

August 16, 2007

Present: Bradford Sedito, Polly Roberts, Katharine Leab, Randolph Snook

Alternates: Peter Bowman, Georgia Middlebrook, Roderick Wyant III

Guests: William Freer, Anthony Fitzgerald, Jeffrey Coploff, Esq., Rosemary Oberndorf, Daniel Lamb, Keith Angel, Mildred Pond, John Young, Richard Kleinberg, Tom McGowan, Lynn Baldwin, Kuldar & Sandra Visnapuu, Orville Aarons, Timothy Egan, public

The meeting was called to order at 7:30pm by Mr. Sedito, Chairman. It was noted for the records that Ms. Leab and Ms. Middlebrook have listened to the tape recording from the July 19, 2007 meeting of the Zoning Board of Appeals.

Public Hearing Continued

Mr. Sedito seated regular members Polly Roberts, Katharine Leab, Randolph Snook, himself and alternate Roderick Wyant III.

ZBA-0712 Request of William Freer, 246 Woodbury Road, application for variance to Zoning Regulation 13.11.3h (accessory apartment detached shared driveway use) to build a detached accessory apartment. Mr. Freer was present to represent his application. Mr. Freer presented a letter from James Palomba, which was read into the record by Ms. Roberts, the letter was in favor of Mr. Freer's application. Mr. Palomba is the person who shares the driveway with Mr. Freer to access his interior lot; his certified mail notice card was also returned. The last two certified mail notices sent by Mr. Freer to Douglas Stoughton and Joan Coenen were returned unclaimed. Mr. Sedito asked for questions or comments from members and the public. Mr. Snook asked about the quality of the map submitted with the application, it was not a signed A2 survey. Mr. Freer stated that it was a copy of what is filed in the Town Clerk's office and added that the driveway and garage are existing.

Motion: to close ZBA-0712 Request of William Freer, 246 Woodbury Road, application for variance to Zoning Regulation 13.11.3h (accessory apartment detached shared driveway use) to build a detached accessory apartment was made by Mr. Snook, seconded by Mr. Wyant by a 5-0.

Meeting

Ms. Roberts is in favor of this application, stating that the elevation between the house and driveway is steep, the driveway to the garage already exists and it makes no sense to add more driveway. Mr. Snook agrees to connect the two driveways makes no sense, nobody would use it. Mr. Wyant agrees and is in favor of the application. Ms. Leab added that it would be a hardship to comply with the regulation. Mr. Sedito also agrees there would be more disturbance if he connected the two existing driveways, ending by stating that this is an unusual case.

Motion: to approve ZBA-0712 Request of William Freer, 246 Woodbury Road, application for variance to Zoning Regulation 13.11.3h (accessory apartment detached shared driveway use) to build a detached accessory apartment as per map on file labeled Exhibit A by a 5-0 vote.

Public Hearing Continued

Mr. Sedito seated regular members Katharine Leab, Randolph Snook, himself and alternates Georgia Middlebrook and Roderick Wyant III. Ms. Roberts recused herself from this application, because she has

had business dealings with the applicant.

ZBA-0711 Request of John & Arlene Glantz, 7 Senff Road, petition for special exception for expansion of nonconforming dwelling, to build dormer and front door porch roof covering "Portico". Anthony Fitzgerald was present to represent this application. Mr. Fitzgerald submitted a new A2 survey map and plans showing the elevation of the proposed dormer. The new A2 survey shows that the front porch which the applicant wanted to cover with a "portico" is not on their property. Mr. Fitzgerald asked to withdraw the plan for the "portico" over the front porch and proceed with just the dormer addition. Dimensions for the proposed dormer appear on the plans and are an expansion to the second floor. Mr. Sedito asked for further questions or comments.

Motion: to close ZBA-0711 Request of John & Arlene Glantz, 7 Senff Road, petition for special exception for expansion of nonconforming dwelling, to build dormer and front door porch roof covering "Portico" was made by Mr. Wyant, seconded by Ms. Leab by a 5-0 vote.

MEETING

Mr. Wyant felt the applicant presented a good plan with good information; he is in favor of the proposed. Ms. Middlebrook agrees, the addition is nicely done and in keeping with the existing house. Ms. Leab added it's good to have the new survey. Mr. Snook felt this was a modest addition and has no problem with it. Mr. Sedito is also in favor of this application and feels it falls within the guidelines for a special exception.

Motion: to approve ZBA-0711 Request of John & Arlene Glantz, 7 Senff Road, petition for special exception for expansion of nonconforming dwelling, to build dormer as per plans submitted dated July 23, 2007, received August 16, 2007 by a 5-0 vote.

PUBLIC HEARING

Mr. Sedito seated regular members Polly Roberts, Katharine Leab, Randolph Snook, himself and alternate Peter Bowman.

ZBA-0713 Request of Edgar D. Mason III, 151 West Shore Road, petition for special exception for expansion of non conforming dwelling. Jeffrey Coploff Esq. and Rosemary Oberndorf were present to represent this application. Atty. Coploff began by saying the existing lot coverage is 15.7% which includes a shared driveway, which Atty. Coploff confirmed has a coverage of 8.5%. He went on to say that the proposed dwelling will be slightly larger than what is there; Mr. Snook disagreed, stating it looks twice the size. Ms. Oberndorf stated that the existing house is 1 1/2 stories (as is the proposed) and there is no foundation. Ms. Oberndorf went on to say that they will remove the existing structure and rebuild, the proposed being 7' wider and increasing the depth. She stated that she wants to keep the house in its existing location and not disturb the beautiful trees in the front yard. Ms. Roberts confirmed that three houses share the driveway. Mr. Sedito noted that the existing house is 1207 sq. ft. and the existing garage is 500 sq. ft. Ms. Leab questioned the special exception application for a dwelling which will be torn down. Mr. Sedito stated that a special exception allows for the continued use of an existing dwelling and you may build or expand to make it livable, adding that the lot coverage falls within the special exception. Daniel Lamb, architect presented plans. Mr. Sedito asked for comments from the public. Keith Angel spoke first saying he is in a similar situation, has been a lifelong resident of the lake and is in favor of this application, it beautifies the lake and is a well done proposal. Mildred Pond is an adjacent property owner who has no objection to the proposed and feels it is a nice change. John Young is also an adjacent property owner/real estate agent and felt it would add value to his home. Mr. Young went on to say that the proposal is attractive and fitting, he would be pleased to live next to the proposed.

Richard Kleinberg is a property owner within 200' of the proposal and questioned Ms. Oberndorf on the number of bedrooms and the septic location. Ms. Oberndorf stated that the existing and proposed house both have two bedrooms, the new family room over the proposed two car attached garage will have a bedroom also. She went on to say that Brian Neff has engineered a septic in the front yard and she has had an arborist look at the trees because she does not want them to come down. Tom McGowan who was present to represent the Lake Waramaug Task Force and Lake Waramaug Association came forward and stated that the applicant is applying for a special exception and felt that the removal of the dwelling does not fall under the intent of the regulation. Lynn Baldwin from 298 West Shore Road came forward with a photo board showing the existing house as well as other houses around the lake. Ms. Baldwin explained how she felt construction has impacted the drive around the lake and small cottages have been torn down and larger structures built. Ms. Oberndorf interjected that is why she is preserving the trees and keeping the house set back where it is, she stated that she is sensitive to these issues. Mr. Young addressed members again by saying that Ms. Baldwin's photos do not relate to this application. Mr. McGowan added that the regulations state that the dwelling can be enlarged or modified, the wording is limited. Mr. Young added that the dwelling can't be enlarged because it is on a slab, it makes no sense, they want to have year around usage. Mr. Kleinberg added that the existing house was once a garage for another home and that the Mason's have used the dwelling year around. There were several comments back and forth from the public.

Motion: to close ZBA-0713 Request of Edgar D. Mason III, 151 West Shore Road, petition for special exception for expansion of non conforming dwelling was made by Ms. Roberts, seconded by Ms. Leab by a 5-0 vote.

MEETING

Mr. Sedito addressed members by saying they would have to decide if a tear down fell under a modification and if so was that modification reasonable in scope. Mr. Snook referenced a prior application for Rumsey Hall School. Mr. Sedito reminded members that every application is different. Ms. Leab felt that this application was not a special exception. Ms. Roberts stated that the proposed does not promote housing choice or economic diversity. Mr. Bowman felt that the proposed was in keeping with the same character as what exists. Mr. Snook added that without the special exception some people could not improve their homes. Ms. Leab felt this was not a modification to an old home; the key is that they are tearing down what exists. Mr. Bowman added that it was presented as an addition to a single family home, which it is not. Ms. Roberts felt that the intent of the special exception regulation was to allow older structures to be maintained and continue their use, this application was more appropriate as a variance application. Mr. Snook disagrees stating that because of the condition of the house it needs improvements; he feels the applicant has done a reasonably good job with the front elevations. Ms. Leab, Mr. Bowman and Mr. Sedito all feel this is not a special exception application.

Motion: to deny ZBA-0713 Request of Edgar D. Mason III, 151 West Shore Road, petition for special exception for expansion of non conforming dwelling by a vote of 4-1.

Mr. Sedito, Ms. Roberts, Ms. Leab and Mr. Bowman voted to deny.

Mr. Snook voted to approve.

PUBLIC HEARING

Mr. Sedito seated regular members Polly Roberts, Katharine Leab, Randolph Snook, himself and alternate Roderick Wyant III.

ZBA-0714Request of Edgar D. Mason III, 151 West Shore Road, application for variance to Zoning Regulations 21.1.37 (definition lot coverage) and 11.5.1 (maximum lot coverage) for expansion of dwelling. Jeffrey Coploff Esq. and Rosemary Oberndorf were present to represent this application. Mr. Sedito read a letter dated August 15, 2007 from James G. Kelly/Jeffrey L. Coploff into the record. Ms. Roberts read an email sent by Michael A. Zizka to Michael Ajello regarding lot coverage. Atty. Coploff disagreed with Atty. Zizka's opinion. Mr. Snook felt that the shared driveway creates a hardship for the owners and the shared portion should be apportioned. Mr. Sedito noted that they need the driveway to get to their house. Atty. Coploff stated that the house could be moved forward and the driveway shortened, Mr. Sedito confirmed that the driveway is used by the other property owners. Ms. Roberts felt that at issue is the health of the lake and any dramatic increase in the reconfiguration of the area will have an impact on the lake. Mr. Sedito stated that the existing lot coverage is 15.7% and the proposed is 19.9%, an increase of about 5%, the board has historically been hard on Lake Waramaug applications. Mr. Snook feels that the circumstances of the shared driveway are a hardship for the applicant. Mr. Bowman asked the applicant about plans for ac or generator units which would add to the coverage. From the public Richard Kleinberg came forward submitting a postcard to the file which showed the shoreline of Lake Waramaug stating that being close to the lake is a critical issue, he felt the applicant should go before the Inland Wetland Commission first, because of the technical issues. Mr. Bowman stated that many houses are right on the road, the applicant's property has a large natural buffer for runoff, she is making an effort to maintain that buffer, she has broken down the volume of the proposed dwelling, he feels the applicant is making an effort to be sensitive to the site. Ms. Roberts calculated the proposed dwelling as 2800 sq. ft. and the existing with the garage approximately 1800 sq. ft., Ms. Roberts noted that the applicant could legally rebuild within the existing foot print and asked what the hardship to increase the lot coverage was. Ms. Oberndorf agreed that she could build vertical to conform and added that she pushed the proposed attached garage back so that the neighbor wouldn't feel crowded. Ms. Leab asked if the applicant needed to go to the Inland Wetlands Commission, the house measures 300+' from the water. Mr. Sedito asked about the septic, Mrs. Oberndorf answered that Brian Neff has perked for a three bedroom septic. It was confirmed that the existing is a 1/2 story where the second floor is proposed. Mr. Young spoke to members from the public stating that the Schlegel's who own a single level cottage with large deck support this application, but if it changes he doesn't know if they would be in favor of it. Keith Angel, from 10 Loomarwick Road, felt that the application will not have ecological impacts on the lake water and supports it. Mr. Kleinberg felt that this application is not in keeping with the intent of zoning and the variance is not warranted. Lynn Baldwin felt that if granted this application will set a precedent for others to gain increase percentage of lot coverage, which she feels will not maintain the integrity and views which are the essence of the lake community. Tom McGowan spoke to the lot coverage regulations which he stated deal with impervious surface to protect water quality. Mr. McGowan went on to speak about the shared driveway, which he stated is common around the lake. Mr. Kleinberg spoke to members about the change made to the regulations that increased lot coverage for small lots to 15%. Ms. Roberts asked the applicant for a description of hardship. Ms. Oberndorf referred to the driveway. Mr. Sedito asked the applicant to scale down the project, develop a plan that is more in tune with the regulations. Ms. Oberndorf stated that she could do a two-story box and move the garage forward eliminating driveway coverage. Mr. Sedito asked the applicant to bring back a smaller proposal the 15.7% existing lot coverage being a goal. Mr. Sedito added if the lot coverage was 15% or under they would not need a variance, he felt a continuance was in order.

Motion: to continue ZBA-0714Request of Edgar D. Mason III, 151 West Shore Road, application for variance to Zoning Regulations 21.1.37 (definition lot coverage) and 11.5.1 (maximum lot coverage) for expansion of dwelling was made by Mr. Wyant, seconded by Mr. Snook by a 5-0 vote.

PUBLIC HEARING

Mr. Sedito seated regular members Polly Roberts, Katharine Leab, Randolph Snook, himself and

alternate Georgia Middlebrook.

ZBA-0715 Request of Winifred Walsh, 95 Roxbury Road, petition for special exception, a request for generator to be situated farther from the structure principally served than is specified under Sections 12.14.1, 12.14.2, and 12.14.3 of the Zoning Regulations. There was no one present to represent this application, there were neighbors present so the commission opened the public hearing. Kuldar & Sandra Visnapuu and Orville Aarons were present as neighboring property owners. Members and neighbors looked at the map trying to locate the site of the proposed generator. Mr. Aarons was concerned with increased noise to the environment. More information was needed from the applicant.

Motion: to continue ZBA-0715 Request of Winifred Walsh, 95 Roxbury Road, petition for special exception, a request for generator to be situated farther from the structure principally served than is specified under Sections 12.14.1, 12.14.2, and 12.14.3 of the Zoning Regulations was made by Mr. Snook, seconded by Ms. Roberts by a vote of 5-0.

ZBA-0716 Request of David Connolly, 253 New Milford Turnpike, application for variance to Zoning Regulations 16.5.1 (sign setback) and 16.5.4 (more than two signs), to install signage. The applicant asked that this hearing be heard at the September 20, 2007 Zoning Board of Appeals. There was no one present for this application so the Public Hearing was not opened.

PUBLIC HEARING

Mr. Sedito seated regular members Polly Roberts, Katharine Leab, Randolph Snook, himself and alternate Peter Bowman.

ZBA-0717 Request of Franklin Berger, 386 Nettleton Hollow Road, petition for special exception a request for air conditioner equipment to be situated farther from the structure principally served than is specified under Sections 12.14.1, 12.14.2, and 12.14.3 of the Zoning Regulations. Timothy Egan was present to represent this application. Mr. Egan began by saying that the air conditioning equipment was already in place, he stated that he knew of the regulations for generators but didn't know they also were covered ac equipment. Mr. Sedito measured the ac units at approximately 50' from the house and explained to Mr. Egan about them having less impact on the neighbors than if they were within 25' of the house. The specs submitted stated that the units had a 72db rating, which the members found unusual. A neighbor from the property owned by Patricia Tunsy was present and concerned with the noise traveling up hill to their property. Members discussed various fencing but felt that they needed to see the property to determine the terrain. Mr. Egan noted the positions of the retaining walls on the property. Members wanted to either do a site visit or have pictures submitted and also asked Mr. Egan to check the db rating on the ac units.

Motion: to continue ZBA-0717 Request of Franklin Berger, 386 Nettleton Hollow Road, petition for special exception a request for air conditioner equipment to be situated farther from the structure principally served than is specified under Sections 12.14.1, 12.14.2, and 12.14.3 of the Zoning Regulations was made by Mr. Snook, seconded by Mr. Bowman by a 5-0 vote.

Motion: to accept to minutes of the July 19, 2007 Zoning Board of Appeals as submitted was made by Ms. Roberts, seconded by Mr. Snook by a vote of 5-0.

Meeting adjourned at 9:45pm.

Submitted subject to approval,

Pamela L. Osborne, Secretary

