



TOWN OF WEST NEWBURY

381 Main Street, West Newbury, MA 01985

ZONING BOARD OF APPEALS

Meeting Minutes 11-03-2021

Approved 04-06-2022

APPLICANT(S): Alex & Dorothy Moerlein

OWNER(S): Alex & Dorothy Moerlein

ADDRESS: 40 Maple Street, West Newbury, MA 01985

ASSESSOR MAP: R-10

PARCEL: 45

DEED REF.: BK. 32257, PG. 238

DEED DATE: 3/1/2013,

DOC.# 2013030100366

ZONING DISTRICT: Res C, **REQUEST:** Finding for relief from Section 4.A.1 of the West Newbury Zoning Bylaw, specifically to allow for the change in use from one-family dwelling to a two-family dwelling by converting the garage to a dwelling that includes the enlargement of the pre-existing structure on a non-conforming lot. Located in a Residence Zoning District which requires 150' of frontage, the non-conforming lot has a frontage of 71.45' and Lot Area = 18,490 s.f. (20,000 s.f. Required), Front Yard Offset = 18.8' (40' required), Side Yard Offset = 5.3' (20' required).

Meeting Minutes of Hearing 11-03-2021 for:
Finding for relief from Section 4.A.1 requirements
Application of Alex & Dorothy Moerlein
40 Maple Street, West Newbury, MA 01985

Alex & Dorothy Moerlein, owner/applicant of the property located at 40 Maple Street, West Newbury, MA 01985, filed an application for a building permit to "replace existing garage with in-law apartment", the West Newbury Building Commissioner denied the application on September 20, 2021, pursuant to Section 4.A.1 of West Newbury Zoning Bylaw. On October 4, 2021, Alex & Dorothy Moerlein, owner/applicant of the property located at 40 Maple Street, West Newbury, MA 01985, filed an application for a Finding for a relief from Section 4.A.1 of West Newbury Zoning Bylaw as per Section 8.A.1 and M.G.L. 40A §8. The applicant proposes to replace the existing non-conforming (20'x24') garage with a new expanded combination garage and 2nd dwelling unit structure (48'x28'/22') to be attached to the rear right corner of the existing non-conforming single family dwelling and used as an in-law apartment.

West Newbury Zoning Board of Appeals Chairman Paul O. Kelly opened the public at 7:01 PM on Wednesday, November 3, 2021. In attendance were, Chairman Paul O. Kelly, members: Richard Davies, Kim Monahan Borgioli, Patrick Higgins, and Dennis Lucey. It is duly noted that requirements for publication & posting, and notice of the public hearing on the application for Finding were sufficiently met.

Alex Moerlein, owner/applicant, introduced to the Board the layout of the current home and existing garage & driveway, and where the proposed new in-law apartment/garage (48'x28'/22') addition would be, and that the proposed building would match the neighborhood. Alex

Moerlein described the reasons for the requested relief (existing dwelling location & layout of the existing garage, driveway, septic tanks & system and need to house Family), the Certified Plot plan prepared by William G. Holt, PLS, showing the existing non-conforming home & garage, as well as the proposed new garage/in-law apartment addition. Also reviewed were, schematic, elevation, floor layout design plans prepared by Aimee Bentley, of ASB Architecture. A copy of a Mortgage Inspection Plan by Northern Associates, Inc. dated 07/03/2012 was submitted as was a schematic diagram of the site and buildings drawn by Alex Moerlein, depicting the "House Addition". The West Newbury Board of Health made a PDF scan of S.S.D.S. design plans from 2011 available for the board to review for the hearing. Board members asked a series of questions to better understand the constraints, design and reasoning behind the request. It was noted that the applicants/owners were planning on fully removing the slab on grade garage structure to allow for the construction of the new garage/in-law structures footings/foundation and structure to be built.

One directly abutting residence sent two letters in opposition to the application, (1A) Brandon Conn, Trustee of the Conn Household Trust located at #38 Maple St., former resident, referenced the zoning by-law with regard to non-conforming lots (Bldg. Permits) and no provision for in-law apartments, Opposed to applicants' proposal. (1B) Brian & Claudia Conn, of #38 Maple Street, opposed to applicants' proposal, due to doubling the size of the structures on a non-conforming 0.45 acres lot. Adamantly opposed to application and felt that the scale and style of the addition is not in keeping with the neighborhood of historically significant homes, no provision for in-law apartment.

One directly abutting residence sent a letter of support, (2) Timothy & Jessa Haynes, of #42 Maple Street, fully support and have no concerns regarding the application.

Two neighboring residences attended the hearing and spoke against the relief requested. (1B) Brian & Claudia Conn, of #38 Maple Street, adamantly opposed to application and felt that the scale and style of the addition is not in keeping with the neighborhood. (3) John Durant, #32 Maple Street, opposed the application and felt it was too much.

One neighboring residence attended the hearing and spoke in support of the relief requested, (2) Jessa Haynes, of #42 Maple Street, fully supported the application and ready to aid applicant as needed for access to septic if needed.

It was noted that the existing lot is nonconforming due to be pre-existing nonconforming status with regard to lot frontage being 71.45' (150' required), lot area is 18,490 s.f. (20,000 s.f. required), and the existing nonconforming single family home structure with a front offset to the street line being 18.8' (40' required) and a side offset to the boundary line being 5.3' (20' required). The applicant proposes to demolish the existing nonconforming garage structure that is built on a slab of concrete on grade. The existing garage accessory building is nonconforming to side yard setbacks as it is located 2.8' and 3.0' from the right-side boundary line. The applicant wishes to hold the sideline location of the demolished garage and install footings and foundation for new residential addition that is proposed to be built from 2.9' to 3.4' from the side boundary line and be increased footprint from (20'x24') to (22'x48' for full length and be 28' wide for first 36' near the front). The applicant proposes to change the use of the existing garage

to a residential structure with a second floor and garage, the proposed residential addition would seem to double the footprint of residential structures on the nonconforming parcel, change the use of the demolished garage from an accessory building to a residential structure, and change the use of the property from a single-family dwelling to a two-family dwelling. The applicant states that two family dwellings are allowed by right on conforming lots, and that the proposed residential structure will match the neighborhood style and scale.

The applicant seeks a Section 6 Finding to allow preexisting nonconforming accessory garage structure to be torn down and rebuilt and extended in the same nonconforming location to side yard, and to allow for change from garage use to a residential structure, to allow for a pre-existing nonconforming single family home to be altered by adding a structural addition that will double the footprint of the structure on the parcel, and to allow for increase in residential use on a nonconforming lot from a single family to a two family.

Due to the number of changes on a non-conforming site and what seemed like many increases to non-conforming use, the board asked questions and discussed issues and concerns.

West Newbury Zoning Board of Appeals members voting: Chairman Paul O. Kelly, Richard Davies, Kim Monahan Borgioli, Patrick Higgins, and Dennis Lucey.

After affording all interested parties present an opportunity to speak on the application for the Finding for relief in the application, a motion to continue the hearing while seeking legal counsel guidance on the application was moved and seconded, and voted 5-0 to continue the hearing to Wednesday December 8, 2021.

The ZBA reviewed and discussed the amended Meeting Minutes for the following hearing: West Newbury ZBA Meeting Minutes for 08-10-2021, No Vote.

A call to close the meeting was seconded, Voted 5-0 to close the meeting, Meeting was adjourned at 8:30pm. Respectfully submitted, Patrick Higgins, ZBA Member.