



TOWN OF LINCOLN

MASSACHUSETTS

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Zoning Board of Appeals

Minutes Thursday, November 3, 2016 Hearing

Members Present: Joel Freedman, Co-Chair, David Henken, Co-Chair, David Summer, William Churchill, Eric Snyder, Vinit Patel.

New Matters:

Roger Cody, 10 Twin Pond Lane, M/P 180-14-0, Daniel Carr of Stamski and McNary appeared before the board on behalf of Roger Cody, seeking a special permit for an accessory apartment in a barn on the property. Mr. Carr explained to the board that this accessory structure is not used for an accessory apartment, although it has a kitchen and other indications of being an apartment. It is used only for guests and to host events. The applicant has gone before the planning board for review and they recommended approval. The structure is oversized at 2300 SF, and the By-law only permits the approval of accessory apartments that are 1200 SF or less so the board cannot grant the requested special permit. David Henken asked if Mr. Cody had any plans to use it as an accessory apartment and Mr. Carr responded no and agreed it would not be used as such. Joel Freedman suggested that a deed restriction could be used to ensure that the barn is not used as an accessory apartment and provided Mr. Carr with a copy of a previous one for reference. Mr. Carr indicated he would speak with the applicant about this alternative. No one appeared from the audience or spoke.

Action: Motion to continue the hearing till December 8, 2016 was duly made. It was approved unanimously as follows: Joel Freedman – yea, David Henken – yea, Vinit Patel – yea, David Summer – yea, William Churchill – yea, Eric Snyder yea.

Ben and Cindy Warf, 15 Old Sudbury Road, M/P 179-27-0, Doug Adams, ETAL Studios, Inc. and Cindy and Ben Warf appeared before the board, to seek a modification to an existing special permit for an accessory apartment. Ben Warf told the board that they are fairly new residents to Lincoln and liked the property because it had a cottage/accessory apartment used as such and since they have a 25 year old special needs daughter, the property was a perfect fit. Doug Adams spoke to the board about the renovations; the new septic system is under review and the planning board's recommendation. There would be extensive renovations to the accessory apartment, as part of the proposed work, including an increase in its size. The board discussed the square footage and David Henken wanted clarification on the new structure. The special permit for the accessory apartment has not expired and a transfer is required as well as modifying to alter the existing as presented. The applicant stated they had notified their neighbors of the project. No one in the audience appeared or spoke.

Action: Motion to transfer the special permit for an accessory apartment to new owner was duly made and approved subject to the discussed conditions and issuance of a written decision and to the terms and conditions of the written decision for a term expiring on September 3, 2022. It was unanimously approved as follows: Joel Freedman – yea, David Henken – yea, Vinit Patel – yea, David Summer – yea, William Churchill – yea, Eric Snyder yea. A second motion to modify and renovate with plans presented was duly made and approved subject to the discussed conditions and issuance of a written decision and to the terms and conditions of the written decision. It was unanimously approved as follows: Joel Freedman – yea, David Henken – yea, Vinit Patel – yea, David Summer – yea, William Churchill – yea, Eric Snyder yea.

Continuances:

Sandys Bureau, Hannah and Jeff Sias, 109 Old Sudbury Road, M/P 177-30-0, Sandys Bureau, Hannah and Jeff Sias appeared before the board for this continuance hearing to hear the options they may have to continue their proposed plans for an accessory apartment in their attached garage. The issue is that certain expansions of the house were undertaken less than 10 years ago, which when taken together with the expansion in connection with the proposed conversion of the accessory apartment, would cause the project to fail to comply with the no-more- than 10% increase requirement in the By-law. The board suggested that they could reduce the size of the structure to fall under the 10% requirement, or do plans without the kitchen and work with the building commissioner as to what may or may not trigger an accessory apartment. They thanked the board for their guidance.

Action: The applicant withdrew the special permit application.

Appeal of Decision of Building Commissioner, 16 and 22 Bypass Road (McLean Hospital Corporation), M/P 109-15-0 and 109-16-0, Attorney Michael Fee and the abutters as well as

Diane Tillitson and Dr. Levendusky appeared at the hearing to hear the discussion from the board. There was no discussion from either side and no additional submissions. The hearing was closed. Vinit Patel recused himself. Joel Freedman thanked both sides for great presentations, thoughtful comments and the public for being respectful and providing cogent comments. Each board member was given time to speak and gave their reasons as to how they came to their decision. Eric Snyder felt after reading the material felt the primary use was educational. David Henken's view was the primary use is treatment and not educational. David Summer agreed with David Henken and voted for treatment. Bill Churchill felt that education is rolled into therapy but its closer to therapy than education. Joel Freedman struggled with therapy vs education, but felt that the use was therapeutic and the education component, to the extent here was one, was minor.

Action: A motion to vote was taken and the board voted 4 to 1 to overturn the building inspector's decision. And find that McLean Hospital's proposed use of the property does not have the benefit of the Dover Amendment and is not exempt from the By-law's use requirements. It was approved, subject to the issuance of a written decision and to the terms and conditions of the written decision, as follows: Joel Freedman – yea, David Henken – yea, David Summer – yea, William Churchill – yea, Eric Snyder - nay.