

May 12, 2005

Present: Edmund White, Bradford Sedito, Randolph Snook, Polly Roberts

Alternates: Mark Averill, Todd Catlin, Georgia Middlebrook

Guests: Seth Churchill, Lance L. Loomis, Hugh O'Donnell, Tammy Zinick, Calvin Zinick, Kate Oetjen, Daryl Wright, Tina O'Donnell, Mary Agnes Collins , Public, Press

Chairman, Edmund White called the meeting to order at 7:30pm and read the legal notice for tonight's meeting.

PUBLIC HEARING

Mr. White seated regular members Bradford Sedito, Randolph Snook, Polly Roberts, himself and alternate Mark Averill.

ZBA-0503 Request of Mark Adams, 57 West Shore Road, a petition for a special exception, a request for air conditioners to be situated farther from the structure principally served than is specified under Section 12.14.1, 12.14.2 and 12.14.3 of the Zoning Regulations. Seth Churchill of Churchill Builders was present to represent this application. Mr. Churchill was given copies of the two letters received from adjoining property owners objecting to the above referenced request. Mr. Churchill has spoken with Graydon Carter one of the objecting neighbors. Mr. Churchill described the proposed location for the air conditioner units as a "cube" into the hill which will measure 6'6" x 10' in area. The house serviced by the ac units is under 2000 sq. ft. Mr. Churchill went on to describe the property as having very little usable yard space, behind the house is a patio, one side has the furnace vent and the other side is tight and wet. Mr. Churchill feels that if the units were put next to the house the noise would bounce around. Mr. White read a letter of objection dated May 10, 2005 from Roberto Benabib of 63 West Shore Road into the record. Mr. Churchill stated that he was opened to alternatives; he could use window units in the back of the house, the noise level of the proposed ac units would be equal to the sound of two cars running. Mr. Churchill reiterated the sight limitations, he described the noise impact as that in a canyon and asked members to keep in mind that he feels the noise will bounce from the house to the ledges. The proposed sight is 4' into the hill and will be shielded with rock, fence or shrubs. Mr. Churchill spoke with Mr. Carter, an objecting neighbor, explained about the proposed location and the noise. Mr. Churchill stated the Mr. Carter took his point and agreed with him. Mr. White read a letter of objection dated May 5, 2005 from Graydon Carter. Mr. Sedito asked about the west side of the house as a location for the ac units. Mr. Churchill stated that the footings stick out of the ledge, it's wet and not serviceable. The proposed location is 23' from the house. A buried propane tank is preexisting on the property. Ms. Roberts feels there are other options and is concerned with the two objections received from neighbors: one of which is not far up the hill and the other which is to the east. Mr. Sedito stated that members need documentation of the change-of-heart from Mr. Carter. Mr. Churchill feels that window units will make more noise and asked for suggestions. Mr. White stated that the application could be continued or withdrawn, adding to keep in mind that objections from two neighbors. Mr. White asked for further questions or comments from the public.

MOTION: to close ZBA-0503 request of Mark Adams, 57 West Shore Road, a petition for a special exception, a request for air conditioners to be situated farther from the structure principally served than is specified under Section 12.14.1, 12.14.2 and 12.14.3 of the Zoning Regulations was made by Ms. Roberts, seconded by Mr. Sedito by a 5-0 vote.

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Mr. Snook has two ac units in a similar ledge/bowl location and feels the applicants can locate them with in compliance with in the zoning regulations. Mr. Sedito also has ac units and is concerned with the objection of two neighbors, the special exception states that the applicant must demonstrate that placing the units in the proposed location will have less of an impact on neighbors. Mr. Averill feels that window units will be noisy but agrees with Mr. Sedito two neighbors have objected. Ms. Roberts and Mr. White agree and had nothing to add.

MOTION: to deny ZBA-0503 request of Mark Adams, 57 West Shore Road, a petition for a special exception, a request for air conditioners to be situated farther from the structure principally served than is specified under Section 12.14.1, 12.14.2 and 12.14.3 of the Zoning Regulations by a 5-0 vote.

PUBLIC HEARING

Mr. White seated regular members Bradford Sedito, Randolph Snook, Polly Roberts, himself and alternate Georgia Middlebrook.

ZBA-0504 Request of C. Carter Walker, Jr. & Julia A. Walker, 38 Hinkle Road, a petition for a special exception, a request for generator to be situated farther from the structure principally served than is specified under Section 12.14.1, 12.14.2 and 12.14.3 of the Zoning Regulations. Lance L. Loomis of Loomis Creative Woodworks, LLC was present to represent this application. Mr. White read the explanation of request. Mr. Loomis stated that the shed which the proposed generator will be behind is 37' from the house; he submitted pictures of the house and sheds. There are compressors for air conditioning located around the house. Mr. Loomis stated that the proposed location for the generator is 200' from the nearest property line, a hill and trees also separate the nearest house from the generator. The A-2 survey shows that the actual location of the proposed generator is 60' from the house. The proposed generator is a 20k unit, propane fueled, is self-contained/enclosed unit which will exercise once a week for 20 minutes. Mr. Sedito noted the need for proof that the proposed location has less impact on the neighbors. Mr. Snook asked about locating the generator on the house side of the shed. Mr. Loomis stated that they looked at putting the generator inside the shed but the exhaust still needs to be vented outside, he went on to say that the proposed location is nestled in a knoll and will have plantings around it. Mr. Roberts stated that locating the generator 25' from either side of the house is closer to the other neighbors. Mr. Sedito added that he feels the special exception was written for just this type of situation. Members discussed and differed in opinion on the best type of shield to deaden the generator noise. Mr. Loomis feels that the noise generated is from the exhaust, by putting it inside you still need to pipe exhaust outside, shrubs should work best, by boxing in the noise it will be louder. Hugh O'Donnell from the public stated that his experience is they sound like a leaf blower or loud lawn mower and when they are all running it's worse than living in the city. Mr. White asked for further questions or comments from the public.

MOTION: to close ZBA-0504 request of C. Carter Walker, Jr. & Julia A. Walker, 38 Hinkle Road, a petition for a special exception, a request for generator to be situated farther from the structure principally served than is specified under Section 12.14.1, 12.14.2 and 12.14.3 of the Zoning Regulations was made by Mr. Sedito, seconded by Mr. Snook by a 5-0 vote.

MEETING

Mr. Sedito feels that the spirit of the regulation is for this type of application. The impact to neighbors is no different, it's the same. Ms. Roberts stated that members could quibble over the intent of the

regulations, locating it 25' from the house would have more of an impact on neighbors; she is in favor of the application and is sure it will make for a better situation. Ms. Middlebrook agrees that the proposed location is better for the two neighbors; the shed location creates a barrier. Mr. Snook would be happier locating the generator in front of the shed but would still be inclined to favor the application. Mr. White noted that it is interesting how the special exception is unfolding, and still questions what's better enclosing the whole unit or shielding it. Mr. White feels that more research needs to be done about placement. Mr. Snook asked if the ZBA could approve an application with conditions, Ms. Roberts answered yes but the conditions are not enforceable.

MOTION: to approve ZBA-0504 request of C. Carter Walker, Jr. & Julia A. Walker, 38 Hinkle Road, a petition for a special exception, a request for generator to be situated farther from the structure principally served than is specified under Section 12.14.1, 12.14.2 and 12.14.3 of the Zoning Regulations, as per location on A-2 survey on file, by T. Michael Alex dated October 2003, by a 4-1 vote.

Mr. Sedito, Mr. Snook, Ms. Roberts and Ms. Middlebrook voted to approve.

Mr. White voted to deny.

The Zoning Board of Appeals granted a Special Exception ZBA-0504 to Loomis Creative Woodworks, LLC to locate a standby generator outside of the 25' zone required by Section 12.14.1 of the Regulations at a property owned by C. Carter and Julia A. Walker at 38 Hinkle Road

The lot at 38 Hinkle Road is a 13.528 acre parcel with a primary residence and two wooden sheds located to the north of the residence. The requested location of the generator is some 65 feet +/- from the residence being served and directly adjacent to the westerly shed.

ZBA determined that granting this Special Exception is consistent with the provisions of Section 12.14.5 and is supported by the following facts:

- The generator will be located at least 200' +/- from the North and South property lines and 500'+/- from the East-West property lines.
- The rated sound level for this equipment is 71 dB (A) at a distance of 7 meters which is equivalent to normal TV audio. level. The sound level will be considerably less at a distance of 200'.
- Existing air conditioning compressors limit sites within 25' of the main residence.
- The existing terrain is such that sound will be buffered on the north side of the lot. The main residence and the shed will buffer the sound level on the south side of the lot.

PUBLIC HEARING

Mr. White seated regular members Bradford Sedito, Randolph Snook, Polly Roberts, himself and alternate Todd Catlin.

ZBA-0505 Request of Calvin & Mary Zinick, 4 Wheaton Road, a petition for a special exception, a request for generator to be situated farther from the structure principally served than is specified under Section 12.14.1, 12.14.2 and 12.14.3 of the Zoning Regulations. Tammy Zinick of Permit Me Please and daughter of the applicant was present to represent this application. Ms. Zinick began by stating the need for the generator is because her mother is on oxygen and needs a back up incase of power failure. Ms. Zinick went on to state that locating the generator 25' from the house would place it in

the middle of the yard, one side of the house is only 17' from the side property line and the other side would be unsightly for the church parishioners and neighboring businesses. Ms. Zinick noted the location of the septic in the back yard and went on to state that placing it in the proposed location would be 26' from the side property line and would be where a natural noise barrier exists. The generator is presently temporarily installed on the right side of the house, but doesn't meet side yard setbacks. Mr. Sedito asked about locating the generator behind the house right next to the house. Ms. Zinick presented pictures and stated that there was a patio there and it would be more visible to neighbors in that location. Quarry Ridge is the back property neighbor. Kate Oetjen an adjoining property owner asked to step forward to look at the proposed location. Calvin Zinick, the applicant came forward to help with the discussion. Ms. Zinick addressed the issue of situating the generator on the rear of the house, she stated that there is a cesspool 15' from the house, you need to take into consideration the failure of the septic and need to redo the system, and the oil tank fill is also located there. Mr. Zinick added to place it in the proposed location on the hillside has a natural sound barrier and added that the generator is in use now and he has had no complaints, it runs for 20 minutes a week to exercise. Mr. Zinick invited members to the property to hear the generator running and added the generator needs to be placed away from the house to be serviced. Mr. Snook asked why 81' from the house why not closer? Ms. Zinick explained the concern for the business next door. Ms. Oetjen addressed the members with her concerns for future property owners; she has no problem with the emergency use. Ms. Oetjen went on to state that this is a commercial zone and asked if the generator could be installed with the stipulation that it be used for emergency purposes only. Ms. Zinick stated that the garage would act as a sound barrier to Ms. Oetjen's property. Ms. Oetjen went on to state that the back yard of her property is a viable business area and her concern is for future owners of the Zinick property. Mr. Sedito felt that the proposed location would be a better location than within 25' of the house as far as Ms. Oetjen's concerns. Mr. White asked for further questions or public comment. Mr. Snook added that locating the generator closer to the garage would shield the Oetjen and Slack properties. Mr. Catlin interjected that it would be less expensive to leave the generator in its temporary location and apply for a variance. Mr. Zinick addressed Mr. Snook's question about locating the generator nearer to the garage, it could be located within 10' of the garage, there is a retaining wall and walkway beside the garage which accesses storage space in the garage. Discussion went back to locating the generator in the rear of the house, is it allowed that close to an oil tank fill? Ms. Zinick felt if the generator were moved closer to the garage it would be worse for the neighbors. Ms. Oetjen asked if the special exception could be granted for just the Zinick's. Mr. White explained that the special exception stays with the property forever. Ms. Roberts questioned that there was no A-2 survey. Ms. Zinick stated that they submitted a blow up of the assessor's map with specific measurements done by someone with experience. Mr. White questions members about the proposed location for the generator. Members were in agreement that a site visit would help with best locating the generator. Mr. Zinick invited members to come on a Monday when the generator is running from 10:00am - 10:20am.

MOTION: to continue ZBA-0505 request of Calvin & Mary Zinick, 4 Wheaton Road, a petition for a special exception, a request for generator to be situated farther from the structure principally served than is specified under Section 12.14.1, 12.14.2 and 12.14.3 of the Zoning Regulations was made by Ms. Roberts, seconded by Mr. Catlin by a 5-0 vote.

PUBLIC HEARING

Mr. White seated regular members Bradford Sedito, Randolph Snook, Polly Roberts, himself and alternate Mark Averill.

ZBA-0506 Request of Caroline Vanderlip, 28 Shearer Road, a petition for a special exception, a request for generator to be situated farther from the structure principally served than is specified under Section 12.14.1, 12.14.2 and 12.14.3 of the Zoning Regulations. Daryl Wright of Wright Electrical Company was present to represent this application. A brief history behind this application was

given referencing two previous applications (ZBA-0403 & ZBA-0407). The generator is installed next to existing pool equipment and a propane tank. Hugh & Tina O'Donnell, adjoining property owners, noted noise concerns from air conditioning next to the house. Mr. Wright stated that those ac units were preexisting, he did not install them. The O'Donnell's concern was not having anymore noise generating equipment next to their house. Mr. White asked for other public comment. Mr. Wright noted that the generator is self contained in insulated housing and runs every Monday for 20 minutes to exercise. The O'Donnell's would like to hear it running and members were also interested in hearing the running generator. Mr. Wright will be on the property Monday May 16th at 8:15am to run the generator.

MOTION: to continue ZBA-0506 request of Caroline Vanderlip, 28 Shearer Road, a petition for a special exception, a request for generator to be situated farther from the structure principally served than is specified under Section 12.14.1, 12.14.2 and 12.14.3 of the Zoning Regulations was made by Ms. Roberts, seconded by Mr. Snook by a 5-0 vote.

PUBLIC HEARING

Mr. White seated regular members Bradford Sedito, Randolph Snook, Polly Roberts, himself and alternate Georgia Middlebrook.

ZBA-0507 Request of Mary Agnes Collins, 111 Bee Brook Road, a petition for a special exception for expansion of nonconforming dwelling. Mary Agnes Collins was present to represent her application. Mr. White and Ms. Roberts read the explanation of request into the record. Ms. Collins is requesting a 211 sq. ft. variance for lot coverage; she did these calculations with Mike Ajello the ZEO. Members tried to quickly figure the existing and proposed lot coverage. Ms. Collins explained her proposed addition as a one story structure, 23' x 26'2" all enclosed. Mr. White confirmed that there would be no other outside additions to the proposed addition i.e. doors, porches, etc. The clapboards will match what exists on the present house. Ms. Collins will submit present and proposed lot coverage calculations.

MOTION: to continue ZBA-0507 request of Mary Agnes Collins, 111 Bee Brook Road, a petition for a special exception for expansion of nonconforming dwelling was made by Mr. Sedito, seconded by Mr. Snook by a 5-0 vote.

MEETING-Continued

Seated: Regular members Edmund White, Bradford Sedito, Randy Snook, Polly Roberts and alternate Todd Catlin.

ZBA-0501 request of Chris Adams & Mark Beckett, 23 Loomarwick Road, for a variance from Zoning Regulations 11.6.1.c (front yard setback) and 12.1.1 (wetlands setback) and * amended March 28, 2005 to include 12.1.2 (setback from watercourse) to demolish an existing structure and erect a new house.** Over the last month members did site visits, some members made more than one visit. Mr. White started by stating that he vacillated on this application all month, the dimensions, location, effects, wetlands in relationship to the present structure location and it being on stilts. Taking into consideration what was presented at the public hearing about location, drainage and the net effect. Trying to balance this type of project, why move it towards the road, finding a balance on this very wet parcel. Mr. Sedito noted that the water running on the street side of the house and under the house is reasoning behind it being built on stilts, the structure needs to be rebuilt. Mr. Sedito added that a septic is needed and the proposed location is probably the best location. Mr. Catlin agrees with both Mr. White and Mr. Sedito it's balancing of the lesser of evils, keeping away from the wetlands during and after construction or moving closer to the road. Mr. Sedito visited the site twice, it's his feeling that the front setback is more sacred than the wetlands setback, the existing building is 12 x 12 with a shallow roof,

what is proposed is a much larger structure and closer to the road. Mr. White wonders how wetlands will look at this project; it's a well developed plan, but much closer to the street. Mr. Sedito added that Inland Wetlands regulates the whole property. Mr. White stated that pulling the whole project forward could pose problems if future owners are not as diligent as the applicants. Mr. Snook added that wetlands may tell the owners they can't have a basement and need to rebuild on what exists on stilts. Mr. White went on to say that the applicants are in a dilemma, if this application is denied they will have to wait six months to resubmit a new plan, they still have the opportunity to withdraw. Mr. Sedito felt that members are trying to out guess wetlands, and shouldn't get hung up on wetlands issues. Mr. White disagreed members need to address the wetlands setbacks. Ms. Roberts interject that there is no "building" on the lot. Mr. White agreed the applicants got a bonus because if the shack didn't exist nothing would be built. Ms. Roberts went on to say she felt that the proposed house is bigger than what the property can hold, the applicants have done a good job to help drainage, but she doesn't think that will help the lake. She feels the plan is well designed and site sensitive, but still too big of a house. Mr. Snook noted the volume of having a second story and garage and went on to add that relocating the structure would improve wetlands setback but would be closer to the road. You would be gaining 15' on the back side but cut in half the front yard setback. Mr. Sedito added are you giving up too much to get out of the wetlands? Mr. White stated you have to reconcile what is reasonable and comfortable. Ms. Roberts agrees, beyond anything varied, the zoning regulations don't allow the proposed to exist, this is different from an addition, and it's a big stretch. Mr. White closed by saying he respects the job done and how it was presented and again mentioned that the property owner can withdraw the application or the project will be out of play for six months.

MOTION: to deny ZBA-0501 request of Chris Adams & Mark Beckett, 23 Loomarwick Road, for a variance from Zoning Regulations 11.6.1.c (front yard setback) and 12.1.1 (wetlands setback) and * amended March 28, 2005 to include 12.1.2 (setback from watercourse) to demolish an existing structure and erect a new house by a 5-0 vote.**

MOTION: to accept the minutes of the March 17, 2005 and the April 21, 2005 meeting as submitted was made by Ms. Roberts, seconded by Mr. Averill by a 5-0 vote.

Meeting adjourned at 10:20pm.

Submitted subject to approval,

Pamela L. Osborne, Secretary