

Memorandum
Charlton Zoning Board of Appeals
Application/Request for Special Permit/ Variances
26 Willis Dr., Charlton
Applicants; James Triplett/ Jacklyn Fleming

Purpose and Summary of the Application

The applicants, (Triplett/ Fleming) have filed an application before the Zoning Board of Appeals (Board) looking for a special permit/variance on property located at 26 Willis Dr., Charlton (26 Willis) . 26 Willis is a non-conforming lot under the current Charlton zoning by-laws as a property of sufficient size and utility for the current construction of a single-family home. The Building Commissioner has reviewed the application and the site area. He testified to the Zoning Board on June 23rd that the applicants requests for Special permit /variance are consistent with the neighborhood and the other special permits and variances granted around the area/ lake.

It is lake front property, which over the course of 67 years which the Triplett family has owned the property, has combined three parcels of property, making one lot of three parcels in 2003, recorded in Book 32459 Page 75 of the Worcester Registry of Deeds. Total acreage is 1.094 acres. Two of the parcels .18 acres and .08 acres (approximately 11,500 s.f.) are combined and front South Charlton Reservoir with 75 feet of waterfront and 68 feet of frontage bordering Willis Dr, a right of way. The remaining square footage approximately 34,154 s.f. (approximately 0.834 acres) is divided by Willis Dr. and is the location of the Conservation Commission and Health Department approved/ proposed septic system for a newly constructed residence on the 11,500 lake front portion of the property. Presently a seasonal 2 story lake cottage approximately 900 s.f. is located on the combined lake front parcels of .18 acres and .08 acres (11,500 s.f.) .

Triplett/Fleming are seeking a special permit/ variance on the property to replace this seasonal two story lake cottage of approximately 900 s.f. that has been on the property since the 1950's.

The residence for which a special permit /variance is sought is for constructing a full time, two-story residence. The ground foot print, including a two stall garage is 2317 s.f.,¹ the first floor square foot living space being 1741 s.f. with a 576 s.f. garage . The second floor square footage, a portion of which is over the garage, covers approximately two thirds of the first floor area and is approximately 1177 s.f. The combined s.f. of living space is 2918 s.f.

Standard of Review Special Permit/Variance ;26 Willis Dr.

Hardship:

Generally, as the Zoning Board is aware, a “ Hardship” is not being reasonably able to use property for the purposes, or in the manner, allowed by the municipal zoning requirements due to circumstances particularly affecting that property. The conditions that establish hardship are diverse.

“No one factor determines the question of what is practical difficulty or unnecessary hardship, but all relevant factors, when taken together, must indicate that the plight of the premises in question is unique in that they cannot be reasonably put to a conforming use” Brackett v. Bd. of Appeal of Boston, 311 Mass. at 60; see also Boyajian v. Bd. of Appeals of Wellesley, 6 Mass. App. Ct. 283 (1978)

Hardship for Dimensional Variances despite the stringency of the hardship requirement generally, where only dimensional variances are involved, even relatively minor “hardship” can justify a variance. Marashlian v. Zoning Bd. of Appeals of Newburyport, 421 Mass. 719, 725–26 (1996)

A lesser showing of hardship is often appropriate for dimensional variances because they usually do not change the character of the zoning district or endanger nearby properties with an inconsistent land use. See DiGiovanni v. Bd. of Appeals of Rockport, 19 Mass. App. Ct. 339 (1984); 6 Patrick J. Rohan, Zoning and Land Use Controls § 43.02[3] (Bender 1983).

Standard of Non-Conforming Use and Substantial Detriment to Neighborhood :

There is a long line of court determined cases which have held that an addition or alteration which extends or intensifies an existing nonconformity related to a **residential structure** may be authorized under the second sentence of M.G.L. c40A § 6 upon a

¹ The original application is incorrect, listing 3090 s.f. as the 1st floor footprint including the garage. This is entirely the error of Mr. Triplett as he misunderstood the architect’s calculation of s.f. for the first floor footprint.

finding of no substantial detriment to the neighborhood. *Deadrick v. Zoning Bd. of Appeals of Chatham*, 85 Mass. App. Ct. 539, 548 (2014). A substantial detriment considers whether the overall affect of the proposed use of the property on other properties within the area is a detriment to the public good. *Cavanaugh v. DiFlumera*, 9 Mass. App. Ct. 396 (1980). Those factors would include things such as an increased public safety issues, increased traffic, increase in people density, increase in sewage use (town system) *Fitzsimonds v. Bd. of Appeals of Chatham*, 21 Mass. App. Ct. 53, 58 (1985). In other words is the proposed modification “substantially more detrimental to the neighborhood” *Bellalta v. Zoning Bd. of Appeals of Brookline*, 481 Mass. 372, 380–81 (2019).

In this February of 2019 case, *Bellalta v. Zoning Bd. of Appeals of Brookline* the Supreme Judicial Court (SJC) clarified a number of factors in guiding the Commonwealth’s Zoning Boards in making a decision about variances and special permits where it relates to home improvements being more costly and subject to the discretionary determinations of local zoning boards. Given the difficulties and expense associated with obtaining a variance, as well as in obtaining a finding of no substantial detriment, a Zoning Board construing the statute to mandate both could render illusory the protections the Legislature intended to provide these homeowners. The Court determined the process of obtaining a special permit or variance renders many home improvements more costly and subject to the discretionary determinations of local zoning boards. The SJC concluded that requiring single- and two-family homeowners to obtain both a special permit and variance under the circumstances of renovation, alterations and modifications, would render it nearly impossible for the homeowners to renovate, modernize, or make any substantial improvements to an older home or the property, particularly if those improvements would increase the nonconforming nature of the structure. This could, as a practical matter, make it economically infeasible to modify a nonconforming home in any but the most minimal ways, could curtail the ability to sell such a house, and, accordingly, could result in a reduction in the amount of available affordable housing, as well as potentially reducing the town's population and the municipal tax base. The need to secure findings or special permits through lengthy, costly, and discretionary local zoning processes for any improvement that might increase the living space or footprint of a house might put such improvements out of reach for many homeowners. Requiring homeowners to run such an administrative gauntlet impedes and burdens the upgrade of a large part of our housing stock. The SJC concluded that the Legislature did not intended to

require single- and two-family homeowners to undertake the laborious process of seeking both a special permit and a variance. To construe M. G. L. c. 40A, § 6, in a way that would require both, place an additional burden on this limited class of homeowners, contrary to the clear statutory intent to provide them with special protections under the second except clause of M.G.L. c40A §6.

Dimensions For Consideration Related to 26 Willis Dr Request for Special Permit/ Variance

Since the property at 26 Willis Dr. is a nonconforming use under the current zoning by-laws in an agricultural district, and the proposed future use is building/ renovating a two story single family residential home that extends the current non-conforming use of a 900 s.f. part time cottage, a special permit or variance is needed. The special permit/ variance are required pursuant to the proposed plan for roadway frontage of an existing 68 feet (175 feet needed), front setback of 22.7 feet (30 feet needed, 7.5 feet special permit/variance requested) and a north side set back of 11.5 feet (15 feet needed, 3.5 requested). The property (specifically the combined portion of 11,500 s.f. where the proposed house would be located) creates hardship in existing lot size, topography and other existing conditions that provide little, if any leeway in adjusting the location of the proposed house to more conform with setback requirements.

The waterfront side of the property creates limitations on rear setback that has a direct bearing on the front setback. There is a very small wetlands area on the north boundary of the property adjacent to the waterfront which requires a 25 foot setback and extends the current zoning set back of 30 feet to a total of 43 feet on the proposed plan. In addition, a well exists on the waterfront side towards the south boundary line which extends the setback on the proposed plan to 49 feet. No request for a special permit/ variance of 7.5 feet on the front setback would be needed if the rear, water front setbacks didn't have additional limitations as set forth above.

Triplett/ Fleming's Application Demonstrates No Substantial Detriment to the Area/Neighborhood

The applicants have submitted to the Zoning Board per request of the Board a copy and rendering of the their preliminary architectural plans for the layout and dimensions of the

renovated /constructed residence along with the engineering plan associated with its location on the property. Further a number of photographs, 19 of them have been submitted to demonstrate various points related to Willis and Leland Dr. or the lake in general.

The applicants believe that whether the property in questions exhibits a hardship is not in question. Whether that even has to be demonstrated in light of the Supreme Judicial Courts 2019 decision in *Bellalta v. Zoning Bd. of Appeals of Brookline* in which the Court concluded an applicant did not have to apply for both kinds of permits more than likely renders the issue of a variance moot since there are requests for what amounts to minimal variations in the setback requirements subject to the special permit process in this matter.

Applicant Asserts That “Neighborhood”/Area Constitutes Lake

A neighborhood in a general sense of the word constitutes an area of a generally broad defined size in a geographical location. This is a location where there is a commonality and collective understanding of what the neighborhood consists of, whether it is a certain number of collective streets or a defined geographic area, ethnic or other common designation or dynamic in an area. The applicants in this case believe that for the purposes of considering special permits/ variances at it relates to the neighborhood, it should be considered the neighborhood of South Charlton Reservoir by the Zoning Board in determining whether the conditions that are being considered for issuing special permits are, or are not, a substantial detriment to the neighborhood. Although Triplett/Fleming have no particular issue with the Board in its consideration if it restricts the size of the neighborhood to Willis Dr. and Leland Dr. , the residents of the lake, South Charlton Reservoir or Granite Lake, have the commonality of the lake and things that associate with it. South Charlton Reservoir is a lake which is small in size, has one common, open body of water (as opposed to different broken up areas of lake such as Webster Lake) and is essentially private with regard to public access. In addition, regarding the recent dam repair, the residents of the lake (through SCRA, the lake association representing the lake residents) was given a choice by the town that each resident of the lake could be assessed for the repair of the damn, or the expense of repair could be transferred to the general tax roles and the lake would be subsequently opened for public access. The lake remains restricted, thus giving it a unique neighborhood characterization and commonness.

In addition, many of the lake residents because of their lot sizes have similar issues related to special permits or variances for new construction, renovations or alterations on existing property. A number of the residents who are modernizing have no doubt come before the zoning or planning board for permits or approvals.

In the case of this application the applicants wish it to be known as a matter of evidence related to the nature and character of the "neighborhood", in this case the lake, there is a commonality. This is apparent in the Willis Dr. and Leland Dr. Streets, a relatively small area, where 21 cases of special permit/variance requests, whose Decisions have been recorded in the Registry of Deeds since 2004, have been before the Zoning Board. These special permits and variances were/are for a variety of construction requests, most, overwhelmingly, more significant than Triplett/Fleming are requesting. In a special permit/variance request before the Board in 2017 at 37 Leland Dr. where a permit/ variance was granted for a garage within the 30 foot setback, the distance from roadway to garage was 17' (a recent direct tape measurement) , a 14 foot variance from the setback. This certainly demonstrates the Board is not only cooperative and responsive to the neighborhoods needs of individual properties but granting Triplett/Flemings twenty two foot setback would be acting consistently within their decisions in the neighborhood.

Numerous residences on the lake, clearly a number that have been before the Zoning Board, which can be visibly observed from the water, have changed substantially over time. Where second and third generations of the original property owners have taken over the properties, or when new non original owners have purchased property, many of the properties have been renovated to modern, substantially larger residential structures to accommodate present day living requirements, styles and choices. In most cases they are full time homes. This is a very different residential neighborhood than the lake of the past where the homes were in large measure seasonal cottages with bottled water, cesspools and little if any heating or cooling mechanicals. Although some of the streets around the lake have been slower than others to change, it is obvious that overall the nature of the properties on the lake has/is changing to year round substantial residential structures. Unfortunately the applicants boat is in the process of repair at this time so it is difficult to provide photographs to demonstrate what is asserted, but from the street side photographs submitted you can see that houses in the immediate area of the applicant's house, as well as across the lake, show relatively large two story homes in

comparison to seasonal cottages/camps. Photographs numbered 18,19 are examples of homes around the lake, and photographs numbered 6,7,10,11,12,13,15, and 17 show larger renovated homes, in the immediate area, most of which required special permits or variances.

Frontage, Road and Water Front, Lot Size: In this matter the applicants are requesting a frontage waiver to 68 feet where 175 is needed. This is a similar condition that exists with every residence in the neighborhood dating back to when the original lots were carved out with 40 or 50 foot frontages or less on the road. 26 Willis Dr. is significantly larger (68 feet on road and 75 feet on the lake versus an average lot of 40 feet on road and 40 – 50 feet on the lake) than almost every other lot in the immediate neighborhood. This is notwithstanding that the actual size of the lot is 1.094 acres including the 0.834 acre area on the west side of Willis Dr. In that case , the Triplett/Fleming lot in the name of B&E Realty and Family Trust is more than likely bigger than any lot in not only the immediate neighborhood but the area as well.

Area of Willis Dr. and Leland Dr., No Basis for Substantial Detriment To Neighborhood:

If the Board in its deliberations determines that only the area of Willis Dr. and Leland Dr. will form a basis as to whether the proposed plan for 26 Willis Dr. is or is not a substantial detriment to the neighborhood there is still no basis for any modification , renovation, non-conforming extension, construction, or alteration of the proposed structure to be a substantial detriment to the neighborhood.

Abutters Comments and Claims:

During the public comment period at the previous zoom Zoning Bord meeting on June 23rd, 2020 there were three neighbors who expressed comments concerning the proposed application based on the submitted engineering plan. They were : Amy Taraskewicz who is not a direct abutter but resides in a once removed home at 22 Willis Dr. south of 26 Willis Dr. ; Ellen Kazin , also not an abutter but a 4th removed home at 18 Willis Dr. south of 26 Willis Dr., and ; Meghan Blackwood, a/k/a Meghan Dolan of 28 Willis Dr. a direct abutter on the north side of 26 Willis Dr.

Two days prior to the meeting, Applicant Triplett while at 26 Willis Dr. observed Amy Taraskewicz, Meghan Blackwood, and Cheryl Miller (another person who received notice of the meeting) sitting at an outside table at Meghan Blackwood's property at 28 Willis Dr. With plans in hand Triplett approached the group and asked if they had a few minutes. The response from them was yes. Triplett further indicated that he wanted to present to them the plans that were the subject of the June 23rd meeting and field any questions or concerns that they may have. Amy Taraskewicz immediately speaking on what appeared to be everyone's behalf, aggressively in tone and manner, shut Triplett off from further discussion communicating that any discussion they had concerning this would be at the meeting. Meghan Blackwood in particular came across as very ill at ease with Amy Taraskewicz's demeanor and comments but said nothing further. Triplett turned and left the property.

Taraskewicz at the meeting expressed objections overall to the plan using "buzz words" such as a detriment to the neighborhood because the new house would extend outside the current footprint , the house was too big, the house changed the cottage nature of the other homes in the neighborhood, a law practice would operate from the location because Triplett had a law practice at his current home , there would be traffic issues if the house was constructed , and the Triplett's spent half their time in Florida and wouldn't even be present to live there. Taraskewicz comments had a clear and apparent, hostile personal nature to them.

The second commenter Ellen Kazin who resides at 18 Willis Dr. made little comment other than "I agree with Amy" and I have been there since 1988, and have never seen anyone at 26 Willis Dr. She is not a direct abutter but is 3 houses south of 26 Willis Dr. Mrs. Kazin's comment about seeing no one at 26 Willis Dr. since 1988 is either borne out complete ignorance, total isolation, or was purposely alleged with no credibility to support a personally motivated campaign to undermine the application orchestrated by Taraskewicz . Not that it is even relevant, except as a matter of a lack of Kazin/Tarskewicz credibility the Triplett family has regularly utilized the property including persons living there full time during various periods from the 1950's to 2008, thereafter the Triplett family used the property on a periodic basis until present.

The third commenter, Meghan Blackwood, expressed a comment concerning her lake view being blocked from her abutting home if the proposed structure would be constructed on the property. As was appropriately expressed by Chairman Lombardi, he explained that he

understood her position but there is no basis to complain concerning a blocked view. Charlton has no by-laws concerning blocked views. Although the applicant was aware through other neighbors that she did have concerns about 26 Willis Dr drainage, the applicants don't recall that they were addressed at the June 23rd meeting.

Applicant Response to Commenters Allegations:

In response to those comments. First, Taraskewicz's offered no legitimate basis for the property being a substantial detriment to the neighborhood. She alleges the house is too big because it changes the cottage nature of the neighborhood. If the Board reviews the submitted photographs, particularly photographs numbered 3, 6, 7, 10, 11, and 12 they demonstrate that a large percentage of the homes in the neighborhood are not "cottage" in nature. This is particularly true with several homes in the area beginning with the Taraskewicz's home shown as the red structure in photograph number 6 and 7, Popiak's home (brown) in photograph 7 and 10, as well as Ellen Kazin's home (beige) in photographs 6, 7, and 11. In addition, two other examples in the same immediate neighborhood include photographs 12 and 13. The home in photograph 12 is located at the beginning of Willis and Leland Dr. Photograph 13 depicts a large home at 34 Willis Dr. , 4 houses north of 26 Willis Dr.

Realistically, all these houses that are a sampling of houses in the Willis/ Leland area, and the entire lake, do not exhibit the "cottage" style which Taraskewicz tries to mislead the Board into believing , as part of an attempt to undermine the Triplett/ Fleming application , but are more consistent with a category and various modern styles of structure that is being proposed for 26 Willis Dr., and those property upgrades, renovations , alterations and modernization of residences referred to as previously discussed above and encouraged in the SJC decision of *Bellalta v. Zoning Bd. of Appeals of Brookline*.

Taraskawicz's allegation that more traffic would be generated than is currently consistent with the neighborhood is simply not true, and she has no foundation or evidence to support this. The proposed home is a retirement home, and as set forth in the previous June 23rd testimony . It is intended and designed for future use as a care in place, end of life residence²

² As applicant Fleming testified she has been the executive director of a nonprofit visiting nurse, hospice , and at home health care business for 40 years. She understands the complexities and intricacies of home care and has specifically focused on a design intended to accommodate her and applicant Triplett in their declining years .

In addition, Taraskewicz's allegation of operating a law office from this location is once again without a basis in fact, other than Triplett/ Fleming's current primary residence has a law office. Notwithstanding that Charlton by-laws allow home businesses in every zoning district with very specific restrictions intended to protect neighborhoods from traffic congestion, etc. , Triplett/Fleming's current primary residence is approximately 5800 square feet with almost half of that square footage dedicated to a home office for legal work, a perfectly legal arrangement . The proposed plan as submitted by Triplett/Fleming to the Zoning Board does not provide any such home office arrangement with only a very small home office ,10X10, on the second floor , consistent with many homes that have a room with a general purpose designation as an office.

Finally, Taraskewicz's public comments go from ones that lack credibility or supporting evidence to the outrageous. The Building Commissioner testified that Triplett/Fleming's proposed special permit/ variance and project are consistent with the area and the Lake, so Taraskewicz's comments about a cottage environment , a house too big, would appear to the applicants in the normal course of consideration by the Board to be a "non-starter". What is beyond the boundaries of reason and should generate a degree of incredulity with those who have any interest in these type of projects before the Zoning Board is Taraskewicz's position that the permit/ variance should not be allowed because Triplett/ Fleming go to Florida six months a year to live. Notwithstanding those claims have no relevance whatsoever to granting or not granting a special permit/ variance, these kinds of comments to obstruct an approval smacks of desperation, a clear hostile personal motivation , and very likely a degree of jealousy, that collectively accumulates to a conclusion of wanting this application denied for anything but legitimate reasons.³

In a very telling reaction by a member of the Zoning Board ,once Taraskewicz had completed her comments, and was directed pointedly to Triplett/Fleming when he indicated that he certainly wouldn't want to live in their neighborhood.

Ironically, both Taraskewicz and Kazin are two residents who have sought special permit, variances for their relatively large structures, and are among the twenty-one other

³ Although Triplett/Fleming have no known reason for Taraskewicz's overall hostile conduct in this matter especially since the parties all grew up together through childhood, and past adulthood interrelating happily and with no problems, Triplett/Fleming reflecting for a possible explanation know of only one past incident that might offer an explanation. Taraskewicz some years past applied for a position in Fleming's home health agency and was subsequently turned down human resources department and may hold some animus for that reason.

variances granted since 2004, many as stated previously requested significantly more variance than Triplett and Fleming, particularly as it relates to set backs.

The applicants responding with regard to Meghan Blackwood's comments and presence at the meeting on June 23rd, believe her and her husband's issues have been addressed and they no longer have any objections. As stated previously there is no credible basis to allege that their view will be blocked. Notwithstanding that there is no legal basis within the Town of Charlton's by-laws, blocking views related to the lake with regard to the history of the neighborhood, or even their own property demonstrates that views are blocked on a regular and consistent basis. If one examines photographs # 5, a view of their home from 26 Willis it can be observed that on their northern boundary is a line of trees and bushes all the way to the lake front that completely obscures their view of the Lake looking north. If Photographs #4, 6 and 7 are examined it can be seen that Mr. Holmes shed located near the property line obstructs the view of Triplett/Fleming from the enclosed porch of the existing home as seen in photograph # 3. In photographs 6 and 7 it demonstrates a combination of obstructed views related to the Taraskewicz house and its prospective abutting neighbors, Homes and Popiak. Taraskewicz's side views are blocked by both of those structures or their accessory buildings.

Subsequent to the June 23rd meeting, on the following day, Triplett/Fleming were at the 26 Willis Dr property doing some maintenance work when Meghan Blackwood crossed from her property to Triplett/ Flemings' and asked if she could speak with them. They of course said yes, At this time Megfhan Blackwood indicated she wish to apologize individually and profusely for the conduct of their group, specifically Amy Taraskewicz, Ms. Blackwood said that she was unaware that Taraskewicz was going to conduct herself, as she did , and didn't really reflect Ms. Blackwood's position regarding the proposed house. She further indicated that when Triplett approached the group prior to the meeting to discuss and address any concerns related to the application Ms. Blackwood felt that Taraskewicz kind hijacked, at least her response . She would have looked forward to discussing the plans for the property.

Triplett responded by making arrangements for her to see the engineering plan and discussed her concerns about their view being blocked and possible drainage. As it turned out the footprint of the new home would not obstruct their view to any large degree, the front structure of the property , the lanai which also has an open view through it would extends short of the Blackwood's play set as shown in photograph #5, a depiction of a view across 26 Willis to

the Blackwood property , also showing the well which has a 20 foot structural set back. Ms. Blackwood was assured that drainage has already been addressed with the engineer to prevent any water flow to adjacent properties, although historically there has been no issue even with the front of the Blackwood property which has an elevation above the Triplett property because of a septic system installed in the Blackwood's front yard in the not too distant past.

At the conclusion of the Blackwood and Triplett discussions including a recent meeting of July 19th in which the engineering and architectural plans were produced for their review , they expressed that they had no objections to approval of the special permit/ variance.

Photographs of Immediate Area Neighborhood

Nineteen photographs have been submitted to the Board to assist them in considering the various factors related to special permit variance issues associated with the Triplett/Fleming application. A number of the photographs, many which have been refereneed throughout the memorandum to address specific issues potentially important to the Board, are in marked sequence #1 through #19. Whatever the photographs depict if it has not already been previously addressed above sill be listed below with a brief summary of its depiction:

- 1) Shows the relative relationship from the waterside on the dock of 26 Willis Dr. of the properties adjacent to or "abutters" beyond that. The property at 26 Willis shows a waterfront stone wall and a fairly expansive property behind it compared to the other lots in the area;
- 2) Shows the relative relationship between 26 Willis and 28 Willis, the Blackwood property, including the distance between the two properties taking into account that the proposed structure on 26 Willis Dr. will provide an additional foot between building structures;
- 3) Shows the relative relationship between 26 Willis and 22 Willis, the Holmes property, including the distance between the two properties. The setback here will be inaccotd with the Zoning by-laws;
- 4) As stated previously this is an accessory structure that provides an obstructed view for 26 Willis and is depicted to demonstrate the extent of lake view obstructions;

- 5) As addressed previously this shows the view across the 26 Willis property to the Blackwood property with the well and the Blackwood's playset. This provides a visual of the location of the extent to which the proposed new structure will end on the waterfront side in addition to the obstructed property line of Blackwood looking north on the lake;
- 6) Demonstrates the relative size of the houses, Taraskewicz and Kazin included, which diminishes Taraskewicz's position of cottage houses prevalent in the area, and supports the Building Commissioners position that proposal for 26 Willis is consistent with the area in all respects;
- 7) This shows as closer view of that which is shown in photograph number 6;
- 8) A view between the Taraskewicz and the Holmes property showing the closeness between the boundary line and the (mowed area) Taraskewicz structure and the nature of the special permit/ variance that was granted when Taraskewicz renovated the entire structure;
- 9) A view between the Taraskewicz and the Popiak property showing the closeness between the boundary line and the (mowed area) Taraskewicz structure and the nature of the special permit/ variance that was granted when Taraskewicz renovated the entire structure;
- 10) A photograph of the Popiak property which has been significantly renovated showing the closeness to the property lines, well within the required setbacks. It can be associated with the previous 5 and 6 photographs to show that this is a relatively large structure particularly in relationship to the lot size, the size of the structure and its closeness to the other structures/ boundary lines;
- 11) The Kazin structure and its three large sections, creating an overall, substantially large structure, made possible through setback permits and/or variances;
- 12) Cahill residence at the corner of Willis and Leland Dr. which has sought multiple variances to increase the size of the structure. It is believed that this structure may exceed 3200 s.f. of living space;
- 13) A large structure/residence located at 3 Willis, again demonstrating that the "cottage" atmosphere is not the prevalent style, but instead large homes on lots which for the

majority part are significantly smaller than the lot at 26 Willis , not even taking into account the property on the west side of Willis Dr;

- 14) Photograph of a home on Leland which has been renovated but the setback as shown by the compact car sitting in the driveway in relationship to the road is not 30 feet , but in fact is substantially less. This again demonstrates that the Board in granting the 26 Willis request will be acting in a consistent way related to the neighborhood.
- 15) More expansive view of photograph #14. Once again non-conforming homes that were renovated, homes that are not “cottage” in nature but reflect a very small setback between properties and in at least two of these homes, permits variances were granted to add structure;
- 16) Two homes adjacent to photographs of homes in 14 and 15 that are not setback 30 feet from the roadway;
- 17) Two car garage at 37 Leland which has a measure setback of 17feet, a special permit variance granted for this in 2017;
- 18) Home directly across the lake from 26 Willis which is obstructed from a full view but has a s.f. of well over 4000 s.f and reflects that the neighborhood of the lake which has been discussed as a relatively closed environment is changing and has changed to reflect larger more modern homes;
- 19) Another photograph across the lake showing that which was reflected in photograph 18, and would be demonstrated to a much larger degree all over the lake of it want for the unfortunate timing that led the applicants boat to be in the shop for repair.

Conclusion

The applicants request that the Board grant its request for a special permit/ variance . the property as proposed will not be a substantial detriment to the neighborhood. In fact it will improve the neighborhood. There is nothing to support the structure being a substantial detriment to the neighborhood. The structure as set forth by the Building Commissioner will be in line with the existing neighborhood and those permits/ variances already granted by the Board. The property due to its nature and existing conditions does not allow for realistic modification to the plans, and because it is being designed for future handicap and end of life living the design has been very thoughtfully worked out including a garage which is not only consistent and merges/blends with he overall style of

the house but provides a practical purpose in that direct access from the elements into the home for a number of good reasons including elderly or handicapped care . In addition, the property will have a cellar and due to the nature and careful design, the access will be through the garage the only practical place for access , once again providing access without being subject to the elements.

Finally, the only objection there appears to be is from one neighbor who it is apparent from all who have seen her conduct, including comments by a member of the Board, that her objections don't involve any substance. Substance that is generally associated with and related to legitimate future problems such as traffic, people density , public safety or public health concerns, etc, but is instead some kind of personal vengeance that the applicants have no clue where it arises from. She has conducted a single handed forward charge of personal hostility before the Board intertwined with manipulating neighbors who either don't know what they are talking about because they are blindly accepting whatever Taraskewicz is telling them , or were taken back and shocked when her conduct was exposed , expecting an entirely different and objective manner, and have expressed that they now have no objectionable concerns to the permit/ variance being granted. In the end no matter what personal motivation may be fueling the conduct there has been nothing presented that demonstrates that by allowing the applicants to move forward with their home that it will be a substantial detriment to the neighborhood.

Therefore, the applicants respectfully request that the Zoning Board grant their request for the special permits and variance as submitted.



James B. Triplett

on behalf of James B. Triplett and Jacklyn Fleming