



TOWN OF TEWKSBURY ZONING BOARD OF APPEALS

1099 Main Street
Tewksbury, MA 01876

Nancy Rego, Chair
Rob Dugan, Vice-Chair
Daniel Teixeira, Clerk
Associate Members:
Michael Farnum
Joseph Cary

DEPARTMENT OF COMMUNITY DEVELOPMENT

MEETING MINUTES March 31, 2022

The meeting was called to order by Rob Dugan, Vice-Chair, at 6:30 p.m. at the Tewksbury Town Hall. In attendance were Michael Farnum and Joseph Cary.

Nancy Rego and Daniel Teixeira were not in attendance.

Approval of Meeting Minutes – February 24, 2022

MOTION: Mr. Farnum made the motion to approve the February 24, 2022 meeting minutes; seconded by Mr. Cary and the motion unanimously carried 3-0.

NEW HEARINGS

CJM Builders on behalf of Cheryl Corson, for a variance under Section 4130, Appendix B of the Tewksbury Zoning Bylaw, for acreage and Special Permit under Section 3820 to demolish and build a new single-family home on a pre-existing non-conforming lot as shown on plans filed with this Board. Said property is located **41 Whited Avenue**, Assessor's Map 25, Lot 52, zoned Residential.

Present was Chuck Mullick of CJM Builders.

Mr. Mullick explained that the applicant is proposing to demolish the existing dwelling as well as the detached two car garage and construct a new home. Mr. Mullick noted that the existing home was constructed "a little bit" into the street and the new home will conform to all setback requirements and noted that they will be constructing a two-car garage with a side loading driveway to access the garage. Mr. Mullick explained that the new home will be a 3,000 square foot Cape style with a breezeway and two car garage with rooms above. Mr. Mullick noted that they are seeking the variance for the lot size and a special permit as it is nonconforming.

Mr. Dugan asked if the new home meets all of the setbacks but does not meet the one-acre requirement and Mr. Mullick confirmed this. Mr. Dugan noted that the existing home is in fact in the street and Mr. Mullick confirmed this.

Mr. Farnum asked if any of the abutters have expressed any concerns. Mr. Mullick explained that the home is owned by a longtime family friend of his who is in the process of losing the home, and nothing can be done with the home in its current state; it would have to be fully gutted and there is still the issue with it being in the street.

Mr. Dugan opened the hearing to the public.

Keith Pierce of 2 Ward Street came forward and noted that this property abuts his property to the side. Mr. Pierce explained that one of his concerns is if this will be the same footprint and closer to his property. Mr. Dugan noted that it will not be the same footprint and explained that the new home will be more in the middle of the lot so that it is conforming. Mr. Pierce noted that it is a much larger home than what is there now, and Mr. Dugan noted that 2 ½ stories is typical. Mr. Pierce noted that it will be closer to his property and Mr. Dugan confirmed this and explained that it will still be 52 feet away. Mr. Pierce noted that there is currently a fence between the two properties and asked if this will be changed. Mr. Mullick explained that they have not discussed fencing, but they would not be opposed to installing better fencing. Mr. Mullick offered to show Mr. Pierce the drawings of the home. Mr. Pierce noted that he is not opposed to the project, he just wants to ensure it is not too close to his property.

Mr. Dugan noted that he appreciates the efforts to maintain the setbacks.

MOTION: Mr. Cary made the motion to close both parts of the hearing; seconded by Mr. Farnum and the motion unanimously carried 3-0.

**MOTION: Mr. Farnum made the motion to approve CJM Builders on behalf of Cheryl Corson, for a Special Permit under Section 3820 of the Tewksbury Zoning Bylaw to demolish and build a new single-family home on a pre-existing non-conforming lot as shown on plans filed with this Board. Said property is located 41 Whited Avenue, Assessor's Map 25, Lot 52, zoned Residential; seconded by Mr. Cary and the motion unanimously carried 3-0.
DUGAN, FARNUM, CARY**

**MOTION: Mr. Farnum made the motion to approve CJM Builders on behalf of Cheryl Corson, for a variance under Section 4130, Appendix B of the Tewksbury Zoning Bylaw, to demolish and build a new single-family home on a pre-existing non-conforming lot as shown on plans filed with this Board. Said property is located 41 Whited Avenue, Assessor's Map 25, Lot 52, zoned Residential; seconded by Mr. Cary and the motion unanimously carried 3-0.
DUGAN, FARNUM, CARY**

John Reichtel & Stephanie Borges C/O David Plunkett, under MA General Laws, Chapter 40A, Section 8 as a party aggrieved by a decision made by the Building Inspector in a letter dated February 8, 2022, to construct a metal storage shed. Said property is located at **30 Carter Street**, Assessor's Map 103, Lot 4, zoned Residential.

Present was Attorney David Plunkett and applicants, John Reichtel and Stephanie Borges.

Attorney Plunkett noted that the applicants have lived at this property for approximately seven years and explained that they had previously rented the property for many years and then recently purchased it. As part of their ownership, the applicants would like to have a shed to be used as a hobby shop and workout space. Attorney Plunkett explained that while it is a metal structure, it is a functional building. Attorney Plunkett referenced the Building Inspector's denial letter and noted that reference is made to a provision in the bylaw that states it not a permissible accessory structure. Attorney Plunkett explained that Section 3523 has three subsections which refer to truck box, Conex box, and steel storage, which are three of the same types of things: a storage unit. Attorney Plunkett explained that they understand that the town does not want these large Conex boxes on properties for storage.

Mr. Dugan noted that there is no definition in the bylaw for a steel storage unit. Attorney Plunkett explained that they feel the intent of the bylaw is that that the three (truck box, Conex box and steel storage) are the same. Attorney Plunkett noted that there are a number of steel structures in town and discussed the structure on Marshall Street that was recently approved by the Board. Attorney Plunkett noted that the property abuts the speed skate, which was formerly North Meadow Country Club, and no opposition has been received from any of the abutters. Attorney Plunkett provided the Board with six signatures in support of the project.

Mr. Dugan asked if the size is 25 x 50, and Attorney Plunkett confirmed this. Mr. Dugan noted that only a photograph of the front has been provided and asked if there are photographs of the sides, back, and inside. Attorney Plunkett noted that the inside layout has been provided with the plans.

Mr. Farnum asked how tall the structure will be, and Mr. Reichtel noted 16 feet at the highest point.

Mr. Dugan asked if the applicants are seeking a permit for this to be an accessory structure and Attorney Plunkett confirmed this. Mr. Dugan asked if there is heat, electricity, and plumbing and Mr. Reichtel noted that he would like to install this eventually, but at this time just electricity. Mr. Dugan referenced Section 3511 and noted that it states accessory buildings shall not be inhabitable and explained that if utilities are installed, then it is habitable. Attorney Plunkett explained that they are just requesting electricity, and there is no intent to have a bathroom or bedroom.

Mr. Cary asked if the neighbor to the left is the speed skate/old North Meadow and Mr. Reichtel confirmed this. Mr. Cary asked if this will be constructed on a slab and Mr. Reichtel confirmed this.

Mr. Farnum noted that the description on the application states, “hobby shed” and asked why it was not called an accessory structure and what the difference is between the two. Attorney Plunkett explained that it is a functional building being used as a workout space and hobby shed and was denied as an accessory structure because it is made of steel material, which is in conjunction with a truck box. Attorney Plunkett noted that it is not a steel storage building, it is a functional building. Attorney Plunkett discussed the matter recently before this Board on Marshall Street, which was approved and is a mark larger building. Mr. Dugan noted that the one on Marshall Street is an accessory building. Mr. Dugan explained that his issue is there is no definition of what a steel building is. Mr. Dugan asked how Attorney Plunkett would define steel building and Attorney Plunkett explained it would not be a functional building and is used for storage. Mr. Dugan explained that, in essence, the applicants are requesting to construct a steel storage unit as it was called a shed and Attorney Plunkett clarified “hobby shed”.

Mr. Farnum asked if the neighbors have provided any input and are aware of the size and Mr. Reichtel explained that letters and the plan were provided to the neighbors.

Mr. Cary asked if it was denied because it is metal, and Mr. Reichtel confirmed this.

Mr. Dugan asked what the actual name for this structure is and Mr. Reichtel noted it is called a “X Model Hut”. Mr. Dugan asked if a certified plot plan was required by the Building Commissioner and Mr. Reichtel explained it was not. Mr. Dugan noted that the plot plan and drawing that were provided are different as one shows 250 feet and the other shows 298 feet. Mr. Dugan asked what happen to the shed and deck and Mr. Reichtel noted that they are now gone. Mr. Dugan asked if it is existing nonconforming due to the frontage and Attorney Plunkett confirmed this and noted that is also less than one acre.

Mr. Dugan opened the hearing to the public and no one came forward to comment.

Mr. Dugan explained that any other time he would suggest continuing this matter due to the lack of sufficient plans.

MOTION: Mr. Farnum made the motion to close both parts of the hearing; seconded by Mr. Cary and the motion unanimously carried 3-0.

Mr. Dugan noted that the Board always votes in the affirmative and explained that if the Board votes “yes” it votes in favor of the Building Commissioner, and a “No” vote would be in favor of the applicant. Mr. Dugan asked Attorney Plunkett if he understands this and Attorney Plunkett confirmed.

MOTION: Mr. Farnum made the motion to approve John Reichtel & Stephanie Borges C/O David Plunkett, under MA General Laws, Chapter 40A, Section 8 as a party aggrieved by a decision made by the Building Inspector in a letter dated February 8, 2022, to construct a metal storage shed. Said property is located at 30 Carter Street, Assessor's Map 103, Lot 4, zoned Residential; seconded by Mr. Cary and the motion unanimously failed to carry 0-3.
DUGAN, FARNUM, CARY

New Business

There was no new business discussed.

Old Business

There was no old business discussed.

Adjourn.

MOTION: Mr. Dugan made the motion to adjourn; seconded by Mr. Farnum and the motion unanimously carried 3-0.

Approved: April 28, 2022

List of documents for the 03.31.2022 meeting

Documents can be found in the Community Development Office

6:30 P.M. Call meeting to order

6:30 P.M. Approval of Minutes: **February 24, 2022**
• **February 24, 2022 Minutes**

NEW HEARINGS

6:30 **CJM Builders on behalf of Cheryl Corson**, for a variance under Section 4130, Appendix B, of the Tewksbury Zoning Bylaw, for acreage and a Special Permit under Section 3630 to demolish and build a new single-family home on a pre-existing non-conforming lot as shown on plans filed with this Board. Said property is located at **41 Whited Avenue** Assessor's Map 25, Lot 52 zoned Residential.
• **Application Package dated 3/3/22**

6:30

John Reichtel & Stephanie Borges c/o Plunkett & Plunkett under MA General Laws, Chapter 40A, Section 8 as a party aggrieved by a decision made by the Building Inspector in a letter dated February 8, 2022, to construct a metal storage shed. Said property is located at **30 Carter Street**, Assessor's Map 103, Lot 4, zoned Residential.

- **Application Package dated 3/9/22**

Old Business
New Business
Correspondence
Adjournment