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ZONING BOARD OF APPEALS
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BY: *[Signature]*

ZONING BOARD OF APPEALS
MINUTES
Web-Based Meeting Hosted on ZOOM
March 24, 2022
7:00 p.m.

ROLL CALL:

Chairman Joseph Hanna called the meeting to order at 7:00 p.m. Mr. Hanna explained this a Web-based meeting hosted via ZOOM. Present were Rodney Moore, Anthony Rebeiro, Juan Rivas, and Michael Sibbitt. Staff present were Assistant Zoning Enforcement Officer Timothy Rosati and Secretary Mary Larkin. Absent were Alternates Peter DeLucia and Richard Roos.

ACCEPTANCE OF MINUTES: March 10, 2022

Motion to approve the Minutes of March 10, 2022 was made by Rod Moore; seconded by Juan Rivas. All in favor with Ayes from Rod Moore, Juan Rivas, Michael Sibbitt, and Joseph Hanna.

CONTINUED PUBLIC HEARINGS:

Motion to hear Application No. 22-03, 11 Jeffrey Street, was made by Juan Rivas, seconded by Michael Sibbitt. All in favor with Ayes from Rod Moore, Anthony Rebeiro, Juan Rivas, Michael Sibbitt, and Joseph Hanna.

#22-03: 11 Jeffrey St., Stalowicz, Lori, (H22131), RA-20 Zone, Sec. 4.A.3: (1) Reduce side yard setback from 6' to 3' on east side for proposed detached carport; (2) Reduce side yard setback from 6' to 2.5' on west side for detached carport; (3) Reduce front yard setback from 30' to 2' for detached carport; (4) Reduce side yard setback from 15' to 14.5' on east side & front yard setback from 30' to 18' for covered porch; (5) Increase maximum building coverage from 20% to 21.4%.

Neil Marcus, Esq., explained this matter was continued from March 10, 2022 to address a revised plan. Atty. Marcus sent a letter to Chairman Hanna, which he read into the record. See Exhibit A. There are several requested variances that will be eliminated from the application. They are the variance for a proposed detached carport on the west side to reduce the side yard setback from 6' to 2.5', the variance to reduce the front yard setback from 30' to 2' for detached carport, and the variance to increase the building coverage from 20% to 21.4%. The remaining variances: Reduce side-yard setback from 6' to 3' on the east side for detached carport and to reduce the side-yard setback from 15' to 14.5' on the east side and reduce the front-yard setback from 30' to 18' for a covered porch are still requested. Hardships remain the same: old non-conforming lot, undersized in the RA-20 Zone and built when setbacks were not a matter of anyone's concern as are most of the Lake Waubeeka properties.

Atty. Marcus addressed the question from March 10, 2022 regarding the size of the proposed front porch. He stated it will be approximately 75 sq. ft. Porch will measure 6' x 12.5'. The new carport on the easterly side of the property will be moved back, but not so far back as to affect the neighbors on the east and their view of Lake Waubeeka. The requested 3' variance is for this carport.

Atty. Marcus addressed the westerly neighbors' question, from the last meeting, about the existing 1.6' distance on the side yard by explaining the history of the rebuild goes back to 1982 in accordance with a valid building permit and valid certificate of occupancy (C.O.). The rebuild was performed with proper permits and given a C.O.

Regarding the retaining wall, which is in disrepair between the properties, the Stalowiczses will repair the wall where it has fallen down and reestablish it as a boundary between the two properties even though it wanders in and out of the official boundary. Atty. Marcus completed his presentation and welcomed comments from the Board and neighbors.

Mr. Hanna questioned how a C.O. was given when they built at 1.6' from the side yard of the neighbor? Atty. Marcus explained it as a surveyor's discrepancy. The house was built and the corner is where it was shown, but the property line was in the wrong place. There has been no action on the part of the City, and the building has existed for over 40 years. The current application does not impact the corner of the house.

Lois Yager, President of the Lake Waubeeka Association, asked if she could ask a question. She understands they are not expanding any farther, but wants to know about the second story that is proposed. Chairman Hanna said that we must continue the meeting in the proper order, Board Members' questions first, then who is in favor and who is opposed. Board Member Rod Moore questioned Atty. Marcus about the two variances and asked for clarification in conjunction with the latest plan submitted. Mr. Marcus accommodated the request. Mr. Moore noted that the building sketch showed three bedrooms on the ground floor and a master bedroom and office on the second floor. Atty. Marcus said one bedroom will be eliminated, and it will become an office. No net change—three bedrooms to three bedrooms, is that correct asked Mr. Moore. Atty. Marcus said, "That is the plan."

Board Member Michael Sibbitt is concerned about safety because the new carport will cut off access from the street for any emergency vehicle, such as an ambulance. Atty. Marcus said there has never been vehicular access to the back yard. Atty. Marcus indicated the house is so close to the road

that accessing the house with hoses and ladders is not a problem. Access can be gained through the carport at all times if they add a rear door. Mr. Hanna asked if the carport would be bigger. Atty. Marcus said, "No, there would be access to the rear through a second door." Per Atty. Marcus, a condition can be added to the variance that emergency personnel will have access to the rear of the property.

Juan Rivas said looking at the plans he wants to confirm variances being requested with front and side setbacks. Mr. Marcus answered the questions to Mr. Rivas' satisfaction.

In support of the application was Karen Taylor, daughter of Beverly Klein and sister of the applicant, who mentioned that the house was built in the 1950's and was rebuilt in 1982 after the fire. The house is functional. The plans will make the home more attractive and enhance the neighborhood. They are anxious to keep the house in the family.

In opposition to the application was Cheryl Dresner, who prepared a timeline beginning with available Building Department records. She included the variance from 1982 and stated some of the conditions regarding plantings. She wondered why building a cellar door would be considered an upgrade to the neighborhood as stated in the variance. Additionally, Ms. Dresner spoke about Sec. 9.C.2.b. of the Zoning Regulations stating that no nonconformity can be extended or expanded. The negative effects of an added second story will be loss of light and air. Ms. Dresner also asked how the work would get done? Will they be on her property to do all of their work? Board Member Anthony Rebeiro stated that the second floor is not part of the variance. Ms. Dresner asked for an explanation as to how people would be able work 18" from the property line? Will they be on her property? Discussion continued with a history of the property from Karen Taylor and she said people will not go on the neighbors' property while working on the house. Ms. Dresner stated that in order to place a ladder against the house at least 18" away. Mr. Rivas called for a point of order. Ownership of the property in 1952 is not relevant.

Assistant Zoning Enforcement Officer Timothy Rosati reminded the applicant that previous conditions of the 1982 variance are still in effect regarding the plantings. Mr. Hanna suggested to Atty. Marcus that his client could make a jag in the second floor and they will still have a nice house that will be good for the client, good for the neighbor, and good for the Association. Neil Marcus spoke about the renovation of the attic and roof will be slightly higher. Mr. Marcus said they will take Mr. Hanna's recommendation into consideration with the architect. The landscaping will be installed to the satisfaction of the Zoning Enforcement Officer. Discussion continued between Mr. Marcus and Mr. Hanna. Second floor will be built per Mr. Marcus. Mr. Hanna asked Mr. Rosati if the second floor had to comply with the 4' to which Mr. Rosati replied that this is already non-conforming and nothing can extend beyond the 1.6'. Mr. Rebeiro remarked that things the Dresners are opposed to, the ZBA cannot do anything about.

Juan Rivas asked Tim Rosati if the Commission can amend the previous conditions to install a fixed fence so that it might address the neighbors' concerns? Mr. Rosati said if you're applying the rules of today was the intent a view restrictive, year-round thing? They didn't have view restrictive fences then like we do now, so a fence could be something they don't want. Perhaps a combination of things might work there. The intent is what should be followed. Mr. Hanna said it should not be amended.

Lois Yager, President of Lake Waubeeka Association, has concerns that the 1982 variance which called for a 4' variance was violated and now it is 18". Adding another story is exacerbating the situation. The Association has concerns that more and more people are coming in and wanting to expand homes. Mr. Rosati said that whatever happened with the original permitting there was no as-built required and it may very well have been a discrepancy with the surveyor/builder. Mr. Rosati clarified that the stipulation was for a buffer and that is what is going to be enforced. Other community concerns are an increase in non-permeable surfaces, driveway expansions, downspouts, and drainage. Ms. Yager said that the homeowner will have to come before the Lake Waubeeka board. She questioned the septic system and when that will be inspected. Mr. Moore reminded Ms. Yager that is not within the Commission's purview.

Motion to close Application No. 22-03 was made by Anthony Rebeiro; seconded by Michael Sibbitt. All in favor with Ayes from Rod Moore, Anthony Rebeiro, Juan Rivas, Michael Sibbitt, and Joseph Hanna.

Motion to go to the voting session or discussion was made by Juan Rivas; seconded by Anthony Rebeiro and Rod Moore simultaneously. All in favor with Ayes from Rod Moore, Anthony Rebeiro, Juan Rivas, Michael Sibbitt, and Joseph Hanna.

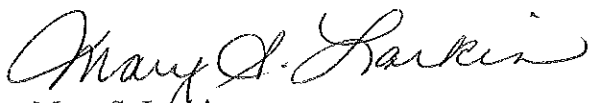
Motion to approve Application No. 22-03, 11 Jeffrey Street, to reduce side yard from 6' to 3' on east side; reduce side yard setback from 6' to 2.5' on west side for carport (Motion to Reconsider to correct vote to be heard on April 14, 2022.) and reduce front yard setback from 30' to 18' (Motion to Reconsider to correct vote to be heard on April 14, 2022.) made by Anthony Rebeiro; seconded by Rod Moore. All in favor with Ayes from Rod Moore, Anthony Rebeiro, Juan Rivas, Michael Sibbitt, and Joseph Hanna.

ADJOURNMENT:

Motion to adjourn was made by Anthony Rebeiro; seconded by Juan Rivas. All in favor with Ayes from Rod Moore, Anthony Rebeiro, Juan Rivas, Michael Sibbitt, and Joseph Hanna.

Meeting adjourned at 8:21 p.m.

Respectfully submitted,



Mary S. Larkin
Secretary