ bathroom from the LAA entirely.

The full addition includes a 3-car garage with staircase access to a walk-up attic above the LAA (no access from inside the LAA). The LAA will have an unfinished basement for utility mechanicals.

The Chair read the departmental letters from Fire Prevention Office and DPW into the record.

Mr. Negrón clarified that the LAA bylaw limits the size of the apartment to 750 gross square foot, which only excludes staircases and common areas of ingress, egress, or access areas to the LAA. The proposed connecting mud room is a common area. However, the nook, foyer, walk-in pantry, walk-in closet in the bedroom, laundry room, hallways, etc. are not considered common areas. They need to be included in the LAA gross square footage calculation, per the bylaw. Ms. Welch confirmed that these areas were not included in the calculation. Her understanding was that all areas of ingress, egress, and access were excluded, as well as all closets. The LAA calculation presented is 748 sq. ft. Ms. Welch recalculated the square footage to include the areas mentioned above. The rough new LAA calculation is approximately 1,428 sq.ft. including the basement staircase which needs to be excluded. Therefore, the proposal is 1,300-1,400 sq.ft.

The Board discussed the fact that the bylaw is written to allow waivers. However, multiple members expressed concern with issuing a waiver without a specific reason, such as wheelchair access. Given the proposed LAA is nearly twice as large as permitted by the bylaw, to accommodate for a master bathroom, an additional $\frac{3}{4}$ bathroom, walk-in closet, pantry room, laundry room, a large dining room, etc. The majority of the members could not justify issuing a waiver for convenience purposes. They expressed concern that other previously approved LAAs were revised to decrease their size to accommodate the 750 sq.ft. maximum requirement, while others have been denied for not decreasing in size. They were also concerned that the proposal will turn the property into a two-family style house versus an in-law apartment. The LAA bylaw

states that the LAA “shall be ancillary or subordinate in size, location, and function to the single family dwelling unit.”

Chair Reidy stated he will reach out to Town Counsel to get a clarity on waivers for increasing the LAA size, and to differentiate between an addition with a kitchen versus an in-law apartment.

Ms. Welch agreed to a hearing continuation to update her clients and be given the opportunity to revise the plans accordingly.

Motion by Ms. Brown to CONTINUE the public hearing to April 6, 2023.
Seconded by Mr. Mendez. **Motion carries, unanimous, 5-0.**

CONTINUED PUBLIC HEARING:

1) 11 Rainbow Avenue – Sarah and Gary Brown are requesting a special permit under Section 195-6.1, for a Limited Accessory Apartment (LAA), and a variance(s) for the side setback requirement, the maximum building lot coverage and floor area ratio, any other relief deemed necessary. This property is located in the RB district – Parcel ID: Map 39, Block 163, Lot 15 and is approximately 10,720 square feet (0.25 acres) in size.

***** REQUEST FOR CONTINUATION WITHOUT DISCUSSION TO MAY 4, 2023 *****

Motion by Ms. Brown to CONTINUE the public hearing for 11 Rainbow Avenue to April 6, 2023. Seconded by Ms. Morency. **Motion carries, unanimous, 5-0.**

DISCUSSION / NEW BUSINESS: None

- 1) Ms. DaSilva updated the Board that Town Counsel has not responded to the three Board comments regarding the draft decision for 150-152 Dalton Road/Fougere Landscaping LLC. Therefore, the decision has not been finalized. She will add the draft agenda to the next meeting agenda for the members to go over and ratify.
- 2) Chair Reidy informed the members that the Finance Committee is meeting March 23, 2023 and invited the members to attend.

MEETING MINUTES TO APPROVE: None

NEXT MEETINGS: April 6, 2023 and May 4, 2023

ADJOURN

Motion by Mr. Mendez to adjourn the meeting at approximately 9:08 p.m.
Motion carries, unanimous, 5-0.

These meeting minutes are respectfully submitted by Becky DaSilva-Conde, Departmental Assistant., Community Development Office.