

February 19, 2009

Present: Brad Sedito, Todd Catlin, Kathy Leab, Randy Snook

Alternates: Rod Wyant

Absent: Polly Roberts, Peter Bowman, Alt., Georgia Middlebrook, Alt.,

Staff: Mike Ajello, ZEO

Others: Brian Neff, Engineer, Peter Talbot, Architect, Martin Brown, Dirk Sabin, Landscape Architect, John Harris, Craig Studer, Landscape Architect, Jim Ross, Jim Dobson, Irv Ernhout, Residents

Brad Sedito, Chairman called the meeting to order at 7:45 pm.

PUBLIC HEARING:

Seated: Brad Sedito, Todd Catlin, Randy Snook, Kathy Leab, Rod Wyant, Alt..

ZBA-0840 - Request of Ronna Bennett, 80 East Shore Road, for Special Exception, Zoning Regulation(s) 17.4.a (increasing non conformity), to raise 2nd floor roof, convert porch to living space and addition to rear of the house.

Brian Neff, Engineer was present to represent this application. Mr. Neff presented a Property Boundary Survey, prepared for Ronna Bennett, by T. Michael Alex, dated April 2008, a Proposed Site Plan, titled Addition to the Bennett Residence, by Brian E. Neff, Engineer, dated 1-23-09, Floor Plans and Exterior Elevation Drawings. Mr. Neff read the letter of explanation for the request of a Special Exception (on file in Land Use Office). Mr. Sedito asked if the only increase in the footprint would be the 4x8 area on the proposed plan. Mr. Neff confirmed the increase would be located over the existing walkway. Mr. Snook asked if there were photos of the property. Mr. Neff presented photos of the front and back of the property. ZBA confirmed the neighbors had been properly notified and the Land Use Office had received a majority of the return receipts. Mr. Sedito asked if the whole structure was being torn down. Mr. Neff stated the roof will be removed and a second floor would be added with a new roof. Mr. Sedito and the other members looked at the elevation drawings. Mr. Sedito asked how large the existing and proposed house is. Mr. Neff stated the existing house is 2 bedrooms (1 upstairs and 1 downstairs) and is 864 sq. ft. He stated the proposed plan will have 2 bedrooms, both upstairs, and 1412 sq. ft. Mr. Catlin asked how far the house was from the lake. Mr. Neff stated the house is about 62 ft. from Lake Waramaug. Mr. Catlin expressed that he was concerned with the increase in volume and the 10 ft. increase to the height of the existing house due to the proximity to the lake. Mr. Sedito stated that the addition of a second story screen porch increases the volume significantly. He read the requirements of a Special Exception and stated he was uncomfortable with the volume increase, specifically with the porches and decks on the proposed plan. ZBA and Mr. Neff agreed that the plan could be adjusted and revised.

Motion: to continue application ZBA-0840 - Request of Ronna Bennett, 80 East Shore Road, for Special Exception, Zoning Regulation(s) 17.4.a (increasing non conformity), to raise 2nd floor roof, convert porch to living space and addition to rear of the house, by Rod Wyant, seconded by Todd Catlin, by 5-0 vote.

PUBLIC HEARING

Seated: Brad Sedito, Todd Catlin, Randy Snook, Kathy Leab, Rod Wyant, Alt..

ZBA-0841– Request of 223 Litchfield Turnpike, LLC., 223 Litchfield Turnpike, for variance, Zoning Regulation(s) 11.6.1.a (front yard setback), 12.1.1 (wetland/watercourse setback), 17.4 /17.7(increasing non conformity), to construct entry porch, raise roof of 2nd floor, move storage shed out of wetlands.

Peter Talbot, Architect, Martin Brown and Dirk Sabin, Landscape Architect was present to represent this application. It was confirmed that the majority of the of green return postcards had been received by the Land Use Office and the surrounding property owners had been properly notified. Mr. Talbot read his letter (on file in Land Use Office) explaining the hardship and reasons for the variances being requested to the commission. He listed the enclosures included with this letter: A-2 Survey, Drawing SP-1, Drawing Sp-2, Drawing L-1, & Photos of existing conditions. The commissioners and Mr. Talbot looked at the A-2 Survey, Site Analysis Plan, prepared for 223 Litchfield Turnpike, LLC., dated September 2008, by T. Michael Alex, Land Surveyor. Mr. Talbot stated the proposed changes would make the property less non-conforming. He stated the porch would be 8' 6" ft. wide across the front of the building discussed the reasons for the size and location of the entry porch. Mr. Sedito asked what the minimum width is to meet code. Mr. Talbot explained the width of the entry allows for the minimum turning radius to accommodate a wheelchair. He stated that putting the entry on the side of the building would result in the need for parking in the front of the building, which they would like to avoid for safety and town planning reasons. Mr. Talbot stated the existing handicap access is on the side of the building, it is a secondary access according to A.D.A., and that is a Civil Rights issue. Locating the deck in the front of the building allows all patrons to use the same entrance. Ms. Leab agreed there was not sufficient lighting on the side of the building Mr. Talbot stated that they have approval from the Health Department and the Inlands/Wetlands Commission. The existing lot coverage is 15.7% and the proposed lot coverage is 16.8% which is under the allowable 25% lot coverage. This coverage will include paved surfaces, which will allow demarcation of parking. Mr. Catlin asked if the porch was going to be used for dining. Mr. Talbot said it would be an area used for waiting. Mr. Snook asked if there were other revisions to the outside of the building other than the front porch. Mr Talbot stated there would be a slight increase in the wetlands setback for the Principle Structure. The ZBA stated the call was not correct in stating the applicant was requesting a variance for section 17.7. The applicant requested a variance for section 17.6 (increasing non conformity), which was recorded on the application. The ZBA members and Mr. Talbot looked at the Zoning Regulations to decide whether applying for a variance to 17.6 was necessary. Mr. Catlin asked how high roof would be raised. Mr. Talbot stated it would be raised 11 inches he consulted with Bill Jenks, Building Inspector and it meets code. ZBA and Mr. Talbot examined the rear elevation drawing. Mr. Talbot explained that the habitable square footage was actually being reduced. The changes to the second floor would allow for insulation and would include a less shallow dormer allowing for office space and employee lounge area and bathroom. The proposed plan removes the exit stairway and removes the oil tank that will be relocated to the crawl space underneath the building. Mr. Talbot stated the existing square footage is 2,273 and will be decreased to 1,859 sq. ft. with the proposed plan. Mr. Talbot stated the existing shed is in the wetlands and they are proposing to move it 5 ft. away from the wetlands and it will be less visible from the road. Mr. Sabin presented the landscape plan for the site. Mr. Sedito asked if there were any more questions for m the commission or the public. Irv Ernhout of Wilbur Road stated he was familiar with the property and knew that the septic was problematic. Mr. Neff discussed the newly designed septic system that has been approved by the Heatlth Department. The new septic system has been moved to a dryer area and will not be leaching into the wetlands. Mr. Ross asked if the septic system was 100 % code compliant. Mr. Neff stated the square footage is correct however the trenches fell a little short due to the confined area they were able to use. Mr. Ernhout asked what type of lighting would be used. Mr. Talbot stated they will have a post lamp in the parking area as well as some down lighting shedding light in the parking area and some of the back of the property. Mr. Sedito asked if there were any more questions of comments.

Motion: to close application ZBA-0841– Request of 223 Litchfield Turnpike, LLC., 223 Litchfield

Turnpike, for variance, Zoning Regulation(s) 11.6.1.a (front yard setback), 12.1.1 (wetland/watercourse setback), 17.4 /17.7(increasing non conformity), to construct entry porch, raise roof of 2nd floor, move storage shed out of wetlands, by Todd Catlin, seconded by Rod Wyant, by 5-0 vote.

MEETING

Members of the ZBA discussed the incorrect call for this application. Ms. Leab had found what would be considered adequate by the courts for the notice in the book What's Legally Required , by Mike Zizka, page 54, item #2. Substantive Requirements, paragraph #2. Mr. Catlin read the excerpt stated the important thing was that 'item #1 in the call sufficiently appraises those who may be affected of the nature and character of the action being proposed' and that the public was allowed to prepare 'intelligently' for the public hearing. Mr. Sedito stated that section 17.4 has been noted and 17.6 is secondary to that, but if somebody wanted to file an appeal within 30 days they could. It was noted that 17.6 was on the application correctly. Mr. Catlin stated he is in favor of varying 11.6.1.a and is happy that it meets the A.D.A requirements and the porch adds a more aesthetically pleasing facade. He stated he has no issue with 12.1.1 for the porch because it is not as close to the wetlands as the rest of the building and I/W Commission has approved it. Regarding varying sections 17.4/17.6, increasing the height, brings the building to code, adding the front porch is A.D.A. compliant, and it addresses safety issues and bringing the shed further away from the wetlands is an improvement. Mr. Wyant stated he agrees with Mr. Catlin and is in favor of the improvements. Ms. Leab stated that A.D.A. Is the most important issue, and she believes there was a safety issue for all patrons entering and exiting the restaurant. She stated she is also in favor of the relocation of the storage shed. Mr. Snook stated he is in favor of the application and feels the entry was done appropriately and would like to see this application be approved. Mr. Sedito stated he agrees with varying 11.6.1.a. He stated that he does see a hardship in conforming with the A.D.A. Requirements, protecting the Civil Rights of handicap people. He stated the proposed plan is an excellent solution. He feels the wetlands create a hardship and is in favor of varying 12.1.1 for the deck. Mr. Sedito stated he is also in favor of varying regulation 17.4 because it would be necessary to increase the non-conformity to construct the handicap access. He believes that varying regulation 17.6 follows varying regulation 17.4. He asked Mr. Catlin for his input. Mr. Catlin stated that varying 17.6 for the porch is an A.D.A. consideration and raising the roof brings the building closer to code. He feels this plan was done in the most attractive and efficient way possible and he commended the plan for being sensitive to the civic planning of the Town of Washington and believes it is a modest application on a very difficult site.

Motion: to approve ZBA-0841– Request of 223 Litchfield Turnpike, LLC., 223 Litchfield Turnpike, for variance, Zoning Regulation(s) 11.6.1.a (front yard setback), 12.1.1 (wetland/watercourse setback), 17.4/17.6 (increasing non conformity), not varying 17.7 as it was noticed incorrectly, to construct entry porch, raise roof of 2nd floor, move storage shed out of wetlands, by 5-0 vote.

PUBLIC HEARING:

ZBA-0842 - Request of John Harris, 258 New Milford Turnpike, for variance, Zoning Regulation(s) 11.6.1(front and side yard setback), 12.1.1 (wetland/watercourse setback), 12.1.2(Aspetuck River setback), 17.4 (increasing non-conformity), add portico and addition for utilities, fireplace and storage. Mr. John Harris and Mr. Craig Studer, Landscape Architect, of Studer design were present to represent this application. Mr. Studer presented the Proposed Site Plan for the White Horse Pub, by MacMillan Architects, dated 1/27/09. The proposed entry portico measures 9'x8'. This entry will be covered with and serve as the main entrance for all patrons and conforms to A.D.A. standards for handicap entry. Mr.

Studer explained that the footprint would remain the same. The existing structure requires interior changes to bring the building up to code for handicap accessibility, accessibility to the bathrooms and liquor laws requiring locked storage for liquor. Mr. Studer explained the addition would be constructed on an existing 10' x 12' concrete pad for liquor storage, utilities and allow for installation of a gas fireplace. The existing kitchen needs to be enlarged to accommodate the two refrigerators that are required to meet Health Code. The proposed bathrooms are centrally located between the bar area and dining area and are handicap accessible. Mr. Sedito asked the existing location of the well pump. Mr. Harris stated it is located in an existing storage area. Mr. Catlin asked if the deck would be used for dining. Mr. Harris stated there weren't any plans for dining on the deck. Mr. Sedito stated the addition would be very close to the neighbor's property line. Mr. Studer presented a letter from the neighbor that is in favor of the project. Mr. Sedito asked the other members opinion regarding the size of the addition. Mr. Catlin stated he did not have a problem with it considering there was a letter from the neighbor supporting the project and there is clearly an issue with storage. Ms. Leab agreed with Mr. Catlin. Mr. Sedito asked if Inland/Wetlands Commission approved the project. Mr. Harris confirmed they had approval from I/W Commission. Mr. Snook asked if the number of parking spaces would be increased. Mr. Harris said there are approximately 21 parking spaces. Mr. Catlin asked if the existing entrance could have been used as a covered portico and the door be pushed back. Mr. Studer stated that it was considered but the proposed plan allows the bathrooms to be centrally located and allows for the space to function better. Mr. Sedito asked if there were any additional questions or comments. Jim Dobson, of Dobson Pools stated he supports the project.

Motion: to close application ZBA-0842 - Request of John Harris, 258 New Milford Turnpike, for variance, Zoning Regulation(s) 11.6.1(front and side yard setback), 12.1.1 (wetland/watercourse setback), 12.1.2(Aspetuck River setback), 17.4 (increasing non conformity), add portico and addition for utilities, fireplace and storage, by Randy Snook, seconded by Kathy Leab, by 5-0 vote.

MEETING:

Mr. Snook stated he was in favor of the project and the proposed plan is a significant improvement to what exists with a relatively minor change to the footprint. Mr. Wyant stated the proposed plan is a great improvement and he is in favor of the project. Ms. Leab stated the property is a hardship and the improvements are a 'reclamation' and she supports the project. Mr. Catlin stated he was in favor of this application and believes the proposed plan is sensitive to the river. Mr. Sedito stated he was in favor of the application and feels it addresses A.D.A and safety issues. He stated concern with the size and proximity of the addition but is satisfied with the letter of support the neighbor submitted.

Motion: to approve ZBA-0842- Request of John Harris, 258 New Milford Turnpike, for variance, Zoning Regulation(s) 11.6.1(front and side yard setback), 12.1.1 (wetland/watercourse setback), 12.1.2(Aspetuck River setback), 17.4 (increasing non conformity), add portico and addition for utilities, fireplace and storage, by 5-0 vote.

CONSIDERATION OF THE MINUTES:

Motion: to approve the minutes of the January 15, 2009, meeting of the Washington Zoning Board of Appeals as submitted, by Rod Wyant, seconded by Kathy Leab, by a 5-0.

OTHER BUSINESS:

Mr. Sedito asked the commission to discuss a letter to the Zoning Commission requesting clarification and a possible revision to certain sections of the Zoning Regulations. Sections: 12.5.4.1, 12.5.4.2 & 12.5.4.4 (windmills) were discussed by the ZBA members. They questioned windmills and their relation to noise generating equipment, impact on neighboring properties, definition of a “windmill” and whether there should be any exceptions if the windmill were located on a farm. The second regulation discussed was 12.1.1 (wetlands setback) and how this regulation relates to new structures, the issue of one applicant having to apply for a Special Exception for regulation 17.5 and a Variance for 12.1.1. ZBA request there be some verbiage in regulation 17.5.a.1 to allow a Special Exception for structures that would also not be permitted under 12.1.1 as long as wetlands approval has been obtained prior to coming to the ZBA so to eliminate the need for 2 separate applications. The third item discussed was Special Exceptions. ZBA is asking for clarification of regulation 17.5.c.1. The fourth item discussed was Noise Generating Equipment and how the regulation is worded. The commission agreed that Mr. Sedito should submit this request to the Zoning Commission.

ADJOURNMENT:

Motion: to adjourn at 9:50 pm by a 5-0 vote.

Filed subject to approval:

Shelley White, Land Use Clerk