

February 17, 2011

Present: Polly Roberts, Randolph Snook, Katharine Leab, Todd Catlin Peter Bowman

Alternates: Roderick Wyant III, Todd Peterson

Staff: Shelley White, Mike Ajello

Guests: Lawrence Washington, Brian Neff, Engineer, Roberta Smith, Clifford Woodruff, Michael Cruse, Dave Werkhoven, Ralph Averill

Chairman Polly Roberts called the meeting to order at 7:30pm.

PUBLIC HEARING

Seated: Polly Roberts, Randy Snook, Todd Catlin, Peter Bowman, Rod Wyant, Alt.

ZBA-0882 - Request of Kleine-Micheletto, 110 Calhoun Street, for Special Exception, Zoning Regulation(s) 17.5 (increasing non conformity), to construct 10' x 13' mudroom on North Side of house.

Mr. Washington was present to represent the property owners. He stated that the previous owners were approved by the ZBA for a Special Exception in October 2010 and the new owners are requesting a Special Exception to add a 10' x 13' mudroom that would allow them to enter the house on the main level from the parking area. The Commission and Mr. Washington looked at the map titled Proposed Site Plan, for 110 Calhoun Street, by McIver Morgan, sheet A1-01, dated 11/23/10. Ms. Roberts asked why the mudroom could not be pushed back to avoid the front setback. Mr. Washington stated that there is a steep slope toward the rear of the house, which is the reason why the mudroom was located within the front setback. The Commission and Mr. Washington looked at the drawing titled Front and Back Elevations for 110 Calhoun Street, by McIver Morgan, sheet A2-01 with a revision date of 11/23/10. Mr. Catlin questioned if the house was historically significant since it is to be torn down and rebuilt. Mr. Washington stated that the Historic District Commission has approved the propose plan. Ms. Roberts stated that she believed that the ZBA accepted the previous application understanding that it would be rebuilt with as much salvageable material from the existing barn and that what was to be built would be done using the same dimensions, footprint, and scale as the existing barn. Ms. Leab asked why the mudroom was so large. Mr. Washington stated there would be one door, one window, two closets and storage for boots and shoes and it opens to the second level common space. The Commission and Mr. Washington looked at the drawing titled Upper Floor Plan for 110 Calhoun Street by McIver Morgan, sheet A1-02 with a revision date of 11/23/10. He stated that the previous owners had planned for an exterior staircase from the parking area to the entrance. Mr. Washington stated that the proposed mudroom would have a 42' front setback. Mr. Catlin asked if there was any consideration to move it further east and downhill with a staircase so that it would be in compliance with the zoning code. Mr. Washington stated that the original plan did have an exterior staircase going from the lower level to access the main level. Mr. Catlin asked if enclosing the exterior staircase was considered. Mr. Washington stated that he believes that the architect did not move the proposed mudroom back because of the steep grade and it would have to egress to the kitchen. The Commission and Mr. Washington discussed the steep grade toward the back of the barn. Mr. Bowman asked about the foundation. The Commission looked at the Upper Floor Plan. There were no further questions or comments.

Motion:

to close ZBA-0882 - Request of Kleine-Micheletto, 110 Calhoun Street, for Special Exception, Zoning Regulation(s) 17.5 (increasing non conformity), to construct 10' x 13' mudroom on North Side of house, by Mr. Snook, seconded by Mr. Bowman, by 5-0 vote.

MEETING

Mr. Snook stated that he could see the need for direct access from the parking area, that the slope of the property is an obstacle to moving it further back, that it is a fairly small addition and he has no problem with this application. Mr. Catlin stated that he would have liked a better reason than the slope for not moving the proposed mudroom further back and out of the setback. He stated that he suspects that if a northern elevation were submitted it would have probably shown windows on the lower level that would further complicate moving the mudroom back. He agrees that it is modest in scope in relation to the size of the barn and he is in favor of this application. Ms. Leab stated that she would have liked to see more information as to why this could be the only location for this mudroom and that other options had been considered and ruled out. She stated that she did not feel that this location was the only option. Mr. Bowman stated that he agreed that the applicant did not show that this is the only location for the mudroom and he was not sure why it had to be so large. Mr. Catlin stated that because it was a Special Exception the applicant does not need to prove hardship and that it does support continued use and is reasonable in scope. Ms. Roberts stated that she is inclined to approve this application. She stated that she is pretty convinced that this is the only location for the mudroom because of the grade and if it were moved further back it would cut in to the kitchen and the proposed mudroom location works with the floor plan.

Motion:

to approve ZBA-0882 - Request of Kleine-Micheletto, 110 Calhoun Street, for Special Exception, Zoning Regulation(s) 17.5 (increasing non conformity), to construct 10' x 13' mudroom on North Side of house, passed by 4-1 vote.

Ms. Leab voted against the application because she felt that the applicant did not provide enough information as to why the mudroom could not be located elsewhere on the property further from the setback.

Mr. Snook leaves.

PUBLIC HEARING

Seated: Polly Roberts, Peter Bowman, Kathy Leab, Todd Catlin, Rod Wyant, Alt.

ZBA-0883 - Request of R. Smith, 31 East Shore Road, for Variance, Zoning Regulation(s) 11.6.1.c (Front Setback), 12.1.2 (E. Aspetuck River Setback), and 11.5.1 (Lot Coverage) to construct a 20' x 22' single story one car garage.

Mr. Neff, Engineer and Ms. Smith, the property owner were present to represent this application. The Commission and Mr. Neff looked at the map titled Proposed Garage Site Plan prepared for Roberta Smith by Brian E. Neff, Engineer with a revision date of 1-26-11. Mr. Neff stated that the property is .715 acres and the applicant would like to construct a garage located in an area of a structure that had been demolished in 1996. He stated that the proposed garage would have a new foundation that would be smaller than the existing foundation of the demolished structure. He stated that the owner had applied for a variance in 2006 for a garage, which was denied. Mr. Neff stated that this new application proposes a smaller garage that would be a 20' x 22', one car garage with a 16' wide door and that this proposed garage would be moved about 4 feet back so there would be no encroachment in to the driveway. He stated that the proposed garage would also have a roof drain system with a subsurface detention and infiltration system. Mr. Neff stated that the proposed structure would be 5 feet from East Shore Road. The Commission and Mr. Neff looked at the map titled Property Boundary Survey, prepared for

Riverdance Mill, by T. Michael Alex, Surveyor, dated October 2006 and the drawing titled Proposed Garage Elevations, prepared for Roberta Smith, 31 East Shore Road, by Brian E. Neff, Engineer, with a revision date of 1-26-11. Mr. Catlin asked if the previous structure was 1-1/2 stories and if the proposed garage would have storage in the upper level. Mr. Neff stated that there would be a little bit of loft space above with a pull down door. The Commission questioned the size of the garage door. Mr. Neff stated that a 16' garage door is for a one-car garage and that an 18' or 20' garage door would accommodate 2 cars. Ms. Leab asked why the footprint was not decreased to 18' x 20' as Mr. Sedito had suggested with the previous application. Mr. Neff stated that Ms. Smith would prefer the 20' x 22' garage that was also suggested at the previous application Public Hearing. The applicant mailed 22 notifications to surrounding neighbors and 12 return cards were sent back. Mr. Cruse, an adjoining property owner was present at the hearing. Mr. Neff said the existing lot coverage is at 14% and with the proposed garage it would be 18%, which is 3% above the allowable 15% and the building is 1.5 % of the increase and the driveway is 2.5%. Mr. Bowman asked if the driveway could be narrowed to decrease the lot coverage. Mr. Neff stated that it would be possible to reduce it by a percentage point. There was a brief discussion regarding the West Elevation and the grade. The Commission and Mr. Neff looked at the drawing titled Proposed Garage Section, prepared for Roberta Smith, by Brian E. Neff, Engineer with a revision date of 1-26-11. Ms. Roberts asked if anyone from the public would like to speak.

Mr. Woodruff, an adjoining property owner asked how large the cottage on the property is. Ms. Smith stated that the cottage is a one level, one bedroom house at approximately 900 sq. ft. Mr. Neff stated that the roof had been slightly raised when the cottage was rebuilt in 1998. Ms. Smith stated that she was required to put in a legal foundation that met FEMA standards. Mr. Woodruff stated that it was a fact that this is a brand new structure. Mr. Neff agreed and stated that it was a rebuilt structure. Mr. Woodruff asked where the existing septic was located. Mr. Neff stated that there is a cesspool in front of the house but that he did not have a drawing of it.

Mr. Averill, an adjoining property owner, stated that he had no issue with Ms. Smith's application and that she should be commended on preserving a historical building in our area.

Mr. Woodruff asked Mr. Neff what the minimum septic tank and field size for a 1-3 bedroom house. Mr. Neff stated that it should be 1,000 gallons and the size of the leaching fields would depend on the perc test. Mr. Woodruff stated that he was curious as to why a new building went up that had a "completely illegal, drastically undersized, cesspool." He stated that the cesspool is in front of the house and is 20 ft. away from the river. Mr. Neff stated it was an existing nonconforming system and the Health Department would have signed off on it. Mr. Woodruff stated that the Health Dept. did not sign off on it. Mr. Woodruff stated that something has to be done with that and he asked where the reserve septic system site was located. Mr. Neff stated that the proposed garage would not have any facilities. Mr. Woodruff requested that Mr. Neff show him where the reserve septic site was for the house. Mr. Neff and Mr. Woodruff looked at the Garage Site Plan. Mr. Woodruff stated that the only place to put a septic system would be where the property owner plans to put a garage. Mr. Bowman asked if there is room for a septic outside of the garage and outside the 75 ft. radius. Mr. Neff stated that the septic could be located underneath the driveway. Mr. Catlin stated that this is not in the purview of the ZBA and should be addressed with the Health Department. Mr. Ajello stated that the Inland Wetlands Commission has approved the proposed garage and the proposed plan will go to the Health Department for a review. Mr. Catlin stated that a preexisting nonconforming septic system does not need to be replaced if it has not failed and there is no proof that it has failed. Ms. Roberts stated that the ZBA could give approval for this plan but that is one of many steps that it has to go through.

Mr. Woodruff stated that the proposed garage would crowd the driveway. He asked if the need for a garage was a hardship and asked why Ms. Smith could not put a garage under the sawmill that she restored. He stated that he did not understand why she would need a garage on the property that was not

her primary residence. Mr. Catlin stated that the ZBA is looking at a single property with a single property owner. Mr. Woodruff requested that the proposed garage be staked out and the ZBA make a site visit before the ZBA decides whether it should be approved. He stated that he does not agree that someone could not stand up in the second level that has a 10" pitched roof that is 20 feet wide and that there would be extra run off from a roof that is as steep as the proposed garage. Ms. Roberts stated that the steepness would not influence the amount of water that would run off from a roof. Mr. Woodruff stated that there are safety issues with a car backing out in to the driveway, there is no where to push the snow and if the gutters freeze up there will be run off which would cause ice patches on the road. He requested that this application be denied.

Mr. Cruse stated that it appears that Ms. Smith bought the land from the New Preston Women's Club. Ms. Smith confirmed that she bought part of the land from them. He stated that he did some research on the deed and discovered a section that said that no other building should be built on this lot. Mr. Cruse read the section of the deed dated June 28, 1966 in the Washington Land Records, Col. 65, page 310 that states "Said premises are conveyed subject to the condition that they shall be used by the grantee, its successors and assigns in the manner designed to promote beautification and community usefulness, and that no buildings shall hereafter be built thereon, and..."(on file in the Land Use Office). The Commissioners looked at the deed. Ms. Smith stated that there was a building there until it was torn down in 1996. Ms. Roberts stated that the Town Counsel has been advised that this is not in the purview of the ZBA and it would be taken care of somewhere along the permitting process. The Commissioners looked at the Proposed Garage Site Plan. Ms. Smith stated that she relied on her attorney to handle the transfers and title searches. She stated that she has widened the driveway and moved the proposed garage back by suggestion of the ZBA and the deed issue was something that she was not aware of. Ms. White read the section of the November 2006 Regular Meeting of the ZBA that pertained to Atty. Zizka's advise (on file in the Land Use Office).

The Commission stated that the septic, deed restriction, driveway and size of the building are issues that should be addressed and recommended that the garage be staked out. The Commission agreed that they would individually go and looked at the proposed site.

The Commission and Mr. Woodruff discussed the process that the proposed plan must go through.

Motion:

to continue ZBA-0883 - Request of R. Smith, 31 East Shore Road, for Variance, Zoning Regulation(s) 11.6.1.c (Front Setback), 12.1.2 (E. Aspetuck River Setback), and 11.5.1 (Lot Coverage) to construct a 20' x 22' single story one car garage, by Mr. Bowman, seconded by Mr. Wyant, by 5-0 vote.

PUBLIC HEARING

Seated: Polly Roberts, Peter Bowman, Kathy Leab, Todd Catlin, Todd Peterson, Alt.

ZBA-0884 - Request of R. Smith, 35 East Shore Road, for Variance, Zoning Regulation(s) 11.6.1c (Front Setback), 12.1.1 (Wetlands Watercourse Setback) and 12.1.2 (E. Aspetuck River Setback), to allow a 8.6' x 9.9' x 7.8' high prefabricated shed.

Mr. Neff, Engineer and Ms. Smith, the property owner were present to represent this application. Mr. Neff submitted photos of the existing shed. Ms. Roberts asked why it was installed with out coming to the ZBA. Ms. Smith stated that she made a mistake and was told by the person she bought it from that she did not have to go to the Town because it is a temporary structure. The Commission and Mr. Neff

looked at the map titled Property Boundary Survey prepared for Riverdance Mill by T. Michael Alex, Surveyor, dated October 2006. Mr. Neff explained the topography and stated that the IWC approved the location of the shed. Ms. Smith stated that the shed has been in its current location for 2 years. Mr. Neff stated that there is no existing garage or shed on the property for storage and Ms. Smith uses the shed to store lawn equipment and furniture. Ms. Roberts asked why this is the only place on the property that this could be located. Mr. Neff stated that if the shed were moved outside of the side setback it would be closer to the watercourses. The Commission, while looking at the Property Boundary Survey, suggested an alternative area for the shed. Ms. Smith stated that the area they were questioning was sloped and that she felt the area that the shed is currently located is the least obtrusive and the least visible. Mr. Woodruff stated that it was visible from his front yard. He asked why the shed has to be in this particular spot and that it is his right to have it moved outside of the setback and he wants it to be conforming. Mr. Woodruff suggested other areas that the shed could be located and stated that he didn't mind where the shed was as long as it was out of the side setback. The Commission, Mr. Woodruff and Ms. Smith looked at the Property Boundary Survey. Ms. Roberts stated that she understands Mr. Woodruff's position and that she would also like to see the shed moved out of the setback. Ms. Smith asked the Commission to come and see the location of the shed and that she would consider another location for the shed but she feels there is no other area that she could put the shed.

Motion:

to continue ZBA-0884 - Request of R. Smith, 35 East Shore Road, for Variance, Zoning Regulation(s) 11.6.1c (Front Setback), 12.1.1 (Wetlands Watercourse Setback) and 12.1.2 (E. Aspetuck River Setback), to allow a 8.6' x 9.9' x 7.8' high prefabricated shed,
by Ms. Roberts, seconded by Mr. Catlin, by 5-0 vote.

Consideration of the Minutes

The minutes of January 20, 2011 were considered.

Correction:

Page 2, under the 2nd PUBLIC HEARING, members seated should read: Polly Roberts, Randy Snook, Peter Bowman, Todd Catlin, Rod Wyant, Alt.

Motion:

to approve the minutes of the January 20, 2011 regular meeting of the Washington Zoning Board of Appeals as amended,
by Ms. Roberts, seconded by Mr. Catlin, by 5-0 vote.

Other Business/Discretion of the Chair

Mr. Catlin discussed the 2-17-11 POCD Subcommittee that he attended earlier in the day on behalf of the ZBA.

Motion: to adjourn at 9:25 pm, by Ms. Roberts, seconded by Ms. Catlin.

Ms. Roberts adjourned the meeting.

Submitted Subject to Approval,
Shelley White, Land Use Clerk