

TOWN OF WASHINGTON  
Bryan Memorial Town Hall  
Post Office Box 383  
Washington Depot, Connecticut 06794  
Zoning Board of Appeals Regular Meeting  
**MINUTES**  
September 17, 2020

7:30 PM- Virtual Meeting Via Zoom

Present: Chairman Bowman, Mr. Wildman, Mr. Wyant, Mr. Weber

Absent: Mr. Horan

Alternates Present: Ms. Rebillard, Mr. Sarjeant

Alternates Absent: Mr. Gunnip

Staff Present: Ms. Rill, Mr. Tsacoyannis, Ms. White

Public Present: First Selectman Brinton, Ms. Ryder, Mr. Ryder, Mr. Dodge, Mr. Johnson, Mr. Provey, Mr. Gillen, Mr. Abdella, Mr. Angiollo, Mr. Barnet, Mr. Nielson, Mr. Alex, Other Members of the Public

Chairman Bowman called the meeting to order at 7:36pm.

**PUBLIC HEARING(S):**

**ZBA: 1098, Request of Bailey, 6 Main Street, for a Variance from Section(s): 11.5.1 – Maximum Lot Coverage, 11.6.1 – Minimum Setback and Yard Dimensions, and 17.4 – Nonconforming Structures – for construction of a new replacement home (46sec.):**

Seated for this Public Hearing will be Chairman Bowman, Mr. Wildman, Mr. Wyant, Mr. Weber and Ms. Rebillard

Mr. Johnson of West Mountain Builders, representing the applicant, explained that in December of 2019 there had been a house fire that ravaged the home and it was considered a total loss. He stated that the home would be rebuilt within the original footprint, that they would be reversing where the chimney was located to the West side, and that the only increase would be in volume, as they would be adding a second floor. The home will be four-feet further from the road than it originally had been, would be connected to the same well and septic system and was approved by the Health Department. There would also be a net reduction in lot coverage.

Chairman Bowman asked the Commission for their thoughts on the matter. Mr. Wildman stated that he had no issues with the proposed. Mr. Wyant stated that he was pleased with the reduction in lot coverage. Mr. Weber agreed, stating that it was an improved building with a modest increase in size. Ms. Rebillard stated that she was sorry that a fire was the reason for rebuilding, and felt that the

applicant met all of the requirements. Chairman Bowman agreed with the Commissioners, stating that he was very pleased with the decrease in lot size as well.

**MOTION: To close the Public Hearing in the matter of ZBA: 1098, Request of Bailey, 6 Main Street, for a Variance from Section(s): 11.5.1 – Maximum Lot Coverage, 11.6.1 – Minimum Setback and Yard Dimensions, and 17.4 – Nonconforming Structures – for construction of a new replacement home. Motion made by Mr. Wyant, seconded by Mr. Wildman, passed 5-0 vote.**

**MOTION: To approve ZBA: 1098, Request of Bailey, 6 Main Street, for a Variance from Section(s): 11.5.1 – Maximum Lot Coverage, 11.6.1 – Minimum Setback and Yard Dimensions, and 17.4 – Nonconforming Structures – for construction of a new replacement home, as presented in the Application submitted on July 30, 2020. Motion made by Mr. Wyant, seconded by Mr. Weber, passed 5-0 vote.**

Chairman Bowman expressed to the Commission that he wished to change the Agenda so that ZBA:1101, Request of Dodge was heard prior to ZBA:1100, Request of Ryder, explaining that ZBA:1100 was an extensive application, whereas ZBA:1101 was rather straightforward.

**MOTION: To change the Agenda order to hear ZBA:1101, Request of Dodge prior to ZBA:1100, Request of Ryder. By Chairman Bowman, seconded by Mr. Wyant, passed 5-0 vote.**

**ZBA: 1101, Request of Dodge, 48 Wykeham Road, for a Variance from Section(s): 11.6.1 – Minimum Setbacks and Yard Dimensions – for a generator (11min. 55sec.):**

Seated for this Public Hearing will be Chairman Bowman, Mr. Wildman, Mr. Wyant, Mr. Weber and Mr. Sarjeant.

Mr. Dodge, owner of the property at 48 Wykeham Road, stated that he was requesting to install a 16kw stand-by generator that would be propane fired. He explained that his home is located on the very edge of the property line making it a nonconforming lot, therefore the need for a Variance.

Chairman Bowman asked Mr. Dodge if they had planned on adding any screening to the generator such as natural vegetation. Mr. Dodge stated that they had just completed some landscaping to the property, but would be adding some more.

**MOTION: To close the Public Hearing in the matter of ZBA: 1101, Request of Dodge, 48 Wykeham Road, for a Variance from Section(s): 11.6.1 – Minimum Setbacks and Yard Dimensions – for a generator. Motion made by Mr. Wyant, seconded by Mr. Sarjeant, passed 5-0 vote.**

Chairman Bowman asked the Commissioners for their thoughts on the application.

Mr. Sarjeant stated that the location of the generator was logical and would not disrupt the neighbors.

Mr. Weber, Mr. Wildman and Mr. Wyant agreed with Mr. Sarjeant.

Chairman Bowman stated that he appreciates the modest size of the generator and agreed that the proposed location was the most logical.

**MOTION: To approve ZBA: 1101, Request of Dodge, 48 Wykeham Road, for a Variance from Section(s): 11.6.1 – Minimum Setbacks and Yard Dimensions – for a generator with the following conditions; that proper screening with natural vegetation to be planted this Fall or Spring of 2021. Motion made by Mr. Wyant, seconded by Mr. Weber, passed 5-0 vote.**

**ZBA:1100, Request of Ryder, 57 Flirtation Avenue, for a Special Exception from Section(s): 17.5 – Special Exceptions for Nonconforming Structures – to rebuild a home on an existing footprint (24min. 04sec.):**

Seated for this Public Hearing will be Chairman Bowman, Mr. Wildman, Mr. Wyant, Mr. Weber and Ms. Rebillard.

Mr. Ryder read the following statement to the Commissioners;

“Thank you for hearing our petition for a special exception for expansion of a non-conforming dwelling and request for a variance to overall lot coverage. By way of introduction my name is William and my wife is Alison. Together we have a 4-year-old daughter, and 2-year-old son, and are expecting our 3rd child in a little less than a month.

The property that we are re-building as our family home is located at 57 Flirtation Avenue, at the main intersection of West Shore Road, East Shore Road and Flirtation Avenue, across from the Town Beach. While we purchased this property almost two years ago, we only moved here full time during the early days of this global pandemic and thus have not been able to meet many of our neighbors.

Notwithstanding, we did want to make the Board aware that we hosted a socially distant open house this past Sunday where we invited neighbors to meet with us and discuss any questions or concerns they have about the work we are doing and proposing to do on the property. I am pleased to inform you that we received an overwhelming amount of support for this re-build, and I understand that many neighbors have even submitted letters for this meeting which will be read into the record.

We purchased the property through a foreclosure proceeding and have always envisioned bringing it back to life by keeping the original stone foundation/footprint and characteristic rooflines of a home that stood in the same location for 88 years. With historic preservation in mind during the planning phase, we consulted both the Land Use and the Building Departments in town. Through the Building Department we obtained a demolition permit to get a better understanding of how things looked behind the walls. Unfortunately, after doing a bit of deconstruction, we had the Building Inspector, Bill Jenks, out to the site to show him the sad state of structural disrepair. Bill Jenks concurred that the building was not in good condition and that even parts of the foundation were in bad shape, and required that the footings be underpinned and in some areas to have the foundation walls re-built. After that meeting with Bill, we submitted plans for our family home and obtained a building permit on June 18, 2020. We kept the existing stone foundation wherever feasible and advisable by the Building Inspector, and preserved the remaining existing foundation by building new walls in the exact location as the existing historic home. To ensure that we were keeping with the 1937 historic foundation, precise measurements were taken by a local licensed surveyor and checked before cement was poured.

The plans before you are the same original footprint, however they do increase the volume of the previous structure in accordance with current height restrictions for an R-3 zone. What we have received approval for by the Building Department is to add a full second floor to the original building. The original home had a basement, 1st floor and attic, and our plans for the re-build keep the basement, 1st floor and attic but add a 2nd floor.

After completing three fourths of the framing process, we were notified that because the historic home was non-conforming, a special permit is required from the Land Use Department. As you can see on the survey, the “non-conformity” is mainly due to the proximity to the property owned by Eversource

adjacent to Route 45 (old transformer station<sup>1</sup>). Specifically, we were notified that the original stone foundation is approximately 8 feet short of meeting the required 25-foot setback under current zoning regulations. We have made Eversource aware about the non-conformity and they have no issue with it. Even though the existing home was built in 1937, before Washington zoning regulations were instituted in 1939, we did learn that current zoning regulations state that an existing non-conforming house needs special approval to be re-built. Because we had a valid building permit and were working on a re-build on the same historic foundation/footprint, we thought that we were in compliance with all zoning regulations. However, Washington's regulations are unique, and that is why we are here seeking a special exception to continue with the rebuilding of our family home. The second item that we are requesting has to do with the overall lot coverage of the original home, which also predates zoning regulations. To help you visualize the site, as part of my application I have submitted an aerial photograph that I found during the deconstruction process that dates back 44 years, to 1976. Viewed in the aerial photograph, in addition to the existing home footprint which we have worked very hard to preserve, you can see the existing garage, driveway and parking area on the property, which adds up to 18.9% lot coverage. Our hardship is that only 15% is allowable under zoning regulations, but the existing coverage predates zoning regulations. The plan that we have submitted as part of this application eliminates the large parking area, and proposes a pool and larger size garage in its place which actually results in a reduction from existing lot coverage to 18.66%. While 18.66% is a reduction from the existing 18.9% lot coverage, it does exceed 15% lot coverage zoning regulation limit and therefore we ask that a variance be granted to allow for this change in lot coverage.

In closing, we want to say that we have worked very hard at preserving the unique architectural elements of this 88-year-old home. We have tried to work as collaboratively and cooperatively with all departments to get the necessary approvals that are needed. That is why we are here before you today with these requests for a special exception and variance.

Thank you sincerely for your time and consideration. Maintaining a positive relationship with our town, community and neighbors is extremely important to our family."

Chairman Bowman stated that Mr. Ryder's application was specifically for Section 17.5 – Special Exceptions for Nonconforming Structures, so he felt that the discussion should be limited to just that, and if Variances were needed in the future, they could be applied for via separate application.

Chairman Bowman acknowledged Letters of Support from the following neighbors:

Mr. Angiollo of West Shore Rd.

Mr. Wilkas of Sandstrom Rd.

Mr. Toman of East Shore Rd.

Mr. Montville of Flirtation Ave.

Mrs. Tecklenburg of Flirtation Ave.

Mr. Tecklenburg of Flirtation Ave.

He then noted Letters of Opposition from the following neighbors:

Mr. Provey of Sandstrom Rd.

Mr. Gillen of Flirtation Ave.

Mr. Abdella of Anna Jay Lane

Chairman Bowman stated that he was informed that there was a Cease and Desist order to stop work at the property given by the Town. Mr. Ryder stated that he had not received a formal Cease and Desist letter, and that all communication had been done via email. Chairman Bowman explained that Land Use legal counsel advised that email communication was sufficient.

Chairman Bowman questioned if Mr. Ryder was familiar with Section 17 of the Zoning Regulations. Mr. Ryder explained that he was not familiar with it, but that his engineer, Mr. Neff, believed that Section 17.5 was appropriate.

Chairman Bowman read Section 17.1 and 17.5 aloud. He then went on to read the requirements listed under Section 17.5.

Chairman Bowman then went on to say that, in his opinion, the application did not meet all of the requirements listed for 17.5. He explained that there had been potential for the home to be modified in a way that would have complied with 17.5, but it was hard to determine without a drawing or picture of the previous structure. He also stated that the drawings provided showed no dimensions, nor were they drawn to scale, therefore making it difficult to determine what the final building will be and what the sizes are, which is what is required before granting a Special Exception. Chairman Bowman explained that the intent of 17.5 is the modification of an existing building, and that he struggled to find any part of the structure that was already existing with the exception of the foundation.

Mr. Ryder explained that the original stone foundation was approximately 8 feet short of meeting the required 25-foot setback from a property owned by Eversource. Mr. Ryder stated that he has reached out to Eversource, and they did not have a problem with this nonconformity. He went on to explain that he went through a lot of effort to maintain the round turret located on the home that was historically significant to the property, as well as maintained the same pitch on the roof line. Ms. Ryder explained that they had kept a large portion of the original foundation, however parts of it were not structurally sound and needed to be reinforced.

Mr. Ryder went on to explain that he was not made aware of the nonconformity issue until July 31, 2020, and that it was never his intent to hide anything from the town.

Chairman Bowman asked when the Building Permit was obtained. Mr. Ryder stated that it was obtained on June 18, 2020. Chairman Bowman asked if drawings were submitted with the application. Mr. Ryder stated that he had provided both the Building Department and Land Use Department with drawings.

Chairman Bowman asked if the Ryder's were currently on the Agenda for the September 28, 2020 Zoning Commission meeting. Mr. Ryder stated that they were on the Agenda for an accessory garage with apartment. Chairman Bowman suggested that the Ryder's not tear down the current structure until they receive approvals from Zoning and Zoning Board of Appeals. The Ryder's stated that they would not do so, and wished to abide by all of the rules and regulations.

The Ryder's emphasized again that it was never their intent to not follow procedure. They stated that they had thought a demolition permit as well as a building permit was all that was needed, and they were issued both.

Chairman Bowman explained that he felt that the survey and drawings provided were insufficient. He stated that, ideally, there would be information on the old building in comparison to the new structure, as well as details such as stone walls, fences and steps included on the site plans.

Chairman Bowman then opened the Public Hearing for public discussion, but emphasized that the Commission would only hear information or questions regarding the modification of the home in reference to Section 17.5.

Mr. Provey of Sandstrom Road stated that he was concerned with the dimensions of the foundation, and that the footprint is now much larger than what was originally there. He also stated that he believed that the building permit that was issued to Mr. Ryder should be revoked because the footprint and volume of the structure was larger than what was originally there.

Mr. Ryder stated that exact measurements were taken by a licensed surveyor and were checked before any cement was poured.

Chairman Bowman stated that the building permit being issued is not a matter that the Zoning Board of Appeals is concerned with, and that they would have to discuss that further with the Building Department. As far as the survey was concerned, there were no dimensions locating the building, nor were there any dimensions of the previous building included on the survey, and this would have been helpful.

Mr. Abdella of Anna Jane Lane questioned if whether or not a re-submittal would be needed because Section 17.5 did not seem applicable to the application. Chairman Bowman explained that this would be up to the applicant to decide. Mr. Abdella then inquired about a Cease and Desist order and if it had been issued to the property owner. Chairman Bowman stated that he believed there was a verbal order given to the property owner that was then confirmed via email. Mr. Abdella emphasized that when a Cease and Desist order is given, that work should be stopped immediately. He explained that the Washington Zoning Regulations were online and could be easily obtained.

Mr. Ryder stated that he had reached out to Mr. Tsacoyannis, Zoning Enforcement Officer, and was under the impression that obtaining the Building Permit was all he needed.

Chairman Bowman suggested that the Ryders obtain a Land Use attorney to help them navigate what is best for this application. He went on to explain that if they decided to leave the portion of the home that was within the setbacks untouched or replace it in kind with something that matches the exact footprint without an increase in volume, they could do so by right without having to be seen by ZBA.

Mr. Angiollo of West Shore Road voiced his frustration regarding the communication between the Land Use and Building Departments.

Mr. Sarjeant stated that if he had been issued a building permit on an exact footprint, that he would have assumed that was all he needed as well.

Chairman Bowman explained that it was not the Commission's responsibility to find out what went wrong with the process.

Ms. Rill then read a letter written by Mr. Jenks, Town of Washington's Building Official, regarding his issuance of the building permits.

Chairman Bowman explained that if the Ryders were to continue pursuing Section 17.5, that there were four requirements that they needed to obtain under that Section that they needed to comply with, and in order to demonstrate those they may possibly need more accurate drawings showing how much of the structure was remaining, and what proportion of the final building will include existing versus new.

Chairman Bowman informed Mr. Ryder that he could ask the Commission for a continuance or request a vote. Mr. Ryder questioned if the other Commissioners could weigh in before doing so. Unanimously, the Commissioners agreed that they would like to see better plans, exact measurements and more details.

Chairman Bowman explained to the Ryders that if they decided to go a different route with the application, that they could withdraw the current application and reapply to make the October ZBA meeting, however they would need to notice the neighbors once again.

Mr. Neff questioned if the lot coverage would be included as part of the Special Exception application. Chairman Bowman stated that it could be included in the application but should be identified. He also suggested not including other proposed structures such as a pool or garage, and base the site plans on what is there currently such as stone walls, fences, etc.

Mr. Ryder requested a Continuance for the October 15, 2020 meeting.

**MOTION: To grant a continuance in the matter of ZBA:1100, Request of Ryder, 57 Flirtation Avenue, for a Special Exception from Section(s): 17.5 – Special Exceptions for Nonconforming Structures – to rebuild a home on an existing footprint. Motion made by Mr. Weber, seconded by Mr. Wyant, passed 5-0 vote.**

**CONSIDERATION OF THE MINUTES (2hr. 13min. 23sec.):**

**MOTION: To approve the June 18, 2020 Washington Zoning Board of Appeals Meeting Minutes as submitted, by Mr. Wildman, seconded by Mr. Wyant, passed 5-0 vote.**

**ADJOURNMENT (2hr. 14min. 17sec.):**

**MOTION: To adjourn the September 17, 2020 Washington Zoning Board of Appeals Meeting at 9:50pm, by Mr. Wyant, seconded by Mr. Sarjeant, passed 5-0 vote.**

**Respectfully Submitted,**

**Tammy Rill**

**Land Use Clerk**

**September 23, 2020**

