

August 21, 2003

MEMBERS PRESENT: Edmund White, Polly Roberts, Brad Sedito, Katharine Leab.

ALTERNATE PRESENT: Ms. Middlebrook and Todd Catlin.

ALSO PRESENT: Ms. Holzworth, John Friedman, Mr. & Mrs. Frank, Mr. & Mrs. Santoleri, Press, Valerie Friedman and Others.

Chairman White called the meeting to order and read the legal notice published in Voices on 8/10 and 8/17/03.

PUBLIC HEARING

ZBA-0314, Santoleri, 240 West Shore Rd., request for a Variance from Zoning Regulation 11.5.1a (max. lot coverage) to install hard landscape.

Mr. White seated the 4 Regular Members and Alternate Middlebrook. Mr. & Mrs. Santoleri were present. Proof of mailings to adjacent property owners was submitted. Mr. White reviewed the file. Ms. Roberts read the letter of request from the Santoleri's, dated (see file). Lot coverage % approved the last time will not change. Ms. Roberts noted that the fee is \$75.00 not \$25.00. Mrs. Santoleri said that was probably a typo. Site Plan (see file for date and title) was reviewed. Mrs. Santoleri said the grass terrace is difficult to use, wants a stone terrace, a retaining wall for the flatter area in the rear, stone steps and a drainage swale. Mrs. Santoleri said that when the driveway was repaved the coverage was less than had been previously approved, that is why they are able to come back and ask for more. The previous application was to rebuild on the same footprint but a larger terrace was made smaller including "bump out" and entryway. Ms. Roberts asked if they had Inland Wetlands approval. Mrs. Santoleri said yes. Mrs. Roberts asked if the parts not paved are indicated in the shaded area on the map. Mrs. Santoleri said yes, she had worked from the Talbot's map with actual field measurements. Mrs. Santoleri explained the discrepancies between what had been previously approved and what actually had been done (walkway shorter). Mr. Sedito asked if the footprint of the retaining wall are included in the coverage. Mrs. Santoleri said she thinks just the stairs were included. Mrs. Leab asked what the hardship is. Mrs. Santoleri said they are not asking for more, reallocating of what was approved before, actual coverage not changed since 1965 when original house was built. The plan from the 2000 ZBA application was reviewed and compared (see file for date and title of plan). Mrs. Hill said the stone walls have not been counted and will not be counted unless extending from a structure or something. Mrs. Santoleri noted the exact location proposed for steps. Mrs. Santoleri said it is too steep to use now. Mr. White read a memo from Mr. Martin and paraphrased the telephone conversation they had earlier today. Photos of the existing site were reviewed. Mr. Santoleri said the photos give a better perspective. Mr. White asked how high the retaining wall would be. Mrs. Santoleri said 30". Mr. White said the Health Department had not given approval yet. Mrs. Santoleri said no irrigation system over septic and septic fill will be used throughout. Mr. White noted that they had done a great job with the house. There were no further questions from the Commissioners. Mr. White asked for public input. Valerie Friedman asked if they had considered any natural work along the shore as opposed to hard landscape. Mrs. Santoleri said the Inland Wetland Commission did a site inspection and was impressed with how much natural vegetation exists. They will probably add more at the bottom of the wall. **AMOTION** to close the Public Hearing Re: **ZBA-0314, request of John and Carol Santoleri, 240 West Shore Rd., for a variance from Zoning Regulation 11.5.1a (max. lot coverage) to install hard landscape** was made by Mr. Sedito, second by Ms. Roberts, all agreed at 8:50 PM.

MEETING

Mrs. Leab said she had big problems with the lack of hardship and trade offs (variance granted for specific work), owner can't take away and add and say it's the same thing. If less is done it doesn't mean there is anything left over to play with. Ms. Middlebrook agreed there really is no hardship but it is within the bounds of what is allowed. Mr. White disagreed and said it isn't and that is why they have reapplied. Ms. Roberts said nonconformity is something you would like to go away, so if less is done, that's good. Mr. White said this is putting new coverage down, although more was approved in the past, this is new; the edge of the lake is what the Commission is concerned about. Mr. Sedito said he agrees with Mrs. Leab, other properties were not allowed trade off in coverage. Ms. Middlebrook said if that was the case then maybe they should not approve this. This is a cosmetic issue not a hardship.

Ms. Roberts and Mr. White agreed with all that has been said. Mr. White read the legal notice and called for a vote. **MOTION to approve ZBA-0314, Request of John and Carol Santoreli, 240 West Shore Rd., for a variance from Zoning Regulation 11.5.1.a (lot coverage) to install hard landscape was DENIED** by a 4 - 1 vote, Mrs. Leab, Mr. Sedito, Ms. Roberts and Mr. White voted no. Ms. Middlebrook voted yes.

PUBLIC HEARING

ZBA-0315, Putnam, 49 Tinker Hill Rd., request for a variance from Zoning Regulation 11.6.1c (front yard setback), to construct a one car garage.

Mr. White seated the Regular Members present and Mr. Catlin. Marinette Putnam and John Quist were present. The certified mail receipts were submitted. Mr. White read the letter (see file for date) authorizing Mr. Quist as representative. A letter from Mr. Quist was read into the record (see file for date). A map (see file for date and title) was submitted by Mr. Quist with sketch of the work to be done by Mr. Quist. Mr. Quist pointed out the location of the proposed garage, nearest point to property line is 45 ft., to Tinker Hill Rd. pavement is 70 feet. Mr. Quist said there is a steep drop off and a ledge in the back of the house, it can't be moved in any direction. The dimensions proposed = 24 x 14. Ms. Putnam said there is no garage on the property now. The driveway exists. Mr. Quist pointed out the location of a huge boulder that is 1/2 the size of the Land Use Meeting Room. The garage would come in about a foot from the outside line of the house. They will have room to sing out of the garage safely. Mr. White reviewed the coverage calculations. Ms. Putnam pointed out the map is flat but the land is steep. Mrs. Hill measured the coverage off the map and said it is well below the maximum. Mr. White asked if there is any way they can get around the house to have the garage in the back. Ms. Putnam said no and pointed out the locations of the well and septic. Ms. Middlebrook asked if the house is 2 story. Ms. Putnam said no, one story. Mr. White asked where the secondary field is. Mr. Quist guessed at the location and said the primary is now below the deck. Mr. Quist said there is a large buffer between road and the Putnam line. Mr. Catlin asked what the distance to the other corner of the garage is. Mr. Quist said 50 -55 feet, not exactly sure. There was no public input. **AMOTION to close the Public Hearing Re: ZBA-0315. Marinette Putnam, 49 Tinker Hill Rd., for a variance from Zoning Regulation 11.6.1c (front yard setback), to construct a one car garage** was made by Ms. Roberts, second by Mr. Sedito, all agreed at 8:08 PM.

MEETING

Mr. Sedito said he is satisfied there is no other place to place the garage, owner has a right to have a garage, only 25 feet in the setback, is a clear classic hardship. Mrs. Leab agreed, is minor. Mr. Catlin said it is a classic hardship. Ms. Roberts agreed. Mr. White agreed, due to topography and no other options, is a refreshing hardship. Mr. White read the legal notice and called for a vote. **MOTION to APPROVE ZBA-0315, request of Marinette Putnam, 49 Tinker Hill Rd., for a variance from Zoning Regulation 11.6.1c (front yard setback) to construct a one car garage was approved 5 - 0.**

PUBLIC HEARING

ZBA-0316, Request of Mark and Chris Beckett, 23 Loomarwick Rd., for a variance from Zoning Regulations 11.6.1c (front yard setback), 12.1.1 (wetlands setback), 12.1.2 (septic setback from a watercourse), 17.4a (increase the nonconformity of a nonconforming structure), to demolish an existing structure and erect a new four bedroom house.

Mr. White read the legal notice and seated the Regular Members and Alternate Middlebrook. Mr. Pratt was present as authorized agent (letter in file). The location of East Shore Road is discussed. Only one receipt from the certified mailing was received. Mr. Pratt showed a list of where the letters were sent. Mr. Pratt did not bring the receipts from the certified mailing. Mr. White noted that there is no proof that everyone was sent a notice. Mr. White recommended that the file be looked at although no vote can be taken until the proof of the certified mailing has been received. Mr. White read a letter from the file (see file for date) to the Chairman of the Zoning Board of Adjustments re the reasons for the variance requests. The letter said the existing footprint is 1008 sq. ft., is in poor shape, the current house is within 18 ft. of wetlands. They plan to demolish what exists and build a new 4 bedroom house. The lot is extremely small. The proposed house is as far from wetlands as possible but only 25 feet from Loomarwick Rd.. Mr. Pratt submitted a revised site plan (see file) showing the existing house marked in green. Mr. Pratt said the existing house is not livable. The location of an existing shed (156 sq. ft.) is noted. Footprint = 2000sq. ft. Mr. Sedito said that is 2x the existing footage. Mr. Pratt said that includes the garage. Mr. Pratt pointed out on the map the area of disturbance. Mrs. Leab asked if the owner ever lived on site. Mr. Pratt said no. Mr. White as if they can rebuild the same site. Mr. Pratt said no due to the proximity to the wetlands and the foundation would greatly disturb the wetlands. Setback for wetlands and road setback combined do away with any room for building. There is a very small driveway. Mr. Sedito asked how long ago the house was occupied. Mr. Pratt did not know. Ms. Roberts asked if the coverage calculations were done with the proposed house, driveway and turnaround. Mr. Pratt said 15%, but there will be modifications. Mr. Sabin has not finished the plan in detail so he is not sure. Mr. Sedito noted the steep slope. Photos were circulated with a reference sheet explaining where photos were taken from. Ms. Roberts asked if the ledge was indicated on the plan. Mr. Pratt said a small area only. Mr. Pratt said coverage may change due to decrease in patio size. They have not gone to wetlands yet. No Health approval yet. Mr. White read a comment dated 8/21/03 from Zoning Commission Chair Martin re Zoning Commission concerns about lot coverage. There is no request for lot coverage in this case. Mr. White noted engineering input from Dave Wilson. P.E. (see file for date and comments) including

1. information on two site plans do not agree.
 2. information does not agree with what the Health Department has.
- (Mr. Pratt and Mr. Neff's percs were done in different areas)
3. The Assessors field cards show seasonal use.
 4. there are questions regarding the proposed grading.
 5. there may possibly be other variances required (coverage- one map shows 15% t, 14.7.2 driveway grade, Health code variance for leach field area.

Will require extensive grading. This is a self imposed hardship. The information supplied is incomplete. This should be denied. Mr. Pratt submitted a revised map (see file). The original map had a "swing' road, but was impossible due to drainage problems. Mr. Pratt said he did not know anything regarding the septic. Mr. Sedito asked how they will get the grades to work. Mr. Pratt said they will have 2 retaining

walls, one of which will be 10 ft. tall. Mr. Sedito said that is almost right on the street. Mr. Pratt said that will have to be worked out. These developments await Mr. Sabin's review / plan. Mr. White said the Commissioners could not act on a piece meal application. The Commission perceived there will also be coverage problems. Mr. Pratt said he did not think so, he will submit the calculations of the revised plan later. Ms. Roberts asked, abandon SE1? Mr. Pratt said yes, but doesn't have the complete plan yet. Mr. Pratt said the proposed house has 4 bedrooms, 4400 sq. ft., shows the front elevation, is a one story building. Mr. Pratt offered to show the full set of plans. Ms. Roberts read a letter (see file for date) from Mr. Kleinberg and Mrs. Schemen, adjoining property owners with there input.

They said the application does not fall within intent of Zoning Regs, is a steep and boggy lot, the Beckett's owned 167 Loomarwick Rd., cottage was in poor condition when it was bought in 1997. The application is not a hardship, they could have it repaired but they choose to build a new house. The vertical distance over 42 ft. high, one of the largest houses on one of the smallest lots. Location is next to a state park. There is a year round watercourse on the property plus one immediately east about 50 feet from the property line. There is also a seasonal watercourse on West Shore Rd. There is no external sign that the building is on the verge of collapse. Mr. White said additional information has been supplied by the Schemen's (see file for letter) of 169 West Shore Rd. The letter included information about the well. 167, 169 and 183 West Shore Rd. share a water source. A letter from Mr. Young (see file) said he totally opposes the application, no way it meets the current land use requirements. Zoning and Wetland Regulations should be strictly enforced. Mr. Kleinberg presented notes and letters already read. Ms. Roberts said she would like to see the elevations of the house. Mr. Pratt showed elevations " A-SP" and additional sheets dated July 31, 2004. Not on slab, is a full basement. The floor plans were reviewed; 1st floor show living room down 3 steps with patio not shown (not final), 2nd floor shows 4 bedrooms, 3 baths, laundry, one bedroom has a sitting room. 3rd floor nook is library with deck and storage. Front and rear elevations. Average grade to peak = 37 ft. incomplete with height requirements. Ms. Roberts asked when measuring was the highest point the roof, where did they measure too. Mrs. Hill said mid point highest roof. Ms. Roberts asked when they will go before Wetlands Commission. Mrs. Leab said there is not enough information to make a decision, need a precise finished plan. Mr. White said this hard for them to consider piecemeal. Mr. Pratt said the plans are in progress. Mr. Pratt said the location of the house is set. Mr. White asked if a discussion had been held with the owners re: reusing the existing footprint. Mr. Pratt said yes but it is too close to wetlands. Mr. Sedito asked what is the hardship in doubling the footprint and quadrupling the total size of the building. Mr. Pratt said these are the owners' needs as far as living, hardship is in the site not the plan. Mr. Sedito asked if the owners once owned the adjoining property. Mr. Pratt said yes but they sold it. The owner may lease this for awhile. Ms. Roberts said the neighbors think this is much too large compared to what exists, great impact on the lot. Ms. Roberts said she appreciates the location away from wetlands. Mrs. Leab said this is a change of use. Mr. White asked what the hardship is, can they rebuild on the same spot. Mr. Pratt said rebuilding on the same spot will in no way meet the family requirements. Mrs. Leab said the owners did not come in blind. Mr. White asked the Commission if they need additional information for the continuance of the Public Hearing. Ms. Roberts said a more complete site plan with drainage and engineering. Mr. Sedito asked them to specify the hardship. Mr. Pratt said the setback hardship is clear. Mr. Sedito said to give them the option to withdraw and submit something more modest. Mr. White told Mr. Pratt that was up to him and his client. Mr. White said the Commission is tough around the lake, location of this lot touches water use. The Commission would need hardship. Mr. White said at this moment there are no positive comments, can continue or withdraw and rethink. Verification of notification is needed. Mr. White read a list of variance requests. Mrs. Leab asked, plus driveway grades? Mr. White said a variance is needed if beyond maximum grade requirements. Mr. Pratt said the driveway grade will be zero. Mr. Sedito said to do so requires a major retaining wall. Mr. Kleinberg and Mr. Wilson made a point that retaining walls will cut below the water table and cause drainage problems between wetlands and existing road, There is no place for drainage to go. Mr. Sedito noted that normally the ZBA sees plans after the client goes to Wetlands. Mr. White said this is a square peg in a round hole. Mr. Sedito asked if they could vote tonight. Mr.

White said all notification has not been received. Ms. Roberts asked if a hydrology report had been done. Mr. Pratt said a soil report only. Drainage is clear on site, is percolating water throughout the entire site. He does not know if it is going down to the water table. Can put a wall there but doesn't know about drainage plan. Mr. White asked if he could get the needed information for the next meeting. Mr. Pratt said yes. A **MOTION to CONTINUE THE Public Hearing Re: ZBA-0136, Request of Mark and Chris Beckett, 23 Loomarwick Rd., for a variance from Zoning Regulations 11.1.6c (front yard setback), 12.1.1. (wetlands setback), 12.1.2. (setback from watercourse), 17.4a (increasing nonconformity of an nonconforming structure), to demolish an existing structure and erect a new four bedroom house** was made by Ms. Roberts, second by Mrs. Leab, all agreed.

PUBLIC HEARING

ZBA-0317, Request of Washington Montessori Association, 240 Litchfield Turnpike, for a variance from Zoning Regulation 16.4.1 (size of sign), to install a sign.

Mr. White read the legal notice and seated the Regular Members and Alternate Catlin. Mr. Friedman of the Board of Trustees was present. Mr. Friedman submitted copies of certified mailing and a list of all notified. Mrs. Leab stepped down as a former member of the Board of Trustees. Mr. White seated Ms. Middlebrook. Mr. White read a letter (see file) from Mr. McNaughton re; the reasons for the variance request. A 2 sided 4 x 2 foot sign (rendering included) is requested. Sign will be on Washington Montessori property, west of the driveway. Mr. Friedman said a 2 square foot sign is now allowed in Residential Zone. Mr. Friedman noted the location of the driveway. Across the street is commercially zoned, only entrance is off a busy, fast roadway. Cars speed, not a conventional residential area. Cars go 2 xs as fast as most residential areas, therefore they need larger lettering. Instead of 1x2 they want 2x4. They said they have a safety concern so they need to enlarge the sign. This is the only way to get to the school. Mr. Friedman pointed out the location of the sign on the plot plan attached to the letter (see file). Mr. Friedman did not know if there is a setback issue. Signage rules were briefly discussed. This is not an advertisement it is the name of the school. Mr. Catlin said the Gunnery has a 24" square sign. Mr. Friedman said their name is longer. Washington Primary has 6 or 8 foot long sign. Mr. Friedman noted the Primary School is on a quiet road. Mr. Friedman said they want the size large enough to be seen for safety. Mr. Friedman said the sign is 3 feet from the property line, foliage further back. Someone else's property down the road. Is a culvert on the other side of the driveway with brook and guardrail, there is only a couple of feet of space. They don't want the sign in front of the Profita property. 2 x 4 is only adequate not large, will be able to see the lettering from 200 ft. away. Lettering will be at least 2.7" tall. Mr. Hill said that looks small for the area. Mr. Friedman said the traffic is so fast they fear accidents, although the site lines are ok. The posts will have finials at the top. 58 1/2 inches in height. There was no public comment. A **MOTION to close the PUBLIC HEARING Re: ZBA-0317, request of Washington Montessori Association, 240 Litchfield Turnpike, for a variance from Zoning Regulation 16.4.1 (size of sign) to install a sign** was made by Ms. Roberts, all agreed.

MEETING

Mr. Sedito said even the residential zone is non residential use, sees a hardship regarding the safety, would allow 12 sq. ft. in commercial zone, would like to see 10 ft. back on property line but understands why this is proposed where it is. He is in favor of this variance. Mr. Catlin said he agreed, safety issue important, independent education is a good friend of Washington. Ms. Middlebrook said the size and location are necessary for safety, not advertising, is location. Ms. Middlebrook used the Bee Brook Condo sign as an example and said it is not visible is a safety issue. Ms. Roberts agreed, is a safety issue, very modest size. Mr. Sedito said he disapproves of this type of variance for a restaurant, a school is different. Ms. Middlebrook asked if the ZBA suggests they go larger. Mr. White said no. Mr. White said schools are a permitted use in a residential district, was approved as an institutional situation, they are

caught in the middle, not a business. Mr. Sedito said this is a very main road, different than the gunnery. Mr. White said road speed and safety are a concern. Mr. White is in favor of the variance. Mr. White read the legal notice and called for a vote. **APPROVED** by a 5 - vote.

A **MOTION** to **ACCEPT** the minutes of the last meeting with the following corrections; spelling of Todd Catlin not Caitlin. Mrs. Leab noted on page three, next to last line should be owner not owners. Motion to **ACCEPT** the minutes as corrected was made by Ms. Roberts, second by Mr. Sedito, all agreed.

Mr. White said Mr. Averill wrote a note to and wished the Commission good luck.

Election for Vice Chair. Mrs. Leab nominated Ms. Roberts. Mr. White closed the nominations. All agreed, 4 0 Ms. Roberts for Vice Chair. Ms. Roberts abstained.

Ms. Roberts redid variance application, ZEO appeal form and guidelines for petitioners. A disc was left for the Secretary to hang on to. Fee \$75.00, \$9.00 so it can be used right away. Put on website so it can be downloaded.

The Secretary will confirm with the Selectmen the request for fees to go up in an ordinance at a Town Meeting. Variances, Special exceptions and ZEO all \$100.00. Sate tax \$9.00.

Mrs. Hill passed out draft revision of Regulations.

A **MOTION** to **ADJOURN** was made by Mr. Sedito at 9:31. All agreed.

Submitted subject to approval
Susan E. Hamilton
August 27, 2003