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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Special Permit

***Flavia Montanari & Matthew Stutz, applicant
83 Rolling Lane
Map 111, Parcel 34***

August 19, 2021

83 Rolling Lane – Matthew Stutz and Flavia Montanari, applicants, applied to the Board of Appeals for a Special Permit under Sections 6.11.3(b), and any other applicable Sections of the By-Law to allow the construction of retaining walls in excess of four feet in height within the side yard setback of the property. The property is located at 83 Rolling Lane, Needham, MA in the Single Residence A (SRA) District. A public hearing will be held remotely on Zoom, on Thursday, August 19, 2021 at 7:30 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped July 26, 2021.
- Existing Condition Plans, prepared by Toomey Land Surveying LLC, stamped by James P. Toomey, Professional Land Surveyor, dated June 9, 2021.
- Site Plan, 2-4, 3-4, 4-4, prepared by Henderson Consulting Services, stamped by Scott P. Henderson, Professional Engineer, dated June 4, 2021.
- Retaining Wall Plan, 1-2, 2-2 prepared by Henderson Consulting Services, stamped by Scott P. Henderson, Professional Engineer, dated June 11, 2021.
- Fence Location Plan, prepared by Henderson Consulting Services, dated August 5, 2021.
- Retaining Wall and Fence Specifications, prepared by Henderson Consulting Services, dated August 5, 2021.
- Letter from Lee Newman, Director of Planning and Community Development, dated August 17, 2021.
- Letter from Dave Roche, Building Commissioner, dated August 3, 2021.
- Email from Thomas A. Ryder, Assistant Town Engineer, dated August 10, 2021.
- Email from Chief Dennis Condon, Fire Department, dated August 4, 2021
- Email from Tara Gurge, Assistant Public Health Director, dated July 7, 2021.
- Memo from Clay Hutchinson, Conservation Specialist, dated August 10, 2021.

- Report of the Design Review Board, dated July 19, 2021.

August 19, 2021

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair and Howard S. Goldman, Member. Mr. Schneider opened the hearing at 7:30 p.m. by reading the public notice.

Scott Henderson, Civil Engineer representing the applicant, reported that the site has been improved by a single-family home. The property has a heavily wooded area with a bordering vegetative wetland with an intermittent stream in the rear north edge of the site.

The proposal is to construct a pool, several terraces and patios. The topography in the rear of the house slopes 22 to 23 feet at a one to one slope. To support the pool on this challenging site, where it drops so abruptly, a series of retaining walls is necessary.

A series of terraces are proposed – one to support the pool, followed by an intermediate one, and the lower backyard terrace. The back east corner is where the retaining walls in excess of four feet within the 25-foot side set back are located. The walls will not be visible by the abutting neighbors because of the densely wooded area. The applicant spoke with the direct abutter to the west who has no objection to the project. In addition, that neighbors have a six-foot-tall stockade fence enclosing their property.

The application was forwarded to the Design Review Board and to the Conservation Commission for their review and comments. The applicant met with Dave Roche, the Building Commissioner, regarding his concerns about the fencing because of the height of the walls. Fencing will be installed to meet the pool enclosure and fall protection requirements of the Building Code and regulations of the State and the Board of Health.

A solid stockade fence, likely a white PVBC fence, will be installed on the east side to screen the neighbors. The pool will be enclosed by a typical fabricated black painted steel fence similar to the Ameristar fence product.

The wall will be constructed with 8” by 18” Anchor Pro Block which will be stabilized by an engineered geogrid fabric behind it. A darker block will be selected to blend in with the thick foliage and woods. The wall will only be visible to individuals standing in the back of the property and will not be visible from the public way or to the abutters of the property.

Comments received:

- Design Review Board reviewed the retaining wall and approved the design of the terraced retaining walls. They noted that the walls are not visible to most abutters.
- Planning Board had no comment.
- Engineering Department had no comment or objection.
- Building Department requested fall protection and pool fencing.
- The Fire Department was satisfied with the proposal.
- Conservation Commission noted that there was Bordering Vegetative Wetlands on the property and that the applicant submitted a Notice of Intent before the Conservation

Commission which is still under review.

There were no comments from the public.

Mr. Goldman inquired about the drainage and runoff of the project. Mr. Henderson said that to offset the impervious area created by the pool and patios, a closed drainage system with an infiltration system will be provided located in the lower lawn area. There will be no increase in runoff due to this project and there will be a reduction because of the infiltration system proposed. He noted that the Chair of the Conservation Commission is a licensed engineer and had review the proposed drainage system and expressed her approval.

Mr. Goldman was in support of the project and thought it was attractive.

Mr. Tamkin wished that the Conservation Commission had completed their review of the project before this hearing.

Mr. Schneider appreciated the concern taken with regard to the neighbors. He suggested that the Decision be subject to approval from the Conservation Commission and Building Commissioner.

Mr. Tamkin moved to approve the Special Permit under Sections 6.11.3(b), and any other applicable Sections of the By-Law to allow the construction of retaining walls in excess of four feet in height within the side yard setback of the property as shown on the plans, specifications and drawings filed with the application for 83 Rolling Lane subject to approval by the Building Inspector regarding the fencing around the pool and the walls; and the issuance of an Order of Conditions by the Conservation Commission. Mr. Goldman seconded the motion. The motion was unanimously approved.

The meeting adjourned at 7:45 p.m.

Findings:

On the basis of the evidence presented at the hearing, the Board makes the following findings:

1. The premises are a 38,433 square feet lot located in the Single Residence A District that is improved with a single-family house. The lot is non-conforming having less than the 43,560 square feet of area and less than the 150 feet of frontage required in the SRA District. In a Decision dated May 17, 2017, the Board found that the house was a conforming structure as a result of a change in the By-Law that allowed setbacks to be measured from the foundation rather than overhangs.
2. The lot has a significant drop in elevation at the rear leading to wetlands. The Applicant, proposes to build several retaining walls and terraces in order to construct a pool to the rear of the house. The retaining wall on the East will be approximately 9 feet in height within the side setback.
3. Under Section 6.11 of the Zoning By-law, the Applicant may build a retaining wall within

the setback provided that the wall does not exceed 4 feet in height. A retaining wall in excess of this limit requires a Special Permit

4. The Design Review Board has recommended approval of the proposed retaining wall noting that it is located to the rear of the property where it will not be visible to neighbors.
5. The building commissioner has requested that there be fencing on top of the walls to protect against falls. There are no other objections.
6. The Applicant has held two hearings with the Conservation Commission and reports that the Commission is ready to issue an approval.
7. The retaining wall will not increase the water flow off the premises and will not adversely impact adjacent property or the public, and is consistent with the criteria set forth in Section 6.11.5 of the Zoning By-law.
8. The retaining wall is designed in a manner that is compatible with the existing natural features of the site, is compatible with the characteristics of the surrounding area, and is consistent with the general purposes of Section 7.5.2 of the Zoning By-law.

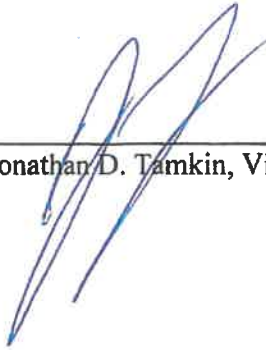
Decision:

On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, grants the Applicant a Special Permit under Section 6.11 of the Zoning By-law to construct and maintain the retaining wall in accordance with the plans presented at the hearing subject to a) obtaining approval and the issuance of an Order of Conditions from the Conservation Commission, and b) installing fences for safety as approved by the Building Commissioner.

SIGNATORY PAGE – 83 ROLLING LANE


Jon D. Schneider, Chair

SIGNATORY PAGE – 83 ROLLING LANE



Jonathan D. Tamkin, Vice-Chair

SIGNATORY PAGE – 83 ROLLING LANE

A handwritten signature in blue ink, appearing to read 'H. Goldman', is written over a horizontal line.

Howard S. Goldman, Member