



TOWN OF GROVELAND
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**TOWN OF GROVELAND
MASSACHUSETTS 01834**

BOARD: Zoning Board of Appeals
TOPIC: Monthly Meeting
MEETING DATE: **December 6, 2017**
MEETING PLACE: Town Hall Meeting Room
TIME: 7:30 P.M.
MEMBERS PRESENT: K. Bailey, K. Franson, J. Normand, D. MacDonald
MEMBERS ABSENT: none
GUESTS: none
RECORDER: J. Hauss

Bailey called the meeting into order at 7:35 p.m.

Application 2017-10- Heather & Manuel Torres for Special Permit for In-Law Apt.
Bailey read the legal notice for Application #2017-10 into record.

Brian Lynch, the owners' contractor, presented the application. The proposed addition is approximately 28'x28' and would meet zoning setbacks. It would contain approximately 784 sq.ft. Existing structure is a 1.5 story Cape style home. The structure, size, and use meet the building bylaws. The husband and wife will continue to live in house and the in-law apartment is for owners' mother to live in. A conjoined breezeway will join main house and in-law apartment at the driveway. Building permits are already filed. All exterior work will match the main house. Parking for the in-law apartment will be in the existing driveway.

Lee Murray, an abutor, called town clerk to clarify that he is all for them building this apartment.

After all of the Board's questions were asked, the chair asked for public comment. No one came forward.

Bailey closed the hearing at 7:40 p.m. and called for the Board to discuss or bring a motion.

MacDonald motioned to grant request for in-law apartment-special permit as it meets the current Zoning Bylaws in Groveland. Normand seconds the motion.
(Voted: 4-0).

Application 2017-11- John Stokes for a Special Permit for In-Law Apartment
Bailey read the legal notice for Application #2017-11 into record.

Peter Caruso is the Attorney representing Mr. Stokes.

The purpose is for the couple to live in the accessory apartment when they are older to allow their children to move into the main house. The application is for one dwelling unit with one in-law apartment, containing 751 sq. ft.

Attorney Caruso presented views of the home and in-law apartment to demonstrate how it will look. All parking is off street in the driveway. He stated that the in-law will increase value of the house and it already has the highest value on the street. He stated that the in-law apartment meets all standards under Section 7.1 of the Zoning Bylaws and is up to date with all building codes and the Health Department requirements.

Bailey asked the applicant to clarify how the main house will connect to the second floor. Attorney Caruso explained that it will connect through the family room that is above the garage and through the proposed storage space above the in-law apartment (which was part of the in-law apartment approved under a prior special permit). It will connect above the proposed walk in closet, and the family room connects internally to the new structure.

Franson asked how many bedrooms the septic system is designed for. Mr. Stokes stated that the septic is a 5 bedroom septic. The main house is considered a 4 bedroom by the Town.

Attorney Caruso stated that construction has begun under a building permit and is approximately three-quarters constructed.

Normand asked the size of the existing house. Mr. Stokes stated that the house is 38 x 28 and two stories and has a 14 by 18 entry way, the garage is 30 by 24, and TV room is 15 by 30. Assessor has it as 4,439 but 770 square feet was for the original in-law apartment. The in-law nets out at less than 900 square feet. Normand notes that the permitted size of the accessory apartment is 25% of the main structure or 900 square feet, whichever is greater so the measure of the existing building may permit a greater size. Attorney Caruso stated that they have worked with their architect and the Town to ensure that the apartment was designed to be under the 900 square foot threshold.

MacDonald asked whether the in-law apartment meets all of the setbacks. Attorney Caruso stated that the setbacks are shown on the site plans and signed off on by the building inspector.

Bailey asked for comments from the public.

Rachel Judkins is the hired attorney on behalf of Ralph and Susan McNeil of 97 Seven Star Road; Daniel and Jane Donohue of 94 Seven Star Road; Paul Link of 81 Seven Star Road; and Chris and Nina Santasosa of 85 Seven Star Road all of whom object to the plan. They claim there isn't a need for another in-law apartment as the current one is not used. Also, the applicant should have come to the board for a modification of the original special permit. Attorney Judkins also objected to the size of the proposed in-law apartment. The original was for 776 square feet and now the larger is measured at 751 square feet. They are tending to use "living area" and not "habitable area" as used in the Bylaw. The only thing able to back out is the unfinished basements, unfinished attics, workshops, closets, and garage. They cannot back out bath, hallways, foyer and stairs. This adds up to over 900 feet as described in the bylaws.

The structure is substantially built. Mr. Stokes was served a lawsuit and was issued a cease and desist order prohibiting construction except for "buttoning up." Outside of cease and desist he

Normand asked about internal access. Mr. Stokes explained that the connection to the main house had not yet been built. He also stated that the windows on the second story space have been changed to make it illegal for occupancy because they do not qualify as egress windows. They have taken out carpeting and heat. The current in-law was used by Stokes' children. Once they moved out, the apartment was left vacant and never rented out. The pictures of the house do not look like a duplex.

MacDonald asked if it changes the character of the neighborhood if it can't be seen from the street.

Attorney Judkins claims they are modifying the current in-law in addition to building the new one. She claims they need a special permit for this but they don't have one. She believes that the home is being used as a two family home.

Attorney Caruso presented a Zoning Board special permit application stamped by the Town Clerk. Bailey asks what happened with this application as it is stamped but was not heard by the Board. Mr. Stokes states that he was told that a new special permit wasn't necessary and the application and filing fee was returned to them.

Attorney Judkins objected to the statements about the architect's certification, stating that it only applies to the existing in-law, not the addition.

John McNeil (west side of house, 97 Seven Star Road) opposes the application. He claims the house is an eyesore and had to put up bushes to block it out. He says that it will affect his property and the neighbor's property values. It looks like a two-family house. He did not agree with the original structure and continues to disagree with this one. He objects because Stokes did not do things the right way.

Susan McNeil (west side of house , 97 Seven Star Road) opposed the application. She claims she can see four different roof lines on the house. She doesn't feel she should have to look at that each day. You can see it from any direction and is the largest in-law apartment she has ever seen. It changes the single family character of the neighborhood and the rules were not followed. You can see the addition when driving from Georgetown.

Dan Donahue (east side of house, 94 Seven Star Road) opposes the in-law apartment. They are talking about a 1500 square feet of living space so 751 is not an accurate representation. Mr. Donahue presented photographs of progress of construction after the stop work order was issued. It's two completely independent living quarters and not a typical in-law apartment.

Christopher Satutosuosso (85 Seven Star Road) opposes the in-law and is just worried about the people that would buy the home after the Stokes sell it.

Don Murray (89 Seven Star Road) said he has no problem with the building and thinks it's one of the nicest properties in the neighborhood. Having multiple roof lines is not against regulation. It appears they have done everything right and it should pass.

John McNeil states that he feels that the abutters were given a raw deal because they were denied participation in the hearing process and that can't be cured. Giving them the special permit would be rewarding bad behavior.

has made repairs against the order and has made alterations to existing in-law apartment. Attorney Judkins asked that the Board not consider the work done as a factor in its decision on this application. Attorney Judkins presented additional pictures to the Board of the home before the lawsuit and what it currently looks like which she states is proof of violating the cease and desist order.

MacDonald asked whether the cease and desist would be lifted if the applicant is able to cure the lack of compliance by obtaining the requested special permit. Parties agreed that a special permit for the in-law would cure the defect and terminate the cease and desist order.

Attorney Judkins also argued that the proposed use of the upstairs of the existing in-law as storage isn't believable and would want a condition requiring annual inspections. There is no connection between the current in-law and house. You would have to use an exterior door to go between. The length of the addition is 64 feet and looks like a two family home. She says that the house does not maintain the characteristics of a single family home, which, according to bylaws, only permits one additional egress. This new in-law apartment will contain 3 egresses. It has separate foundations. The applicant had ample time and opportunity to come in for a special permit and chose not to because he knew neighbors would be upset. There were other designs that would have less impact on neighbors that were presented to the neighbors. Ms. Judkins states that the property has a variance for frontage. It needs 150' for a single family home and have a variance for that and it's not clear if they have sufficient frontage for a two-family home. She asked the Board to find that this is not an in-law apartment and that the applicant was required to come before the Board for any alterations to existing in-law apartment. Attorney Judkins presented additional photographic views of work and asked that the Board deny the permit because proper procedure was not followed and the apartment exceeds the permitted size under the Zoning Bylaws.

Bailey asked the Board for any questions for Attorney Judkins. MacDonald requested that the applicant be permitted to respond.

Attorney Caruso agrees that the order presented is a legal order but that it's an order to continue work. MacDonald read the cease and desist which states that they must discontinue the construction to the interior until issuing a special permit for new in-law apartment or abandonment of in-law apartment.

Attorney Caruso stated that there's no intent to abandon the in-law apartment. Stokes states that any work done after the cease and desist is compliant with the order which allows roofing, siding, windows, and doors. It is unfinished on the inside. Recent work was to do work on the main house. Attorney Caruso objected to the characterization of proceeding without permits. He went to Building Department, Conservation Commission and Zoning. The existing in-law apartment is permitted and approved. The Building Inspector only told the applicant that they needed to come obtain a special permit when they were at court on the injunction. Attorney Caruso presented additional photographs showing what can be seen. The new plan is certified by an architect as complying with the current town bylaws. There are no intentions to rent the apartments out to anyone not related to them directly. Applicant would welcome annual or even bi-annual inspections and the suggestion that the upstairs would continue to be used is pure speculation.

Attorney Caruso stated they had 3 permits in July – Conservation, Zoning Board, and Building Permit – before any construction began. It's not correct to say that they didn't follow procedures. Attorney Caruso then states that, aside from use as an in-law apartment, the structure could be built under Town Bylaws.

Al DiBiaso (from Amesbury, the project architect) states that ugly is subjective; it is up to individual standards and perspectives. Multiple roof lines are not unusual in New England as buildings were added on and are a driving force in the aesthetic of New England architecture. The 1500 square feet is incorrect; it double counts the bedroom. He confirms numbers are precise and correct as well as most current. Modifications can be made to the two buildings such as tying the two units together on both levels and many solutions to the issues and concerns were mentioned.

MacDonald asked about the multiple egresses and the inclusions and exclusions. Mr. DiBiaso stated that the inclusions and exclusions were done according to the regulations.

MacDonald wants copies of the building plans to confirm that the building permit was only invalidated on the use issue rather than for other reasons. The plans and permits are not clear and we need more information. It's not clear from the court order whether the building permit was invalidated. He stated that he wants to get the decision right under the law and needs to know if the underlying building permit was valid or invalid.

Attorney Judkins asked who provided information to architect. Mrs. Stokes stated that they came before the Board in November with Sam Joslin to be advised on the interpretation of the Bylaw because there is an inconsistency. She states that Mr. Joslin relies on the Massachusetts Building Code when there is an inconsistency. MacDonald discusses ambiguities in Zoning Bylaw.

John McNeil again objects to lack of process. If the application had been presented to the Board before it was constructed, he doesn't think it would have been approved.

Attorney Caruso asked if Board would like Building and Conservation Commission files before the next meeting. Board agrees that they would like to see both files. Franson also asks the Board to provide a copy of the application for original in-law apartment and plans submitted with that and any copies of documents submitted tonight. MacDonald also asked for court pleadings. MacDonald asked if building permit was appealed.

MacDonald motioned to continue the hearing to January 17, 2018 at 7:30 p.m. Normand seconds the motion. (Voted: 4-0)

2017-12 Special Permit for in-law apartment- Jana Fitzgerald, 18 Evergreen Ln, Groveland

Bailey read the legal notice into record.

Fitzgerald is looking to remodel the basement to accommodate her elderly mother. No exterior work or changing the structure will be done. They will remodel the basement that is 25 x 26.

The house has 4 bedrooms and 2.5 baths. Fitzgerald needs to confirm with BOH that septic can be permitted for 5 bedrooms rather than 4. There is a walk out basement to the outside-one egress.

Two letters of approval were submitted along with abuttor Camille Early (11 Evergreen Ln) supporting the application.

Bailey motioned to grant Application 2017-12, an in-law apartment in the basement of the structure subject to the septic to be approved by the BOH. The motion is second by Franson. (Voted: 4-0)

Other Business:

Bailey discussed the new application form. She said Sam Joslin reported that the company that created the electronic system for building permits could convert the form into an electronic file that would connect with the building department. He will look into pricing. The Board discussed whether they would prefer to have application materials mailed or emailed to them. Most members preferred to receive mailed materials.

The Board continued discussing the application requirements. Bailey stressed she would like to require submitted plans to be stamped by an architect, surveyor, or PE but to clarify that the requirement can be waived for applications for which it is not necessary. MacDonald disagreed. The Board agreed to pick up discussion at the next meeting.

Reimbursement- Franson to be reimbursed for MVPC Zoning workshop for \$30.00. Normand moves and Bailey seconds. (Voted: 3-0, Franson abstaining)

Franson moved to reimburse Hauss for \$27.78 for supplies and parking for court proceeding and for invoice for \$429.53. Normand seconds. (Voted: 4-0)

Franson motioned to pay Eagle Tribune invoice for \$883.75. Bailey seconds. (Voted: 4-0)

Franson motioned to approve minutes as amended for November. Normand seconds. (Voted: 4-0)

Franson motioned to adjourn meeting at 10:25pm. MacDonald seconds the motion. (Voted: 4-0)



Chair



Date