

Zoning Board of Appeals Minutes, 06/01/2016

**Lenox Zoning Board of Appeals
Minutes
June 1, 2016
Landuse Meeting Room**

Members present: Chair Ethan Berg, (EB); Shawn Leary Considine, (SLC); Robert Fuster Jr. (RFjr); Clifford Snyder, (CS); Robert Fuster, RF
Absent with notification: Ned Douglas, (ND)
Staff present: Peggy Ammendola, (PA)

Matthew Keator, 27 Undermountain Road (Map 10, Parcel 6), Variance from Section 4.1.1 "Table of Dimensional Requirements" to renovate the third floor of an existing single family residence to install a new bathroom. *Originally scheduled for May 18, 2016, but do to miscommunication, Thomas Drain was not present. The Board agreed to continue to June 1, 2016*

Presenting the application was Thomas Drain, contractor for the applicants. He said that the Keators purchased the home in August of 2014. The third floor was finished, having been carpeted and renovated with sheet rock by the previous owner as well as stubbed-out with feed, vent and tie in with drains. The area is about 50% of the footprint and had been used as a playroom. The proposed bathroom would encompass about 1/3 of the floor space and when completed would conform to code. There will be no exterior changes. Mr. Drain has spoken to the Building Commissioner and Inspector who have said that there is nothing on record that any of this was permitted. When Mr. Drain approached the Building Department with this proposal it was agreed that it would not be out of line with what they have approved in the past and would approve if it were in their hands, further adding that it is a gray area and that they would like to see the bylaw amended. Mr. Drain was advised to seek approval of the ZBA.

RF said that to be granted a variance, a different standard from a special permit, hardship would have to be demonstrated. SLC stated that she has seen other homes built in this era in Lenox with a third floor finished space with a stair case that has been approved as an attic. In the case of older buildings with similar requests, they have been approved but they were non-conforming.

SLC believes that this request should be a special permit and not a variance, stating that it is not clear in the bylaw. The bylaw allows two stories and an attic. This structure has a staircase up to a half story which is a pre-existing, non-conforming space and is technically a half story. The bylaw allows two stories and a height of 35 feet and this structure is a little less than 35 feet.

There were no members of the public present and no correspondence received.

RFjr made a motion to close the public hearing and RF seconded the motion. The Board voted to agree 5-0.

SLC made a motion to grant the application that had been advertised as a variance but instead pursuant to a special permit for a significant change to a non-conforming structure to permit the owner to add a bathroom to what is functioning as a third floor. RFjr seconded the motion.

The section of the zoning bylaw that would apply is 3.3.3.1.

It was the consensus of the Board that this proposal is not more detrimental to the neighborhood than the existing use; there would be no negative economic impact on the community; it does not affect neighborhood character or social structure of the neighborhood; there will not be a burden on public utilities or public safety and it serves the community needs.

The Board voted to approve the special permit by a vote of 5-0.

Approve Minutes:

May 18, 2016
May 18, 2016 Executive Session

RF made a motion to approve both sets of minutes. EB seconded the motion and the Board voted to agree by a vote of 5-0.

Respectfully submitted,
Peggy Ammendola