

September 20, 2007

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

Alternates: Peter Bowman, Georgia Middlebrook, Roderick M. Wyant III

Guests: James Kelly Esq., Rosemary Oberndorf, Edgar Mason III, Robert Fisher, Jr. Esq., Richard Kleinberg, Harold Wellings, Timothy Egan, Marc Olivieri, Kathy Martin, Mary Acton, Charles Taylor

Chairman Bradford Sedito called the meeting to order at 7:30pm.

Public Hearing Continued

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

ZBA-0714 Request 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. Rosemary Oberndorf, James Kelly Esq., Edgar Mason III, and Robert Fisher, Jr., Esq. were present to represent this application. Atty. Kelly, who represents Ms. Oberndorf, submitted a letter and map to the file stating that total lot coverage for the paved portion of the driveway/right-of-way is 3.522 sq. ft. or 9.4% of the total lot coverage. Atty. Kelly showed photos depicting the existing structure, the driveway and the view to the lake. He went on to say that the four houses that share the driveway/right-of-way are preexisting nonconforming, under one acre lots that have no other access/driveway. Atty. Kelly feels that the regulation change in 2003 adding lot coverage created a hardship for this property. He went through the history of his application process which started in June of 2007 and feels that there is good reason to vary the lot coverage because of the private right-of-way. Atty. Kelly went on to say that the applicant wants to leave the structure at the top of the property which is 200+ feet from the lake and preserve the mature trees. He added that the other three lots do not have to figure the driveway coverage in their calculations. He stated that the net change in the dwelling is an increase of 4.3%. Ms. Leab explained that lot coverage is varied in a specific way and they cannot vary the definition of lot coverage, members were in agreement. Ms. Roberts understands the point of forgiving driveway lot coverage because it serves other homes. Mr. Snook agrees and feels the regulations should apportion the coverage for shared driveways. Atty. Kelly added that the zoning regulations don't address private/shared driveways. Robert Fisher, Jr., Esq. who was representing Edgar Mason III addressed members. Atty. Fisher began by reminding members of the adjoining property owners who were in favor of this application and read a letter from J.B. Young in favor of the application. He went on to read a letter from Tom McGowan pertaining to shared driveways and driveways as impervious surfaces relating to the impact of storm water runoff and the quality of water at Lake Waramaug. Members discussed among themselves the apportioning of the shared driveway coverage issue. Atty. Fisher noted that it is not the business of the Zoning Board of Appeals to rewrite the regulations but they do have the authority to vary them, he went on to say that when these lots were created they were conforming and changes to the regulations have created nonconforming lots. Ms. Leab asked the applicant if she had amended building plans as the commission had asked for. Atty. Kelly answered that they did not; it was not economical to pay for further architect services. Members went over the proposed plans which show proposed lot coverage of 4312 sq. ft. not including the driveway, there is a 1605 sq. ft. (4.3%) net change. Richard Kleinberg a neighbor within 200' stated that there were few houses larger than 4500 sq. ft. in the area; he feels the property is completely built out and is not in favor of the proposal. Mr. Kleinberg went on to say that if approved he feels this will set a precedent for small lots, he doesn't see the hardship and values the diversity of the neighborhood. Harold Wellings of

298 West Shore Road was concerned with a/c units and generators not included with the lot coverage calculations. Mr. Kleinberg asked about a wetlands review, Mr. Sedito answered that was out of ZBA's jurisdiction. Mr. Kleinberg is also concerned with the septic and tree removal.

Motion: to close ZBA-0714 Request 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. Snook, seconded by Mr. Wyant, by a vote of 5-0.

MEETING

Mr. Sedito began by saying that he is not in favor of varying a definition, members were in agreement. Members will look at this application as a unique situation in terms of coverage. Ms. Roberts is sympathetic to the hardship for a private driveway. Mr. Snook noted that there were no other land use issues; they are not relocating the house. Ms. Leab stated that the addition was large, though well thought out as not to disturb others. Mr. Snook stated that the elevation is within 2'-3' of the existing structure. Mr. Bowen felt the applicant's plan is as unobtrusive as possible, fits well within the area and is a well thought out plan. Mr. Sedito added that this is a unique situation. Ms. Roberts agrees the private drive issue is unique and a hardship.

Motion: to approve ZBA-0714 Request of Edgar D. Mason III, 151 West Shore Road, application for variance to Zoning Regulations 11.5.1 (maximum lot coverage) for expansion of dwelling per zoning location survey dated August 9, 2007, revised 9/20/07 and received 9/20/2007 prepared by Charles C. Farnsworth LLS, by a vote of 5-0.

Public Hearing Continued

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. Tim Egan was present to represent this application. Mr. Egan submitted new a/c information which stated that the db level was 75. Mr. Egan stated that there is a stone retaining wall to the south of the units. Members requested that a 6' high stockade fence be placed on the north and west sides of the a/c units.

Motion: to close 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 Ms. Leab, seconded by Ms. Roberts, by a 5-0 vote.

MEETING

Mr. Snook questioned the sound data for the units but if it is correct the noise level at the nearest property line would be 65-70db, installing the fence would reduce it by 10db. Mr. Bowman, Ms. Leab and Ms. Roberts have nothing to add. Mr. Sedito felt that with the fence installed there would be less of an impact on the neighbors than locating the a/c units near the house with no barrier.

Motion: to approve 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 as per improvement location survey dated 8/10/07 by Joseph W. Whynott LS, with the

condition that a 6' high stockade fence be placed on the north and west sides of the a/c units, by a 5-0 vote.

Public Hearing Continued

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. Marc Olivieri was present to represent this application. Mr. Olivieri began by stating the garage in which the generator is to be located is not yet built. It will be a three car garage with a walk out lower level. The generator will be installed in the lower level and will not exceed a 60kw. The lower level will have concrete walls. The structure that the generator will serve sits up on a knoll; it was located on the map and is under renovation. Mr. Snook stated the need for specifics when locating the proposed generator, a site plan with exact garage location in relationship to an existing structure, specific measurements. Members had questions about louvers, intake and the possibility of needing to remove the sound enclosure when placing the generator inside and the added noise this would create. The nearest property line is approximately 200'. Mr. Olivieri agreed on continuing the application to gain a specific location for the proposed garage which will house the generator and information on louvers and db rating without the sound enclosure.

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 Ms. Roberts, seconded by Mr. Snook by a 5-0 vote.

Public Hearing

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

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. Kathy Martin and Mary Acton were present to represent this application. Certified mail notice was sent out on August 7, 2007, all cards were returned except Rene J. and Tina M. Toussaint. Kathy Martin began by stating that the proposed sq. ft. of signage is 20.86 and what exists now is 22.1 sq. ft. the proposed new sign will measure 33' from the center of Route 202. The existing sign on a post is 3' from the property line and the proposed would be right on the property line. The proposed monument base measures 60'x 20' and the sign measures 60' x 28', it would be 18" deep. Mr. Snook suggested extending the island inward to allow more room. Ms. Roberts noted that the regulations only allow for two signs. Mr. Catlin suggested just replacing the existing post sign. The applicant agreed to a continuation to explore their options.

Motion: to continue 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 was made by Mr. Catlin, seconded by Mr. Snook, by a 5-0 vote.

PUBLIC HEARING

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

ZBA-0718 Request of Rodman B. Funston, 294 West Shore Road, application for a variance to Zoning Regulations 11.5.1.a (lot coverage) to build a fireplace. Charles Taylor was present to represent this application. Seven certified mail notices were sent out on September 4, 2007 five cards have returned. Cards from Santoleri and Eaton/Carroll have not been returned. Mr. Taylor began by saying the applicant was willing to eliminate a walkway of 40 sq. ft. Mr. Catlin noted that he was having trouble finding any hardship issue the property was already way over on coverage. It was suggested that the footprint for the fireplace be moved inside or perhaps an interior stove be used to heat the sunroom.

Motion: to close ZBA-0718 Request of Rodman B. Funston, 294 West Shore Road, application for a variance to Zoning Regulations 11.5.1.a (lot coverage) to build a fireplace was made by Ms. Leab, seconded by Ms. Roberts, by a 5-0 vote.

MEETING

Mr. Catlin had a hard time finding a hardship, the coverage is already out of control. Ms. Roberts and Ms. Leab had nothing to add. Mr. Snook felt that with the pathway removed the coverage was not increasing. Mr. Catlin felt that swapping was not the answer. Mr. Sedito felt there were other alternatives, this is a secondary fireplace.

Motion: to deny ZBA-0718 Request of Rodman B. Funston, 294 West Shore Road, application for a variance to Zoning Regulations 11.5.1.a (lot coverage) to build a fireplace by a 5-0 vote.

Motion: to approve the minutes of the August 16, 2007 minutes of the Washington Zoning Board of Appeals as submitted was made by Ms. Roberts, seconded by Mr. Snook by a vote of 5-0.

Motion: to adjourn at 10:00pm was made by Ms. Roberts, seconded by Ms. Leab, by a vote of 5-0.

Submitted subject to approval,

Pamela L. Osborne, Secretary