

**Town of Lenox  
Zoning Board of Appeals  
Meeting Minutes  
Wednesday, November 1, 2023  
Town Hall Land Use Room  
7:00 p.m.**

**Members Present:** Robert Fuster Jr, John Simons, Kim Duval, Shawn Leary Considine, Al Harper, Arthur Oliver

**Others Present:** Lori Robbins- attorney, Mindi Morin- managing director at Canyon Ranch, Mark Levasseur – Foresight Land Services, James and Emily Moore- 30 Elm Street

Meeting called to order by RFJ at 7:01 pm

Special permit hearing for 18 Hawthorne Street continued to November 15<sup>th</sup>

- 1. Canyon Ranch, 197 and 215 Kemble Street:** the petitioner seeks to envelope two additional parcels into its Resort activity area permitted under the Estate Preservation Area.

Lori Robbins spoke on behalf of the petitioner, Tucson Lenox LLC. She handed each of the members a copy of the Estate Preservation Bylaw for reference and mentioned she will also refer to the Resorts section of the Lenox Bylaw. She gave a brief history of the property and the way in which the property was parcelled out, as well as a bit of background on the owner. She explained that the original mansion on the property, Bellefontaine, is eligible for special development rights in the Estate Preservation area. She stated when they received their original special permits, they never identified which part of the lots would be the estate preservation area, which the bylaw requires; they identified the entire property. When the special permit was modified in 1987, they included additional land to the estate preservation area. In 1989, the ZBA granted a variance to construct a guard station within the 200' buffer zone. She mentioned there are competing definitions of the buffer zone in sections 8.2.2 and 8.10.

In 2014, the ZBA allowed 19 condominiums to be built on separate lot that would be dedicated and owned by separate entity, which made this piece of property still part of the resort but owned by a separate entity. RFJ clarified that this decision superseded the previous special permits and variances granted by the ZBA for the condominiums that were never built. SLC pointed out that some of the approvals for the condos became approvals for the houses that ended up being constructed. LR said the question is, can you allow this land owned by a separate entity to be included in the special permit for the resort area?; she said yes, previous decisions have allowed it and section 8.10 of the bylaw provides that it can be in separate ownership.

SLC asked LR to explain the houses on the first parcel and how they could be built so close to each other and to the road. LR explained the circumstances to the board. The board questioned the scope of work that would take place within the existing buildings and wanted to make sure no kitchen would be added.

LR explained the second parcel and how it is currently an open field. AH questioned the current set up of the archery range. Mindy Moring explained they plan to keep it as it is but are hoping to extend the trails to that parcel to utilize it for recreation space; there will be no structures added.

KD voiced concerns for how their decision on the matter could impact future projects. LR clarified that because the property is subject to special permits, if the petitioners want to do anything further they have to come back before the board. RFJ agreed that he doesn't fear they will encounter issues, due to the way things are worded.

LR questioned whether they need a variance for the buffer area. Mark Levasseur explained the buildings on the map and the distances to abutters. RFJ asked they came up with the distances and ML explained they're based on topographic and property line surveys, and the distances to the abutters across the street is based on GIS and therefore approximate. RFJ asked what the give/take on the approximation is and ML said it is in the tolerance of greater than 200'. AH asked for clarification on where exactly the distances are measured from on the buildings to the property lines; ML said from the garage. SLC pointed out that if the variance is granted by the board, then it would be only for these specific properties and not applicable to all the properties on Canyon Ranch

LR referenced the bylaw section 8.10.5 that says the division of the designated area into separate parcels by reasons of public ways or multiple ownerships shall not prevent the qualification of an area that otherwise complies. She also called out 8.10.11.1, which says ownership in development stages allows multiple uses, owners or parcels to be part of the estate preservation area.

LR submitted that there are grounds for variance for the two structures on the first parcel to be incorporated into the resort and Estate Preservation area and allowed to be used within 200' of the abutting properties. RFK asked when the structures were built, LR did not have a definite answer.

LR showed and explained the updated master site plan. She said the modifications would greatly improve the guest experience at Canyon Ranch and enhance the property and neighborhood and comply with section 3.4.2 of the ZBL and will further allow for the preservation of the open space.

MM explained how they plan to use the guest building. RFJ asked if it will meet safety codes; MM confirmed it would.

KD voiced concern about the appearance of the buildings and hoped they will be significantly improved from their current state. RFJ asked if they plan to make exterior changes to the buildings. MM said improvements need to be made to bring the buildings up to fire code but that they don't foresee too many changes to the outside.

RFJ went over 3 pieces of correspondence from abutters. Two were in support, one had questions that were answered

Motion to close public hearing by SLC, seconded by RFJ. All were in favor

Discussion ensued. SLC felt that it does meet the criteria for a dimensional variance and is in favor of the modification of the special permit. KD agreed. RFJ agreed and specified again that if the request is granted, it will only apply to these two parcels. JS agreed that it would be a great addition. AH thinks it will be an overall benefit to the community and is on board with consolidating the parcels into the great estate area.

Motion to grant the petition as requested- moved by AH, seconded by SLC. All were in favor

2. **30 Elm Street:** the petitioner seeks a Special Permit under Section 5.3 of the Zoning Bylaw to increase the size of their home; the home is already encroaching into side-yard setbacks (it is a narrow lot); the enlargement will not increase the non-conformity on either side.

RFJ and SLC stated they both have personal connections to the petitioners and would recuse themselves if need be; there were no issues. James Moore agreed with what had been said.

JM explained the setbacks on the house and property and detailed the proposed addition. They will be decreasing 1.24' of the side setback on the west and maintaining everything else. There is a small increase in the maximum lot coverage but within the max overall.

AH questioned whether the petitioners bought the property over the summer with the intention of expanding it. JM said he called the Land Use Director prior to purchasing the property to learn what he would be allowed to do. AH brought up his concerns about situations like this altering the character of Lenox and creating a density that is not consistent with the rest of the town; he feels the Planning Board should possibly consider amending the bylaw. RFJ agreed with AH's concerns but felt that the size of the house is not overly large for the neighborhood even though the lot might be smaller than others.

JM asked about the boards stance on densification. The board responded and explained aspects of the various boards responsibilities and the Master Plan of the Town. RFJ stated that their roles are to apply the bylaws and the state statues to the decisions, regardless of their opinions.

Motion to close the close the public hearing moved by KD, seconded by AH.

Discussion ensued. The board agreed the request made all the requirements to grant the special permit.

Motion to grant the petition moved by AH, seconded by KD. All were in favor.

3. **23 Lime Kiln:** the petitioner is seeking to demolish and reconstruct a single-family home in the C-3A zone; the existing and new construction will be within a side setback.

Mark Levasseur from Foresight, on behalf of the Ezrapours, explained the project. The board discussed the location of the property and its relation to Routes 7/20. ML asked for a waiver from the site plan approval, as the bylaw states it can be done as long as there is not 2000 square feet of change. The existing house is 1692 sqft and the barn is 849 sqft, totaling 2541 sqft. The proposed house is 3287 sqft and the pool house is 768 sqft for a total of 4055, which is less than 2000 sqft of change.

SLC questioned the demolition bylaw; KD said approval would be required if the house is over 75 years old and then explained the process.

AH felt there isn't enough representation of the what the house will actually look like, and said an elevation view would be helpful. RFJ encouraged the hearing to be continued and for the applicant to come back with more detailed drawings. KD agreed and voiced concerns that the age of the home may not have been considered and whether the other boards were consulted.

All were in favor of granting a request to continue.

Motion to close the meeting moved by SLC, seconded. All were in favor

Adjourned by RFJ 8:59 PM