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FOR DISCUSSION PURPOSES**

TOWN OF WENHAM

BOARD OF ZONING APPEALS

21 Longfellow Road
The Petition of Pamela and Yiannis Katsiris

The Board of Zoning Appeals for the Town of Wenham, Massachusetts, held a regularly scheduled meeting at Wenham Town Hall on January 11, 2017. At that meeting, the Petitioners, Pamela and Yiannis Katsiris requested a Special Permit pursuant to the Wenham Zoning Bylaw Section 4.4.3.4 (reconstruction after catastrophic or voluntary demolition) and Variances from Section 5.1 (Table of Dimensional Requirements) and 12.1.6.5 (Permitted uses in the Aquifer Protection Overlay District) in connection with their plan to demolish an existing fire-damaged residence at the site and to construct a new single-family residence which will be substantially larger than the existing structure. Subsequent to that hearing, the Petitioners returned for a continued public hearing on March 2, 2017 with a modified plan for construction. The proposed modifications in their plans which responded to questions raised by the Board and neighbors, removed the necessity for the issuance of variances for the Petitioners. However, a Special Permit is still required under By-Law Section 4.4.3.4.b and at the continued public hearing, further evidence was taken with respect to that request for Special Permit. That hearing was again continued to March 15th.

Present at the hearing were the following members of the Board:

Anthony M. Feeherry (Chairman)
Jeremy Coffey
Christopher Vance

Notice of the original hearing was properly given by publication in the Hamilton/Wenham Chronicle, a newspaper having a circulation in the Town of Wenham. Notices were also sent to persons deemed affected.

RELEVANT FACTS

At present, the only structure on the property at 21 Longfellow Road site is a small (approximately ___ square feet) fire-damaged single-family dwelling, which exists on a non-conforming lot with approximately 17,000 square feet of total area. The Petitioners propose to demolish the existing structure, and to construct or (reconstruct) a single-family dwelling and a one car garage on the preexisting nonconforming Lot. In order to accomplish this, the Petitioners require a Special Permit from this Board pursuant to Section 4.4.3.4.b of the Town of Wenham Zoning Bylaws allowing Petitioners to reconstruct a building after a catastrophe in a manner that exceeds the area of the original nonconforming structure so long as reconstruction

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occurs within two (2) years after such catastrophe and where the proposed construction otherwise meets the standards applicable to such special permits.

In determining whether a Special Permit should be granted, this Board must consider whether the proposed reconstruction or extension of the existing structure is substantially more detrimental to the neighborhood than the existing structure. This requires us to determine if the adverse effects, if any, of the proposed dwelling outweigh the beneficial impacts to the Town or the neighborhood, in view of the characteristics of the site. In addition, our Zoning Bylaw provides six (6) specific considerations which this Board may take into account in deciding whether to grant a Special Permit: (1) Community needs; (2) traffic flow and safety, including parking and loading; (3) adequacy of utilities; (4) neighborhood character; (5) impacts on the natural environment; and (6) potential fiscal and economic impact, including impact on Town services, tax base and employment.

At the public hearings on this matter, the Board heard testimony from a number of neighbors and received a Petition and various communications from Town Departments and others. The Board has taken all of these into account in connection with its Decision. In addition, the Board members all visited the site on one or more occasions.

DECISION

The property in question presents significant challenges to development due to topography. Moreover, the access to the site is a private way which is in most areas a single lane and which is in need of repair. Travel on Longfellow Road is particularly challenging in the winter time. Indeed, the current state of the roadway is in such a state of disrepair that there is a risk that the Town may suspend services such as plowing. The proposed structure does not exacerbate this situation; however, this Board believes that due to public safety concerns, an approval of the Special Permit requires the imposition of a number of reasonable restrictions.

Subject to the restrictions set out below, the Board of Appeals approves under Mass General Laws Chapter 40A, and the relevant provisions of the Wenham Zoning By-Law, the requested Special Permit to allow construction of a single-family home at 21 Longfellow Road. In granting the Decision, however, we require the following:

1. All construction including dry wells and other features shown on plans submitted to this Board shall be in strict compliance with the revised set of plans submitted to the Board titled and dated as follows: _____.
2. Under no circumstances may the height of the structure, subsequent to its initial construction, be built in excess of X feet. And under no circumstances shall the loft area above the garage be improved or used for any dwelling purposes. No additional rooms or furnished areas shall be added to the dwelling.
3. A Deed restriction will be applied to the Property which will limit it to a two-bedroom owner-occupied single-family home – assuming that a septic plan is approved by the Board of Health. This restriction is consistent with the character of

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the neighborhood and consistent with representations made to the Board by Petitioners.

4. The interior of the home will not be modified without a further Decision of this Board after an application for a building permit, and in particular, closets will not be added to the rooms on the basement floor of the structure, without further action by this Board. The purpose of this is to insure that the property will function as a two-bedroom property, consistent with the neighborhood.
5. No more than two (2) vehicles shall be regularly parked at the site, whether registered or unregistered, and no boats or trailers shall be stored at the site. The purpose of this restriction is to alleviate some concerns of neighbors associated with additional traffic which may in the future be generated by a home which is substantially in excess of the size of other homes in neighborhood. Any occasional parking by guests shall be on the Petitioners' property.
6. The home will be constructed in compliance with any other restrictions imposed by the Conservation Commission, the Board of Health, the Highway Department, the Board of Selectman and the Fire Department. In particular, due to the location of the dwelling and the current condition of Longfellow Road, a sprinkler system shall be installed at the dwelling as approved by the Fire Department.
7. Inasmuch as the plan presented to this Board proposes improvements to an existing private way identified as Oak Street, this Board expresses no view as to the legality of those improvements and believes that any such improvements must be coordinated with other abutters to the private way.
8. It is obvious that the construction process for the home at 21 Longfellow Road, which will involve numerous heavy construction vehicles, may have an adverse effect on Longfellow Road. Accordingly, it will be the responsibility of the Petitioners to take photographs of the road before and after construction, so as to confirm to this that Longfellow Road has not been made materially less accessible to traffic than it is at present time. We encourage, but do not require, the Highway Department to discuss with Petitioners a list of potential roadway improvements.
9. Construction at the site, because of the close proximity of other homes, will be limited to the hours of _____ through _____ Monday through Friday.
10. Possible signage and improvement to pathway to Pleasant Pond (discuss).
11. Soil removal (see By-Law).
12. Conservation Commission approval.
13. Landscaping Plan.

Anthony M. Feeherry

Jeremy Coffey

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