

March 17, 2011

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

Alternates: Roderick Wyant III, Todd Peterson

Absent Katharine Leab

Staff: Shelley White, Mike Ajello

Guests: Lawrence Washington, Brian Neff, Engineer, Roberta Smith, Clifford Woodruff, Dave & Sue Werkhoven, Fran Itkin, Daniel Sullivan

Chairman Polly Roberts called the meeting to order at 7:31 pm.

PUBLIC HEARING

Seated: Polly Roberts, Peter Bowman, Todd Catlin, Rod Wyant, Alt., Todd Peterson, 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 were present. Mr. Neff stated that changes have been made to the plan since the last meeting by changing the footprint of the proposed garage to 18' x 22' and moving it 55 feet from the E. Aspetuck River. He stated that the proposed driveway and door would be narrower which would reduce the proposed lot coverage from 18% to 17%. The Commission looked at the Proposed Garage Site Plan, prepared for Roberta Smith, by Brian Neff, with a revision date of 2-18-11. The Commission and Mr. Neff looked at the drawings titled Proposed Garage Section and Proposed Garage Elevations, prepared for Roberta Smith by Brian Neff, with a revision date of 2-18-11. Ms. Roberts asked if there were any concerns that the proposed garage would be too close to the road and if the State had to be involved. Ms. Smith stated that the stone retaining wall along East Shore Road is crumbling and would be replaced with a new concrete wall. Mr. Neff stated that the State would not have to be involved and that the wall is entirely on Ms. Smith's property. Mr. Catlin asked how the location of the proposed garage differs from the previously application that had been denied. Mr. Neff stated that the proposed garage would be located a little further south and away from the existing driveway and the proposed increase in lot coverage has decreased. Mr. Woodruff stated that he had concerns regarding the retaining wall. Mr. Bowman stated that driveway and wall are far enough away from the road and a concrete wall would be much stronger than a crumbling stonewall.

Mr. Woodruff stated that he was concerned that the property owner would have the capability of adding an apartment or workspace to the second floor. Mr. Neff stated that Ms. Smith does not have plans for a second or ½ story, there would not be enough headroom in the second level and that it would not be able to accommodate an apartment or a workspace. Mr. Woodruff submitted a drawing of the house on the property, which was rebuilt with dormers on the second floor. He stated that the property owner did not get a permit to install dormers on the second level. He stated that he was suspicious because the proposed garage would have 2' x 10' floor joists. Ms. Roberts stated that the proposed garage does not have the height to have a legal second floor. The Commissioners agreed that the second floor does not have the height to accommodate an apartment or workspace.

Mr. Woodruff asked Mr. Neff if the garage door faced the Mill property. Mr. Neff confirmed that it did. Mr. Woodruff stated that it would be a difficult driveway to maneuver. Mr. Neff agreed but said it could be done in a couple of different ways. Mr. Woodruff asked for confirmation that this garage wasn't being

built for the Mill. Mr. Neff confirmed that it was not.

Mr. Woodruff asked where the reserve septic would be on this property. Mr. Neff stated that the septic is not part of this application. Mr. Woodruff asked Mr. Neff if the garage was the only site a reserve septic could be located. Mr. Neff stated that he did not think this was the only site for a reserve septic. Mr. Catlin stated that this was a Health Department issue.

Mr. Woodruff stated that he had safety concerns. He stated that if Ms. Smith wanted a garage she could build a drive under garage for the Mill. Mr. Catlin stated that this did not have anything to do with this application. Mr. Woodruff stated that he did not feel there was a hardship because Ms. Smith does not live at this property. Mr. Catlin stated that the two properties are separate and are treated as such by the ZBA. Mr. Catlin stated that the hardship is land-based.

Mr. Woodruff asked the Commission to consider the safety issues. Mr. Snook stated that the line of site looks to be at least 125 ft. and as much as 175 ft. Ms. Roberts stated that she did not feel that visibility would be an issue. There were no further questions or comments.

Motion:

to close 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 18' x 22' single story one car garage, by Mr. Catlin, seconded by Ms. Roberts, by 5-0 vote.

MEETING

Mr. Catlin stated that he was pleased that the footprint had been reduced. He stated that he did not feel there was a second story issue and that the proposed garage is modest. He stated that the property is a difficult site. Mr. Catlin stated that he was a little bothered that the ZBA voted against this in the past but that it would not weigh too much on his decision. He stated that he went to the site and feels that the garage is as out of the way as it could be and the profile has been reduced. Mr. Catlin stated that living with a shared driveway requires courtesy from each neighbor to drive carefully and that he is in favor of this application. Mr. Bowman stated that he agreed with Mr. Catlin's comments regarding the size and that the proposed garage is clearly a one car garage. He stated that the residual space above the garage is created from having a pitched roof and could provide storage but could not be converted in to living space. He stated that he thought that a considerable effort was put into designing the storm water drainage system, doesn't feel that there are any safety issues and believes there would be adequate visibility from the driveway. Mr. Bowman stated that he supports this application. Mr. Wyant stated that he was happy that the proposed garage has been reduced in size and he feels that safety is not an issue and that he supports this revised application. Mr. Peterson stated that he feels that an effort has been made by the applicant to reduce the size and that he does not feel that there would be any safety hazards. He stated that he feels that there is not an issue with a second floor on the proposed garage. Ms. Roberts stated that she agreed with the other Commissioners and she is happy with the reduction in the size of the garage and the narrowing of the driveway as well as moving it further south. She stated that she visited the site and does not think that maneuvering in the driveway would be a problem and that she was comfortable with the way it is accessed. She stated that this is a difficult property because it is in between the road and the river.

Motion:

to approve 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 18' x 22' single story one car garage, passed by 5-0 vote.

PUBLIC HEARING

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

ZBA-0884 – Request of R. Smith, 35 East Shore Road, for Variance, Zoning Regulation(s) 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 were present. Mr. Neff stated that the map titled Property/Boundary Survey for Riverdance Mill, by Michael Alex, Surveyor, was revised to show the proposed location of the shed, which would be 25' from Mr. Woodruff's property line and 22' from the watercourse, which was approved by the Inland Wetlands Commission. The Commissioners looked at the property boundary survey. Ms. Smith stated that they would just move the building 25' from where it is currently located and away from the property line. Mr. Catlin stated that the building must be identical to what is approved with this application. Mr. Neff stated that the building would be set on timbers.

Mr. Woodruff stated that the shed had been placed without a permit and that the property owner stated that it was needed to store gardening equipment. He asked where the gardening equipment had been stored before the shed was on the property. He stated that the property owner was granted a permit for a shed that was attached to the Mill and the purpose for this shed was to store trash cans and a gas tank. He stated the gas tank is not in there and that it is located in between the driveway and his property line near the pond without a permit. He asked what the need would be for an additional shed. Mr. Ajello stated that the lower level, where the shed is located, is considered to be in a flood plain and the current location of the propane tank is above the dam. Mr. Ajello stated that the record does not show why this tank was located there but he assumes that it is for safety reasons. Ms. Smith stated that she uses the shed that is attached to the Mill for garbage cans and wood storage. There were no further questions or comments.

Motion:

to close ZBA-0884 – Request of R. Smith, 35 East Shore Road, for Variance, Zoning Regulation(s) 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 Mr. Catlin, seconded by Mr. Wyant, by 5-0 vote.

MEETING

Mr. Catlin stated that he does not have an issue with this application, and that this is an extremely difficult piece of land. He stated that the shed is modest, the set back issue has been addressed and the Inland Wetlands Commission has approved the location so he is in favor of this application. Mr. Bowman stated that agreed with Mr. Catlin's comments and that he is glad that the setback issue was resolved and he is in favor of this application. Mr. Wyant agreed with Mr. Catlin and Mr. Bowman and he stated that wherever this shed would be located on the property would create a hardship and he feels that this is an appropriate location and that he is in favor of this application. Mr. Peterson stated that he feels this is probably the flattest area on the property and it would be moved out of the 25' setback so he feels this is the most appropriate place to locate the shed and he is in favor of this application. Ms. Roberts stated that she is glad to see the shed moved out of the setback and approved by the Inland Wetlands Commission.

Motion:

to approve ZBA-0884 - Request of R. Smith, 35 East Shore Road, for Variance, Zoning Regulation(s) 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, passed by 5-0 vote.

PUBLIC HEARING

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

ZBA-0885 – Request of King, 153 Lower Church Hill Road, for Special Exception, Zoning Regulation(s) 12.14(Noise Generating Equipment), to install generator in barn.

Mr. Washington was present to represent the Kings for this application. Mr. Catlin asked who installed the generator. Mr. Washington stated that Larry Low installed the generator. Ms. Roberts read a letter from Engineering Sound Services to Mr. Washington, C&L Restorations, dated February 1, 2011 (on file in the Land Use Office), which stated the results of noise samples that were obtained using a Larson Davis System 824 Real Time Analyzer. According to this letter the decibel level would not exceed 50 dBA anywhere along the adjoining property line while the barn doors are closed. Mr. Washington stated that the generator is 80 kW and is model 45ERES (spec. sheet on file in the Land Use Office). Ms. Roberts asked if the barn doors would need to be opened if the generator were to run for a long period of time due to a power outage. Mr. Washington stated that all the exhausting and venting would be through louvered ports, there aren't any doors on the west side of the barn, which faces the neighbors but there are windows. He stated that the generator has been in the barn since 12/10, and the trenching had started 1 ½ years ago. Mr. Washington stated that the barn was rebuilt to the exact previous footprint. Mr. Catlin asked if the non-conforming part of this building was identical to what was there before. Mr. Washington stated that it was. Ms. Itkin, adjoining neighbor, stated that she disagreed and that an updated survey was not available in the file. Mr. Washington stated that the survey is of the original barn footprint and the current barn has the same elevations and footprint.

Ms. Itkin stated that when she originally came in to the Land Use Office the sound survey and an updated survey with the new configuration of the barn were not in the file. She stated that, as she read them, there are two different models indicated on the spec sheet and the application does not specify which model is being used. She stated that the engineer report indicates that the sound testing was done with snow on the ground and snow acts as an insulator. Ms. Itkin asked why the generator was placed at the front of the barn instead of at the rear of the barn where the sound could be vented into open space and that it was loud enough to wake her up when it was being tested. Mr. Snook stated that the applicant did have an engineered report done that indicates that the generator does not operate above the 50dBA level. Ms. Itkin stated that she feels the test should be done with little or no snow on the ground, windows and barn door open. Mr. Catlin stated that the spec sheet does not say anything about the generator being 80kW.

Mr. Catlin stated that he was upset that the generator went in without a permit. He stated that the generator is very large. The Commission agreed that Ms. Itkin has legitimate concerns and that the report did not answer all of their questions. The Commission and Mr. Washington discussed when the weekly testing was scheduled for the generator. It was the consensus of the Commission that this Public Hearing would be continued on Wednesday, March 30 at 6pm at 153 Lower Church Hill Road.

Motion:

to continue the Public Hearing for ZBA-0885 – Request of King, 153 Lower Church Hill Road, for Special Exception, Zoning Regulation(s) 12.14(Noise Generating Equipment), to install generator in barn, on March 30, 2011 at 6:00 p.m. at 153 Lower Church Hill Road, by Mr. Catlin, seconded by Mr. Snook, by 5-0 vote.

Break 9:03-9:05

PUBLIC HEARING

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

ZBA-0886 – Request of E. Werner, 258 Litchfield Turnpike, for Special Exception, Zoning Regulation(s) 17.5(Increasing Non conformity), to construct 85 sq. ft. addition to kitchen.

Mr. Neff was present to represent the Werners for this application. Ms. White confirmed that 5 out of 8 of the green return cards are in the file. The Commission looked at the map titled Partial Site Plan, drawing number 1 for Erhard Werner, dated 2-14-2011. Mr. Neff stated that the proposed addition is an 85 sq. ft., 1 story addition to the existing kitchen. Mr. Ajello stated that the property is an interior lot, which makes it non-conforming and that lot coverage is not an issue. Mr. Catlin stated that he visited the site. The Commission looked at the drawing number 2 titled Kitchen Addition Plans and Overview, for Erhard Werner, dated 2-14-2011. There were no further questions or comments.

Motion:

to close ZBA-0886 – Request of E. Werner, 258 Litchfield Turnpike, for Special Exception, Zoning Regulation(s) 17.5(Increasing Non conformity), to construct 85 sq. ft. addition to kitchen, by Mr. Catlin, seconded by Mr. Snook, by 5-0 vote.

MEETING

Mr. Snook stated that the addition is extremely modest, it does not violate any of the zoning regulations and he does not see any problems with it. Mr. Catlin stated that the property is clearly non-conforming and this is a modest expansion. He stated that it supports continued use of a single-family dwelling and it is reasonable in scope and he does not have any issues with it. Mr. Bowman, Mr. Wyant and Ms. Roberts agreed with Mr. Catlin and Mr. Snook.

Motion:

to approve ZBA-0886 – Request of E. Werner, 258 Litchfield Turnpike, for Special Exception, Zoning Regulation(s) 17.5(Increasing Non conformity), to construct 85 sq. ft. addition to kitchen, passed by 5-0 vote.

PUBLIC HEARING

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

ZBA-0887 – Request of First Congregational Church of Washington, 6 Kirby Road, for Variance, Zoning Regulation(s) 11.5(Lot Coverage), 11.6(Front Setback) and 17.4 (Non Conforming Structures), to construct a one story housing for handicap accessible lift, walkway to structure and increase of patio in front of structure.

Mr. Werkhoven was present to represent the First Congregational Church for this application. He stated that the Church would like to construct a shaft that would house a handicap accessible lift and the structure has become non-conforming regarding lot coverage and setbacks over the years. The Commission and Mr. Werkhoven looked at the drawing titled Site Plan for First Congregational Church, by Halper Owens Architects LLC, sheet D100, dated 6-4-10. Mr. Werkhoven stated that the Historic District Commission has approved this proposed plan. He stated that the Church has considered different configurations and stated that the lift that was to be purchased would be smaller than they thought and the shaft could be smaller. He presented a drawing of the alternate east elevation depicting the smaller housing. Mr. Werkhoven stated that the goal was to change the church as minimally as possible. Mr. Catlin stated that changing the size of the shaft would change the volume of the structure. Mr. Werkhoven stated that they would go back to the HDC and ask for a modification if the smaller plan was chosen. Mr. Catlin stated that the ZBA needs to approve specifics and that the Church is a beautiful building and he would be uncomfortable approving a plan that was not yet approved by the HDC. Mr.

Werkhoven discussed other changes that the Church would like to make regarding grading and curbs. Mr. Bowman asked about possible alternative locations for the lift. Ms. Roberts stated that she agrees that the least amount added to the building the better. Mr. Catlin stated that he does not feel that the Commission is in the position of approving a plan that is not definite. The Commission agreed that handicap accessibility is important for the Church. The Commission and Mr. Werkhoven discussed ADA compliance. Mr. Werkhoven stated that churches are exempt from ADA. Ms. Roberts asked Mr. Werkhoven if the Church was looking at the smaller plan to minimize cost or just to minimize the size of the addition to the building. Mr. Werkhoven stated that he did not think it would cost much more to build the first plan (approved by HDC). He stated that the only reason the second plan was created was because the type of lift that the Church has decided to purchase would be smaller than originally thought but that this lift could easily be placed in the original plan that was filed with the application. The Commission, Mr. Sullivan from Halper Owens and Mr. Werkhoven discussed the size of the equipment that was to be purchased by the Church. Mr. Sullivan stated that he did not think approving the smaller housing would be an issue because it would be less non-conforming. Mr. Werkhoven and the Commission agreed to focus on the plans that were submitted with the application. The Commission looked at the drawing titled Elevations, for the First Congregational Church by Halper Owens Architects LLC, sheet D201 dated 6-4-10. Mr. Catlin stated that he did not have any issues with this and he appreciates that it has been approved by the HDC. There were no more comments or questions.

Motion:

to close ZBA-0887 – Request of First Congregational Church of Washington, 6 Kirby Road, for Variance, Zoning Regulation(s) 11.5.1.c (Lot Coverage), 11.6.1.c (Front Setback) and 17.4.a (Non Conforming Structures), to construct a one story housing for handicap accessible lift, walkway to structure and increase of patio in front of structure,
by Mr. Snook, seconded by Ms. Roberts, by 5-0 vote.

MEETING

Mr. Snook stated that the plan is aesthetically pleasing, it does not alter the existing structure and it serves a very worthwhile purpose and he would be in favor of it. Mr. Catlin and Mr. Bowman agreed with Mr. Snook. Mr. Peterson stated he likes the idea of having the shaft a little larger for practical reasons and he feels that this is the best location. Ms. Roberts stated that it is clear that this property is difficult. She appreciates that the Church has thought of and presented other options that were not approved and she feels that this solves the problem and is the best location for the lift.

Motion:

to approve ZBA-0887 – Request of First Congregational Church of Washington, 6 Kirby Road, for Variance, Zoning Regulation(s) 11.5(Lot Coverage), 11.6(Front Setback) and 17.4 (Non Conforming Structures), to construct a one story housing for handicap accessible lift, walkway to structure and increase of patio in front of structure, passed by 5-0 vote.

Consideration of the Minutes

The minutes of February 17, 2011 were considered.

Correction:

Page 1

Heading should read: February 17, 2011

Seated for the first PUBLIC HEARING should read: Polly Roberts, Randy Snook, Todd Catlin, Peter Bowman, Kathy Leab

Page 4 under 2nd paragraph that begins with: Mr. Cruse stated that...7th sentence should read: Ms. Roberts stated that the Town Counsel has advised that this is not in the purview of the ZBA and it would be taken care of somewhere along the permitting process.

Motion:

to approve the minutes of the February 17, 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 stated that the POCD Subcommittee would be meeting on Thursday, March 24th and asked if there was any subject that the ZBA would like brought to attention of the POCD Subcommittee that they should contact him.

Motion:

to adjourn at 9:55 pm,
by Ms. Roberts, seconded by Ms. Catlin.

Ms. Roberts adjourned the meeting.

Submitted Subject to Approval,
Shelley White, Land Use Clerk