

September 22, 2017

Submitted via e-mail attachment

Dear Mr. John F. Trefethen, Chair and Zoning Board of Appeals Members,

In regards to the Public Hearing Special Permit Application for 10 Waushakum Ave, Ashland we offer the following information as part of the public comment.

The Zoning Board of Appeals (ZBA) as a quasi-judicial body has a duty to the community to carefully and objectively review facts and uphold zoning in the Town of Ashland. It seems clear that awarding Special Permits are complex deliberations for the Board since there so many issues brought up during the hearing. Our zoning guides the Town by establishing criteria to be evaluated in order to grant a Special Permit and the ZBA surely is aware of the long term ramifications of its decisions. During the hearing on September 12, 2017, the Attorney for the Applicant for the Special Permit brought up many items that are not relevant to those evaluation criteria.

There is a distinction between circumstances and criteria for evaluation, and both the negative and positive circumstances are not relevant to the evaluation criteria, nor can they lawfully be considered. The applicant purchased a non-conforming pre-existing substandard lot and potentially misconstrued what is allowed to be built on the lot, which is an unfortunate circumstance. Framingham zoning does have different standards, as little as 5,000 square feet can be a compliant lot so perhaps this is another area which the Applicant may have misunderstood what might meet the neighborhood density. The public as well as the ZBA should include a true acknowledgement of their situation: the applicant is a nice, hardworking family that wants to make an enjoyable home, essentially what most of us want, 'the American Dream' and the family could be impacted if a Special Permit were not awarded to them.

Our Town has let them down by not giving clear direction of what would be allowed without a Special Permit and guidance that in order to receive a Special Permit they would need to prove the 6 criteria related to neighborhood and community impact are met. Unfortunately the ZBA cannot correct that problem by issuing a Special Permit, as goes the saying we've probably all been taught from a young age, 'two wrongs don't make a right'. Our Special Permit criteria are not based on evaluation of personal impacts. Zoning is by its very nature a community standard, with clearly enumerated criteria, not to be bent for the benefit of one. Even though we can all empathize with the applicant's situation, the ZBA is expected to uphold the zoning standards during assessment of Special Permits, and evaluation criteria don't support individual applicant goals at the cost of impacting a community or creation of alternate interpretation of standards to assist one nice family or even one nice developer as different circumstances might be encountered. Nice families, nice developers, or even not nice developers need to all get treated the same regarding Special Permits which is a fair evaluation of their proposal against the criteria.

The following discussed items, as you know, are not relevant to the criteria:

Criteria	Not Relevant
Community needs served by the proposal	It's a nice family
Traffic flow and safety, including parking and loading	It's a hard-working family
Adequacy of utilities and other public services	Family desires to build a new house
Neighborhood character and social structures	The neighborhood has outdated housing stock
Impacts on the natural environment	Size compared to recently built homes on zoning compliant lots
Potential fiscal impact, including impact on town services, tax base, and employment	Zoning is not static
	Framingham comparison
	Lot was previously given a building permit
	Zoning improvements
	Context: the neighborhood was built on tiny lots before zoning existed
	"it's not a spec house"
	Other substandard lots in the neighborhood
	"sizes of houses then and now"
	Consumers want larger houses

Among other parts of our zoning code which prompt the need for a Special Permit to build something larger than the existing home, section 3.3.7 seems particularly important to review given that the Applicant's attorney did not believe relief was need for the size of the structure. Section 3.3.7 below clearly identifies rights the property owner has related to a non-conforming lot/structure without seeking a Special Permit. The property owner proposes a structure exceeding the volume and area of the original non-conforming structure, therefore chose to put the project on an alternate path of needing a Special Permit rather than choosing to construct something which would merely need a building permit. They also chose to have the Special Permit proposal based on a structure that is entirely out of scale with the neighborhood, in line with the size for new homes on zoning-compliant lots rather than seek a Special Permit for a structure matching the modest size, height and density of the existing neighborhood, ignoring impacts to the neighborhood.

**3.3.7** Reconstruction after Catastrophe or Demolition. Any nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

- (A). Reconstruction of said premises shall commence within two years after such catastrophe or demolition.
- (B). Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in volume or area as the original nonconforming structure.
- (C). In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition.

At the September 12<sup>th</sup> hearing, there was a lot of discussion of house size and during those discussions, the ZBA may have gotten a skewed view that the size matters. Merely evaluating the size of the home misses the point. It is size and scale, because a larger house on a standard lot has the density we as a community agreed to allow and live by through our zoning. A new house more than double the size of

the existing homes on similarly small-sized lots, on a lot 15% the size of the required compliant lot size creates a density that we specifically as a community said we do not want. If we wish to re-visit the required lot sizes and density we can and should do that as a community and there is a process for that but a ZBA Special Permit hearing is not the place for re-considerations of community standards of density.

During the hearing while no specific benefits to the community were enumerated, there was a reference to a new home and replacement of the mobile home increasing property values. There are a few points to make on this subject:

1. This is a commonly related idea, but we haven't found documentation that this is actually true.
2. If that statement is true and neighbors' property values increase, the result is that we will have to pay more taxes. So an increased property value would really only be a benefit if one is going to sell their house. If neighbors are planning on staying in their homes, granting a Special Permit based on a perceived benefit of increased property values just costs us more each year to remain in our homes, which is clearly not a benefit.
3. An equally likely situation is that a comparatively oversized new house de-values our existing homes. During the September 12<sup>th</sup> hearing, our existing homes were referred to as outdated housing stock and available for renewal. So, with a large new home in the neighborhood, now our homes are perceived as having less value, being the older, outdated housing, perhaps driving their potential sale prices even lower.

The Attorney for the Applicant wants to create a false dichotomy for the ZBA— either the mobile home or a new large house. The ZBA can clearly see and understand that there are options other than the submitted proposal that could provide actual benefits to the neighborhood and community. The ZBA cannot make a decision to determine that a house out of character with neighborhood size and scale is more or less detrimental than a mobile home. This isn't about the mobile home, a legal pre-existing non-conforming structure. It is about evaluating the impact of the increased density.

While the Attorney and builder present the Applicant as a nice hardworking family, please do recognize that our neighborhood is full of nice hardworking families. Each of us has made our investment in Ashland as a place to raise families, be part of the neighborhood, and contribute to the community. It is disheartening that the current submission shows little regard for our existing Ashland neighborhood character and defined zoning density. We hope that the Applicant, Applicant's attorney as well as the builder will be able to view our neighborhood through the lens that many residents do and believe the neighborhood character is something to cherish rather than in need of the improvement that suits their desires while ignoring others.

We cannot overstate how the proposed structure creates density that we have no expectation of encountering when our zoning and criteria are followed and we strongly believe that substantial change in density is more detrimental.

We expect the ZBA to uphold Ashland zoning rather than alter the density to benefit an individual family to the detriment of the community.

Sincerely,

Catherine Jurczyk & Janet Platt

11 Rodman Road