SJC-13230

THOMAS F. WILLIAMS[1] vs. BOARD OF APPEALS OF NORWELL & others.[2]

Plymouth. May 2, 2022. - September 16, 2022.

Present: Budd, C.J., Lowy, Cypher, Kafker, Wendlandt, & Georges, JJ.

Zoning, Frontage, By-law. Way, Private. Statute, Construction.

Civil action commenced in the Land Court Department on January 8, 2010.

The case was heard by Jennifer S.D. Roberts, J., on motions for summary judgment.

After review by the Appeals Court, the Supreme Judicial Court granted leave to obtain further appellate review.

Jeffrey Nguyen for the plaintiff.
Jeffrey A. De Lisi for Mary A. Lareau & another.

GEORGES, J. In this case, we consider whether an undeveloped lot, which was deemed unbuildable under the local

[1] Individually and as trustee of the River Realty Trust.

[2] William McCauley, Maura A. Lareau, Gregory T. Lareau, Richard Thornton, and Deborah Thornton.

zoning bylaw in effect when the owner of the lot requested a building permit, is protected as buildable by the first sentence of G. L. c. 40A, § 6, fourth par. Resolution of this issue depends on whether the lot meets the minimum "frontage" requirement set forth in that provision. We conclude that the lot is protected under G. L. c. 40A, § 6, because it had the necessary "frontage," as that term was understood locally, in 1957, when the lot was last conveyed prior to the 1959 zoning change that first rendered it unbuildable. Accordingly, the order of the Land Court denying the plaintiff's motion for summary judgment, and granting that of the defendants, must be reversed.

1. Background. We summarize the findings set forth in the order on the parties' cross motions for summary judgment, supplemented by other uncontroverted facts in the summary judgment record, Miramar Park Ass'n, Inc. v. Dennis, 480 Mass. 366, 369 (2018), and viewing "the evidence in the light most favorable to the party against whom summary judgment was entered," Conservation Comm'n of Norton v. Pesa, 488 Mass. 325, 330 (2021), here, Williams.[3] See Attorney Gen. v. Bailey, 386 Mass. 367, 370-371 (1982), and cases cited.

[3] The uncontroverted facts are derived from the stipulation of facts before the trial in the Land Court, the trial testimony, the zoning board of appeals' findings of fact on

a. Lot 62. Plaintiff Thomas F. Williams, acting individually and as trustee of the River Realty Trust, is the record owner of a 2.076-acre undeveloped parcel of land (lot 62), located in residential district A in the town of Norwell (Norwell or town). Williams[4] seeks to build a single-family residence on lot 62, while the defendants, Williams's neighbors Maura A. and Gregory T. Lareau, oppose the proposed construction.

On June 11, 1948, lot 62 was sold by Esther MacKay to James Fox MacDonald, Jr. The deed was recorded at the Plymouth County registry of deeds on June 21, 1948; a plan of land depicting the lot also was recorded in the registry on that day. Lot 62 subsequently was conveyed in 1953, 1957, 1964, and in 2002, when it was sold to Williams. Since its creation, lot 62 has not been held in common ownership with any adjoining lots.

The description of lot 62 in the 1948 deed has been perpetuated in all of the subsequent deeds. The description refers to an "existing" right of way that crosses the property, and the way is shown on the 1948 plan as crossing lot 62 for well over one hundred feet. On two recorded plans from 1966 and

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remand, and the agreed-upon material facts submitted by the parties in support of their motions for summary judgment.

[4] For simplicity, we refer to Thomas Williams, both individually and in his capacity as trustee of the River Realty Trust, as Williams.

1967, a way identified as "Stony Brook Lane" is shown crossing lot 62 in that vicinity. These plans, which were recorded after the town established a planning board and accepted the provisions of the subdivision control law, are endorsed by the town planning board as "Approval Under the Subdivision Control Law Not Required." See G. L. c. 41, §§ 81K-81GG. An official town map from 1972 depicts a "private country lane" in the vicinity of the right of way referenced in the description. See G. L. c. 41, § 81E.

b. Prior proceedings. In 2009, the town's building inspector issued Williams a building permit, which had been approved by the town fire chief, for the construction of a single-family house on lot 62. Defendants William McCauley, Maura A. Lareau, Gregory T. Lareau, Richard Thornton, and Deborah Thornton appealed from the issuance of the building permit to the town zoning board of appeals (ZBA). Following a public hearing, the ZBA revoked the building permit. The ZBA concluded that the permit had been issued prematurely because the planning board had not yet made a determination that lot 62 had frontage on a "street or way" with "suitable width, suitable grades and adequate construction." Under the then-current zoning bylaw, adopted in 2009, such an adequacy determination was required before a lot could be deemed to have frontage on a "private way [that was] in existence when the provisions of

[the] subdivision control law became effective in the [t]own of Norwell."

Pursuant to G. L. c. 40A, § 17,[5] Williams filed a complaint in the Land Court challenging the ZBA's decision. He argued that lot 62 was protected by G. L. c. 40A, § 6,[6] from application of the requirements of the current zoning bylaw, including the requirement that frontage on a private way in existence when the town adopted the subdivision control law was subject to an adequacy determination by the planning board.

In 2011, a Land Court judge conducted a trial on Williams's complaint. Among other witnesses, Williams called the town building inspector. The inspector testified that he was "familiar with Stony Brook Lane" and had granted "other building permits there"; the inspector estimated that there were approximately seven or eight houses on Stony Brook Lane. He also testified to having driven from Main Street onto Stony

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[5] "Any person aggrieved by a decision of the [zoning] board of appeals or any special permit granting authority . . . may appeal to the land court department . . . by bringing an action within twenty days after the decision has been filed in the office of the city or town clerk." G. L. c. 40A, § 17.

[6] "Any increase in area, frontage, width, yard, or depth requirements of a zoning ordinance or by-law shall not apply to a lot for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least [5,000] square feet of area and fifty feet of frontage." G. L. c. 40A, § 6.

Brook Lane in order to reach lot 62, and to having seen other vehicles driving on Stony Brook Lane. Williams testified that he had been traveling the same route since the 1960s, over what is now known as Stony Brook Lane, and that there were no other routes to reach lot 62 from a public way. In addition, Williams, the ZBA, William McCauley, and the Lareaus stipulated to certain facts, including that "[a]t the time [lot 62] was created and recorded in June 1948, the Zoning Bylaw[] in effect in the town of Norwell [was] the 1942 Bylaw[], which [was] the town of Norwell's original Zoning Bylaw."

The trial judge's decision, issued in 2013, affirmed the ZBA's decision overturning the issuance of the building permit. The trial judge found that lot 62 did not qualify for protection under G. L. c. 40A, § 6, because it lacked the statutorily mandated fifty feet of frontage; the judge explained that "[t]he 1942 bylaw, which was in effect when lot 62 was created, contained neither a frontage requirement nor a definition of frontage." Therefore, the judge decided, the definition of "frontage" in the 2009 bylaw (the then-current version of the bylaw) should apply for purposes of assessing whether the lot met the minimum frontage requirement under G. L. c. 40A, § 6. As that definition required an adequacy determination of Stony Brook Lane by the planning board, the judge concluded, as had the ZBA, that lot 62 was not buildable. The judge also found,

as a separate reason for affirming the revocation of the building permit, that the evidence did not establish that the right of way described in the 1948 deed, as well as in all subsequent deeds, was the way that, at the time of trial, was known as Stony Brook Lane.

Williams appealed, and in 2014 the Appeals Court issued an order vacating the 2013 judgment of the Land Court. See Williams v. Board of Appeals of Norwell, 86 Mass. App. Ct. 1111 (2014). Contrary to the Land Court judge's finding, the Appeals Court concluded that the 1942 zoning bylaw did contain a definition of "frontage" that could be applied to determine whether lot 62 met the requirements of G. L. c. 40A, § 6. The Appeals Court considered the lot width requirement of one hundred feet under the 1942 bylaw, which was to "be measured at the way line or the set back line," effectively to function as a frontage requirement, and as a definition of "frontage," given that the bylaw provided a definition of "way." In addition, the Appeals Court held that "[t]here was no evidence that 'the existing right of way' referred to [in the 1948 deed] was anywhere other than the traveled way that exists today," which was "now referred to as [Stony] Brook Lane." The Appeals Court remanded the matter to the Land Court for further proceedings consistent with the court's opinion. In a 2016 order, a Land Court judge then remanded the matter to the ZBA with

instructions that the ZBA reconsider its 2009 decision in light of the Appeals Court's instructions. Following a second public hearing, the ZBA granted Williams's application for a building permit.

The 2016 ZBA decision relied upon a newly discovered document located by a member of the ZBA, who recalled, during the hearing on remand, that the town's original bylaw had been subject to litigation. According to the ZBA, the new document, which consisted of a 1947 Land Court decision that purported to invalidate the 1942 zoning bylaw, demonstrated that no zoning bylaw was in effect when lot 62 was created in 1948. See Lincoln vs. Inhabitants of Norwell, Mass. Land Court, No. 9746 Misc. (Jan. 16, 1947). For reasons that it did not explain, the ZBA then applied the definition of "frontage" in the 2009 bylaw, and found that Stony Brook Lane met that definition, as it was "a continuous and uninterrupted 'way'" that provided "'vital' access for emergency vehicles from Main Street to lot 62." The ZBA concluded that, because Stony Brook Lane provided more than fifty feet of frontage, lot 62 "qualifie[d] for separate lot protection under G. L. c. 40A, § 6."

The Lareaus appealed this second ZBA decision to the Land Court pursuant to G. L. c. 40A, § 17. In 2017, they moved for summary judgment, and Williams filed a cross motion for summary judgment. The motion judge, who was also the trial judge,

denied both motions, in part because she deemed the record "devoid of evidence on which to base" a determination under G. L. c. 40A, § 6, in particular with respect to the date on which lot 62 became nonconforming. The judge determined that, "as with the other requirements of [G. L. c. 40A, § 6,] whether [lot 62] satisfies the statutory frontage requirement is to be evaluated as of the date of the most recent instrument of record prior to the zoning change which rendered [lot 62] nonconforming," but noted that the record did not establish when lot 62 became nonconforming.

In 2019, given the retirement of the first Land Court judge, the matter was reassigned to a different Land Court judge. After further discovery, the parties again filed cross motions for summary judgment. Following a hearing, in 2020 the motion judge allowed the Lareaus' motion for summary judgment and denied Williams' cross motion. The judge determined that the 1959 amendments to the zoning bylaw "rendered [l]ot 62 nonconforming, as the prior bylaws did not impose any frontage requirement on a lot of its size (more than two acres)." The judge also determined that the 1957 deed was the most recent instrument of record prior to the adoption of the 1959 amendments, and that, because lot 62 met all other requirements of G. L. c. 40A, § 6, in 1957, the only issue before the court

was whether lot 62 had had at least fifty feet of frontage at that time.

In addressing that question, the judge observed that the available sources to define frontage were the 1955 zoning bylaw, which was controlling in 1957, the 1959 bylaw, which rendered lot 62 nonconforming, and the 2009 bylaw, which was controlling at the time the building permit was issued. The judge concluded that "[w]hichever of these three options is chosen, the result is the same. All require frontage, if on a [private] way, then on one approved by the [p]lanning [b]oard." As no approval by a planning board was documented for Stony Brook Lane, the judge determined that lot 62 did not satisfy the minimum frontage requirement set forth in G. L. c. 40A, § 6.

Thus, the 2020 Land Court decision annulled the ZBA's decision on remand, as well as the issuance of the building permit to Williams. Williams again appealed, and the Appeals Court issued a decision in 2021 reversing the 2020 Land Court decision and reinstating the 2016 ZBA decision allowing the application for a permit. See Williams v. Board of Appeals of Norwell, 100 Mass. App. Ct. 1102 (2021). The Appeals Court concluded that the second Land Court judge had failed to follow the order the Appeals Court had issued in 2014 instructing the Land Court to determine whether lot 62 met the minimum frontage requirement in G. L. c. 40A, § 6, under the 1942 zoning bylaw.

The Appeals Court emphasized that the Land Court judge had been bound by the terms of its 2014 decision, and that the judge's decision therefore "exceeded the scope of the judge's authority." We allowed the Lareaus' application for further appellate review.

2. Discussion. The allowance of a motion for summary judgment "is appropriate where there are no genuine issues of material fact in dispute and the moving party is entitled to judgment as a matter of law." Barron Chiropractic & Rehabilitation, P.C. v. Norfolk & Dedham Group, 469 Mass. 800, 804 (2014). "We review a decision on a motion for summary judgment de novo and, thus, accord no deference to the decision of the motion judge" (quotation omitted). Tracer Lane II Realty, LLC v. Waltham, 489 Mass. 775, 778 (2022), quoting Boelter v. Selectmen of Wayland, 479 Mass. 233, 237 (2018).

Williams argues that the second Land Court judge erred in concluding that, in 1957, lot 62 did not have sufficient "frontage" to qualify for protected status under G. L. c. 40A, § 6. In addition, Williams maintains that the judge erred in failing to follow the 2014 Appeals Court's instruction to use the 1942 bylaw to determine whether lot 62 had adequate "frontage" under the statute.

a. Statutory interpretation. "Our primary duty in interpreting a statute is to effectuate the intent of the

Legislature in enacting it" (quotation omitted). Sheehan v. Weaver, 467 Mass. 734, 737 (2014), quoting Water Dep't of Fairhaven v. Department of Envtl. Protection, 455 Mass. 740, 744 (2010). "We begin with the language of the statute itself and presume, as we must, that the Legislature intended what the words of the statute say" (quotation omitted). Sheehan, supra, quoting Commonwealth v. Young, 453 Mass. 707, 713 (2009). We do not interpret the statutory language, however, so as to render it or any portion of it meaningless. See Casa Loma, Inc. v. Alcoholic Beverages Control Comm'n, 377 Mass. 231, 234 (1979). "The construction of a statute which leads to a determination that a piece of legislation is ineffective will not be adopted if the statutory language 'is fairly susceptible to a construction that would lead to a logical and sensible result.'" Adamowicz v. Ipswich, 395 Mass. 757, 760 (1985), quoting Lexington v. Bedford, 378 Mass. 562, 570 (1979).

General Laws c. 40A, § 6, "is concerned with protecting a once-valid lot from being rendered unbuildable for residential purposes, assuming the lot meets modest minimum area . . . and frontage . . . requirements." Adamowicz, 395 Mass. at 763, quoting Sturges v. Chilmark, 380 Mass. 246, 261 (1980). The "statutory policy of keeping once-buildable lots buildable" is "grounded in principles of fairness to landowners." Rourke v. Rothman, 448 Mass. 190, 197 (2007). "Consistent with this

policy, we have construed various provisions of [G. L. c. 40A, § 6,] broadly to protect landowners' expectations of being able to build on once-valid lots," id., and to avoid the hardship that would result from a lot losing its buildable status, see id. at 197 n.14 (collecting cases).

"[T]he first sentence of G. L. c. 40A, § 6, fourth par., grants a perpetual exemption from increased local zoning requirements to certain lots that were once buildable under local bylaws," provided that certain conditions are met. See Rourke, 448 Mass. at 192, 194. "These conditions are that, 'at the time of recording or endorsement,' the lot (1) had at least 5,000 square feet [of area] with fifty feet of frontage, (2) 'was not held in common ownership with any adjoining land,' and (3) 'conformed to then existing requirements.'" Id. at 192, quoting G. L. c. 40A, § 6.

b. Lot 62's status as a protected lot.[7] The parties agree that, as a two-acre lot, lot 62 always has had more than 5,000 square feet of area. They also agree that lot 62 was never held

[7] Because this court has the authority to review legal issues the Appeals Court already has decided, see G. L. c. 211, § 3, we are not bound by the Appeals Court's 2014 decision, which remanded the case to the Land Court for an analysis of whether lot 62 met the requirements of G. L. c. 40A, § 6, when the lot was created in 1948. For that reason, and in light of the result we reach, we need not address Williams's argument that the second Land Court judge erred in failing to follow the Appeals Court's instructions on remand.

in common ownership with any adjoining land. Thus, whether lot 62 is protected under G. L. c. 40A, § 6, depends on whether, "at the time of recording or endorsement," the lot had at least fifty feet of frontage and conformed to then-existing requirements.

To determine the applicable date of recording or endorsement to use in examining whether lot 62 had sufficient frontage and conformed with other then-existing requirements requires two additional preliminary determinations. The court first must decide when the lot became nonconforming. See Rourke, 448 Mass. at 192, quoting Adamowicz, 395 Mass. at 762 ("We have interpreted the 'time of recording or endorsement' to mean the time of 'the most recent instrument of record prior to the effective date of the zoning change'" that rendered lot nonconforming). The court then must identify the last deed conveying the lot that was recorded or endorsed before the amended bylaw went into effect that made the lot nonconforming. See id.

The second Land Court judge concluded that lot 62 became unbuildable upon the adoption of the 1959 amendments to the zoning bylaw, as the prior bylaws did not impose any frontage requirement on two-acre lots. The judge found that, under the

1959 bylaw, lot 62 was located in residential district A.[8] The 1959 amendments required lots in residential district A that were two or more acres in area, such as lot 62, to have forty feet or more of frontage "on a public way or on a way approved by the [p]lanning [b]oard." See Norwell zoning bylaw, § 7(A), as amended Sept. 21, 1959. Because the judge decided that Stony Brook Lane was not a public way or "a way approved by the planning board" in 1959,[9] she determined that lot 62 lacked

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[8] Although Williams does not appear to dispute that, as of 2016 (when the 2009 bylaws were in effect), lot 62 is located in residential district A, he disputes that lot 62 was located in residential district A either in 1955 or 1959. According to Williams, lot 62 was located in overlay district C under both the 1955 and 1959 bylaws. This distinction, however, is irrelevant for purposes of our analysis. "An overlay district is a type of zoning district that 'lies' on top of the existing zoning, and potentially covers many underlying districts or portions thereof." Executive Office of Energy and Environmental Affaris, Smart Growth/Smart Energy Toolkit Modules -- Zoning Decisions, Overlay Districts, https://www.mass.gov/service-details/smart-growth-smart-energy-toolkit-modules-zoning-decisions [https://perma.cc/7LME-TSW3]. See KCI Mgt., Inc. v. Board of Appeals of Boston, 54 Mass. App. Ct. 254, 259 (2002), quoting Salsich & Tryniecki, Land Use Regulation 167 (1998) ("The typical overlay district is not an independent zoning district but simply a layer that supplements the underlying zoning district regulations"). Thus, whether lot 62 was located in overlay district C in 1955 or 1959 has no bearing on the fact that the lot also was located in residential district A, and therefore was subject to the requirements for that district.

[9] We undertake our analysis accepting for this purpose the judge's determination that Stony Brook Lane indeed had not been effectively approved by the planning board at that time. As Williams notes, however, the 1954 planning board rules and regulations, the first such rules issued in the town after its adoption of the subdivision control law in 1953, provide that all plans "showing subdivisions recorded before February 1, 1952

sufficient frontage under the 1959 bylaw. She therefore concluded that the time of "recording or endorsement" was September 24, 1957, the date on which the 1957 deed was recorded, as that deed was "the most recent instrument of record" prior to the adoption of the bylaw that made lot 62 nonconforming. Ultimately, because lot 62 necessarily "conformed to then-existing requirements" in 1957, when the last deed was recorded before the 1959 amendments were adopted, the critical question then becomes whether lot 62 also had at least fifty feet of frontage in 1957.

"Because G. L. c. 40A does not define 'frontage,' we look to the applicable town bylaw for a definition."[10] Marinelli v. Board of Appeals of Stoughton, 440 Mass. 255, 262 (2003). The second Land Court judge did not identify which of the town's bylaws was the "applicable town bylaw" to be used in making this determination; rather, she concluded that, whether that bylaw

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have the same effects as approved plans." In addition, Stony Brook Lane is depicted as crossing lot 62 on two plans endorsed by the planning board (in the 1960s) as "Approval Not Required" under the subdivision control law.

[10] We do not define "frontage" for purposes of G. L. c. 40A, § 6, with reference to the definition of that term in the subdivision control law. "To define frontage in [G. L.] c. 40A, § 6, by importing the criteria of [G. L.] c. 41, § 81L, would not serve the purpose of 'protecting a once valid lot from being rendered unbuildable.'" LeBlanc v. Board of Appeals of Danvers, 32 Mass. App. Ct. 760, 764 (1992), quoting Sturges v. Chilmark, 380 Mass. 246, 261 (1980).

was the 1955 bylaw, the 1959 bylaw, or the 2009 bylaw, the result would be the same: lot 62 did not have "frontage" to qualify for statutory protection under G. L. c. 40A, § 6.[11]

As an initial matter, we emphasize that it would defeat the purpose of G. L. c. 40A, § 6, to define "frontage" using a bylaw that was adopted years after "the time of recording or endorsement" of the relevant plan or deed to decide whether the lot was buildable when that plan or deed was recorded or endorsed. See Rourke, 448 Mass. at 197 (purpose of G. L. c. 40A, § 6, is "to protect landowners' expectations of being able to build on once-valid lots"). The "applicable town bylaw" is the bylaw that was in effect at the time of the relevant recording or endorsement. See Marinelli, 440 Mass. at 262. Thus, whether lot 62 had at least fifty feet of frontage at the time of recording of the 1957 deed, for purposes of protection under G. L. c. 40A, § 6, depends on what "frontage" meant in the

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[11] Specifically, the judge found that, in the 1955 zoning bylaw,

> "[a]ccording to the Lareaus, the minimum lot size requirement implicitly defines frontage as being on a public way or a way approved by the [p]lanning [b]oard. The other available sources to define frontage are the zoning bylaw that rendered [l]ot 62 nonconforming, the 1959 [zoning bylaw], or the zoning bylaw in effect at the time of Mr. Williams' application to the building inspector, the 2009 [zoning bylaw]. Whichever of these three options is chosen, the result is the same. All require frontage, if on a way, then on one approved by the [p]lanning [b]oard."

town in 1957. This, in turn, depends on how that term was used in the 1955 bylaw, the controlling bylaw in 1957.

We construe the meaning of a bylaw using "ordinary principles of statutory construction," beginning with the plain language of the bylaw. See Shirley Wayside Ltd. Partnership v. Board of Appeals of Shirley, 461 Mass. 469, 477 (2012), quoting Framingham Clinic, Inc. v. Zoning Bd. of Appeals of Framingham, 382 Mass. 283, 290 (1981). "When a statute does not define its words we give them their usual and accepted meanings, as long as these meanings are consistent with the statutory purpose. . . . We derive the words' usual and accepted meanings from sources presumably known to the statute's enactors, such as their use in other legal contexts and dictionary definitions." Commonwealth v. Morasse, 446 Mass. 113, 116 (2006), quoting Commonwealth v. Bell, 442 Mass. 118, 124 (2004). "To the extent that the meaning of a statute remains unclear, we seek to 'ascertain the intent of a statute from all its parts'" (citation omitted). Commonwealth v. Morgan, 476 Mass. 768, 777 (2017). "[W]e look to the language of the entire statute, not just a single sentence, and attempt to interpret all of its terms harmoniously" (quotation and citation omitted). Commonwealth v. Hanson H., 464 Mass. 807, 810 (2013). "Where the language is not conclusive, 'we may turn to extrinsic sources, including the legislative history and other statutes, for assistance in our

interpretation.'" Ciani v. MacGrath, 481 Mass. 174, 178 (2019), quoting Commonwealth v. Wynton W., 459 Mass. 745, 747 (2011).

The second Land Court judge appears to have accepted, without discussion, the Lareaus' argument that, although the 1955 bylaw did not define the term "frontage," such a definition was implied by the bylaw's requirement that lots of a certain size in residential district A have "frontage of 150 feet or more on a [p]ublic [w]ay, or on a [w]ay approved by the [p]lanning [b]oard." See Norwell zoning bylaw, § 7, as amended June 14, 1955. The judge concluded, based on this requirement, that the word "frontage," as it appears in the 1955 bylaw, meant only frontage on a public way or on a private way that had received planning board approval. This assessment, however, disregards the fact that, under the same 1955 bylaw, lots in residential district C were buildable, without planning board approval, so long as they had "frontage . . . on a [p]ublic or [p]rivate [w]ay." See id.

In ascertaining the meaning of the word "frontage" in the 1955 bylaw, we cannot disregard the manner in which that term was used later in the very same section. See Commonwealth v. Fleury, 489 Mass. 421, 429 (2022), quoting Chin v. Merriot, 470 Mass. 527, 532 (2015) ("a statute must be interpreted 'as a whole'; it is improper to confine interpretation to the single section to be construed"). Where the same statutory term is

used more than once, "the term should be given a consistent meaning throughout." Morgan, 476 Mass. at 777, quoting Commonwealth v. Hilaire, 437 Mass. 809, 816 (2002). "[T]he need for uniformity [in interpreting statutory language] becomes more imperative where . . . a word is used more than once in the same section." 2B N.J. Singer & J.D. Shambie Singer, Statutes and Statutory Construction § 51:2 (7th ed. rev. 2012), quoting Commissioner of Internal Revenue v. Estate of Ridgway, 291 F.2d 257, 259 (3d Cir. 1961). Indeed, we repeatedly have rejected constructions of words in a statute that would "require us to attribute different meanings to the same words in the same paragraph," or impose two different meanings to a word within one section. See DiCarlo v. Suffolk Constr. Co., 473 Mass. 624, 629 (2016), quoting Bilodeau v. Lumbermens Mut. Cas. Co., 394 Mass. 537, 543 (1984).

The Land Court judge's interpretation of the word "frontage" as meaning only frontage on a public way or on a private way approved by the planning board, based on the usage of the term in setting forth the requirements for lots in residential district A, is at odds with the manner in which that term is used later in that section, and elsewhere in the bylaw, with no explanation of any reason to depart from our well-established canon of statutory construction that we not

interpret the same word to mean different things when used in different places in the same section.

In addition, the Land Court judge's interpretation of the word "frontage" in the 1955 bylaw is at odds with the definition of "frontage" set forth in dictionaries from that time. See Commonwealth v. Keefner, 461 Mass. 507, 513 n.3 (2012) (where statute does not define word, reviewing court gives word its usual and accepted meaning, which may be derived from dictionaries and other "sources presumably known to the statute's enactors" [citation omitted]). In 1951, Black's Law Dictionary defined "frontage" as the "[e]xtent of front along [a] road or street." See Black's Law Dictionary 797 (4th ed. 1951). Similarly, in common usage at around that time, "frontage" was defined as "extent of front, as of land along a stream or road" or the "[a]ct or fact of fronting or facing a given way." See Webster's New International Dictionary of the English Language 871 (1926). See also 4 Oxford Universal Dictionary on Historical Principles 755 (rev. ed. 1937) (defining "frontage" as "[l]and which abuts on a river or piece of water, or on a road").

At this time, "way" was used as a general term that encompassed multiple different types of pathways on which travel could be accomplished. For instance, in 1951, Black's Law Dictionary defined "way" as a "passage, path, road or street."

See Black's Law Dictionary 1764 (4th ed. 1951).[12] Similarly, in common usage, "way" included "road, street, track, or path." Webster's New International Dictionary of the English Language 2313 (1926). See 10 Oxford Universal Dictionary on Historical Principles 2396 (rev. ed. 1937) (defining "way" as "[r]oad, path").

Notably, although the term "way" was not defined in the town's 1955 bylaw, or in the preceding bylaw from 1952, it was defined in the town's original bylaw from 1942 as "a passage, street, road, or bridge, public or private." See Norwell zoning bylaw, § 1, adopted March 30, 1942. As neither the 1952 nor the 1955 bylaw adopted a different definition of the word "way," the definition from 1942 provides valuable insight into what that word meant in the town when the 1955 bylaw was adopted.[13] See

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[12] The definition of way in modern times has remained essentially unchanged. See Black's Law Dictionary 1908 (11th ed. 2019) (defining "way" as "passage or path" and "private way" as "right to pass over another's land" or "way provided by local authorities primarily to accommodate particular individuals . . . but also for the public's passage").

[13] The fact that, in 1947, a Land Court judge held that the 1942 bylaw was invalid due to certain technical details about the entity that appointed the committee that recommended the bylaws at a town meeting does not alter our conclusion. The bylaw was invalidated because it was not adopted in strict compliance with the procedure set forth in the then-existing zoning enabling act, G. L. c. 40, § 27, as amended through St. 1933, c. 269, § 1. See Lincoln vs. Inhabitants of Norwell, Mass. Land Court, No. 9746 Misc., slip op. at 11-13 (Jan. 16, 1947). Regardless of whether the provisions of the bylaw had any binding force after 1947, its definitions of terms indicate

Perry v. Zoning Bd. of Appeals of Hull, 100 Mass. App. Ct. 19, 21-23 (2021) (inferring definition of "way" that differs from definition of "street" from zoning bylaw's use of both terms in one place and only one term in another place).

Ultimately, the meaning of words in a local zoning bylaw "must be arrived at by consideration of the legislative purpose." See Sturges, 380 Mass. at 261. In light of the manner in which the word is used in the 1955 bylaw, and in the bylaw the town attempted to adopt in 1942, as well as contemporaneous dictionary definitions, we conclude that the word "frontage," as used in the town's 1955 bylaw, referred to frontage on a "way," regardless of whether that way was public or private and, if the latter, whether the planning board had approved it. This conclusion is consistent with the purpose of G. L. c. 40A, § 6, to protect a once-buildable lot from becoming unbuildable.

As the deed of September 24, 1957, makes clear, what is now known as Stony Brook Lane was known in 1957 as an "existing right of way." Our case law from the 1920s, 1930s, and 1940s indicates that a "right of way" was considered to be a type of "way." See Ampagoomian v. Atamian, 323 Mass. 319, 322 (1948)

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what those terms meant in the town at the time that the bylaw was drafted, voted upon, and believed to have been properly adopted.

(referring to "right of way" as "way"); Swensen v. Marino, 306 Mass. 582, 583 (1940) (same); Panikowski v. Giroux, 272 Mass. 580, 581 (1930) (same); Brooks v. Quinn, 266 Mass. 132, 134-136 (1929) (same); Wood v. Wilson, 260 Mass. 412, 414 (1927) (same). Accordingly, we conclude that lot 62 had frontage on a "way" in 1957.

In sum, in 1957, lot 62 had over fifty feet of "frontage" on a "way," which is now known as Stony Brook Lane. Lot 62 therefore is protected as a buildable lot pursuant to G. L. c. 40A, § 6.

3. Conclusion. The Land Court judge's order allowing the Lareaus' motion for summary judgment is vacated and set aside, and the matter is remanded to the Land Court for entry of an order allowing Williams's motion for summary judgment.

So ordered.