

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

MINUTES

June 17, 2021

7:30 P.M. – Meeting Via Zoom Conference

MEMBERS PRESENT: Chairman Bowman, Mr. Wildman, Mr. Wyant, Mr. Weber, Mr. Horan

ALTERNATES PRESENT: Ms. Rebillard, Mr. Sarjeant

STAFF PRESENT: Ms. Rill

PUBLIC PRESENT: Mr. Harris, Mr. Perlman, Ms. Hanson, Ms. Beltran, Mr. O'Connor, Mr. Szymanski, Mr. Pushlar, Ms. Matteo, Mr. Willette, Mr. Johnson, Mr. Allee

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

PUBLIC HEARINGS:

ZBA-1118: Request of Morgan Piper, LLC, 49 Ferry Bridge Rd, Variance – Section(s):11.6.1.B – Minimum Setback /Yard Dimensions – to reduce setbacks for multiple existing structures (10 sec.):

This Application was Withdrawn.

ZBA:1119 – Request of Rosenfeld/Harrisburg, 148 & 148A Whittlesey Road, Variance – Section(s): 12.1.2 – Wetlands and Watercourses Setbacks – for an addition (23 sec.)

Chairman Bowman, Mr. Wildman, Mr. Horan, Mr. Wyant and Mr. Weber are seated for this Public Hearing.

Mr. Szymanski of Arthur H. Howland and Associates stated that his clients were requesting an addition for a screened in porch, approximately 526 square feet in size. The property is located in close proximity to the Shepaug River, and due to the Zoning Regulations requirement of a 200-foot setback from the river, Mr. Szymanski is requesting an encroachment of 17 square feet. He explained that currently there is a non-conforming generator located closer to the river than what is being proposed for the screened in porch. The generator will be removed.

Chairman Bowman asked Mr. Szymanski to state the hardship for this request. Mr. Szymanski explained that the property is a unique shaped lot with frontage to the river. Chairman Bowman questioned why the architect did not attempt to design the screened-in porch within the setback. Mr. Szymanski stated that he was unsure, however they did receive Inland Wetlands and Health approval for the porch

location. Mr. Allee, architect for the property, explained that the property owners wished to build the porch this way, but felt that they were removing a non-compliant aspect to the land with the generator.

MOTION: To close the Public Hearing in the matter of ZBA:1119 – Request of Rosenfeld/Harrisburg, 148 & 148A Whittlesey Road, Variance – Section(s): 12.1.2 – Wetlands and Watercourses Setbacks – for an addition. Motion made by Mr. Wyant, passed 5-0 vote.

Mr. Horan stated that he felt this was a minimal encroachment to the setback and was in favor of it.

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

Chairman Bowman stated that he did not feel there was a hardship for the porch, therefore he was not in support of the application.

Mr. Horan, Mr. Weber, Mr. Wildman and Mr. Wyant voted for approval.

Chairman Bowman was opposed.

MOTION: To approve ZBA:1119 – Request of Rosenfeld/Harrisburg, 148 & 148A Whittlesey Road, Variance – Section(s): 12.1.2 – Wetlands and Watercourses Setbacks – for an addition as submitted in the Application presented by Paul Szymanski of Arthur H. Howland and Associates, PC. Motion made by Mr. Wyant, passed 4-1 vote.

ZBA-1120: Request of Perlman/Hanson, 36 Hinkle Road, Variance – Section(s): 13.11.3 – Accessory Apartment, Detached – to restore and preserve an original structure (16min. 14sec.):

Seated for this Public Hearing is Chairman Bowman, Mr. Wildman, Mr. Horan, Mr. Wyant and Mr. Weber.

Mr. Willette, representative for the property owners, stated that his clients were requesting to restore the current 1700's home by removing the additions that previous owners had added to it. The total square footage of the home will be 2,956, which is larger than what is allowed by Washington Zoning Regulations for an accessory structure. The owners intend to build a larger primary structure at a later date. The property is 42 acres, with approximately 10 acres of conservation easements.

For clarification, the Board questioned if the property owners were restoring this home prior to building the main home because they would not be allowed to keep this structure if they built the main home first. The property owners stated that this was in fact the reason, and they did not want to be forced to tear down the antique structure.

Ms. Rebillard questioned whether or not if the Board would need to add conditions to the approval, such as a time frame in which the new main home would need to be built by or size of the new main dwelling.

The Board questioned what the square footage of the proposed main dwelling would be. Mr. Willette explained that without a garage it would be 6400 square feet and with the garage, 7500 square feet. The Board also questioned when construction of the new home would begin. Mr. Willette stated that demo of the excess additions of the 1700's home would begin as soon as possible and they intended on obtaining the permit for the principle home within the next 90 to 120 days.

The Board felt that adding a condition to the Variance regarding the size of the main home should be established. They agreed upon the condition that the main structure shall be no smaller than 5000 square feet.

MOTION: To close the Public Hearing in the matter of ZBA-1120: Request of Perlman/Hanson, 36 Hinkle Road, Variance – Section(s): 13.11.3 – Accessory Apartment, Detached – to restore and preserve an original structure. Motion made by Mr. Weber, seconded by Mr. Wyant, passed 5-0 vote.

The Board discussed their satisfaction with the overall plan of the property. They agreed that the 5000 square foot condition of the Variance approval was reasonable.

Chairman Bowman asked the Board for their vote.

Mr. Wildman, Mr. Wyant, Mr. Horan, Mr. Weber and Chairman Bowman all voted to approve the Application.

MOTION: To approve ZBA-1120: Request of Perlman/Hanson, 36 Hinkle Road, Variance – Section(s): 13.11.3 – Accessory Apartment, Detached – to restore and preserve an original structure **by removing excess structures currently attached to the original dwelling, with the following condition(s): the proposed principle dwelling shall be no smaller than 5000 square feet of livable space. Motion made by Mr. Wyant, passed 5-0 vote.**

ZBA-1121: Request of Harris, 181 West Shore Road, for a Variance – Section(s): 11.6.1 – Minimum Setback and Yard Dimensions – for a shed (55min. 04sec):

The following email correspondence in regards to this Public Hearing took place between Chairman Bowman and Washington’s Land Use Attorney, Michael Zizka.

Hi Mike-

I hope you’re well and looking forward to a more normal summer. I have both a “heads up” and a question for you.

Last month the ZBA denied an application for a storage shed along the shores of Lake Waramaug. Our objections were due to both size of the shed (8’x10’) and proximity to the water’s edge, as well as a lack of hardship. The applicant has submitted a new application for a similar project; same location but the shed has been reduced in size from 8’x 10’ to 6’x8’. From past applications, I remember that if an application is denied, the applicant must wait a minimum of 60 days before re-applying. If the re-application is prior to the 60 days, the project must be significantly different in nature. Is my recollection correct? I can’t find this specific requirement in the Washington ZBA regulations.

Our next ZBA meeting is this Thursday; this may not be an issue for this meeting, since the applicant seems to have mis-handled the neighbor notifications. Evidently the applicant submitted receipts for 4 mailings, but there are 8 neighbors listed on the Assessors page, and 2 of the 4 receipts submitted had the wrong address listed. I’ve recommended to Tammy that the application not be accepted until proper (neighbor) notification has occurred. However, I don’t want to delay the application until next month, only to reject it on the basis it’s too similar to the recently denied application.

Any guidance you can offer would be appreciated.
Thanks

Peter K. Bowman, RA

Hi, Peter and Tammy,

The provision regarding variance applications is actually a six-month provision and it comes from Section 8-6(a) of the General Statutes. It says, "No such board shall be *required* to hear any application for the same variance or *substantially the same variance* for a period of six months after a decision by the board or by a court on an earlier such application." I added the italics for emphasis.

There are two things to note from the italics:

1. The statute doesn't actually prohibit a reapplication within six months, but it gives a ZBA the right to refuse to hear such an application. A ZBA can, as a matter of policy, choose to adopt a rule stating that they won't accept such applications within six months, but in the absence of such a rule the ZBA can still, on a case-by-case basis, refuse to hear such an application.
2. The reference to "substantially the same variance" creates a gray area – how different does the new application have to be to fall outside the terms of the statute? I am assuming that, in this instance, the applicant will argue that he has downsized his shed so the application is "substantially" different. However, since the Board's last decision was also based on lack of hardship, if the proposed variances had to do with setbacks and the applicant is proposing to put the shed in the same location, the application is presumably the same or substantially the same as to the nature of the variances being requested and the applicant would have to show why the claimed hardship is any different from the hardship the Board rejected last time.

A final point: the lack of notice to neighbors becomes important only if the ZBA decides to allow the application to go forward. Therefore, the ZBA could consider, at the meeting on Thursday, whether it deems the application to be "substantially different" from the previous one. If it does not, it can choose to invoke CGS Sec. 8-6(a) and refuse to hear it. If it finds that the application is substantially different, it can schedule a public hearing for a subsequent meeting.

Best regards,
Mike

Chairman Bowman stated that the Board needed to decide if they felt that this application was significantly different from the prior application.

Ms. Rill clarified that the neighbor notification error was of no fault of Mr. Harris, but rather the former Enforcement Officer's error.

The Board felt that the new application was not significantly different however, 60 days was an efficient amount of time to hear the new application. The new Application will be heard at the July 15, 2021 Zoning Board of Appeals meeting.

ZBA-1122: Request of 172-174 Wykeham Road, LLC, 172 Wykeham Road - Variance from Section(s): 11.6.1- Minimum Setback/Yard Dimensions, 17.4 – Nonconforming Structures – for an open entry porch and kitchen addition (1hr. 05min):

Seated for this Public Hearing is Chairman Bowman, Mr. Wildman, Mr. Wyant, Mr. Horan and Mr. Weber.

Mr. Johnson of West Mountain Builders, representing the property owners, stated that his clients would like to add a small open porch on one side of the home, and a kitchen addition on the other side of the home. The home is located only 10 feet 9 inches from the road.

Chairman Bowman stated that he felt that the application was clear and concise. The Board agreed with this, noting that the additions were discreet and not incredibly visible from the road.

MOTION: To close the Public Hearing in the matter of ZBA-1122: Request of 172-174 Wykeham Road, LLC, 172 Wykeham Road - Variance from Section(s): 11.6.1- Minimum Setback/Yard Dimensions, 17.4 – Nonconforming Structures – for an open entry porch and kitchen addition. Motion made by Mr. Wyant, passed 5-0 vote.

Chairman Bowman, Mr. Wildman, Mr. Horan, Mr. Wyant and Mr. Weber all voted to approve this Application.

MOTION: To approve ZBA-1122: Request of 172-174 Wykeham Road, LLC, 172 Wykeham Road - Variance from Section(s): 11.6.1- Minimum Setback/Yard Dimensions, 17.4 – Nonconforming Structures – for an open entry porch and kitchen addition as submitted in the Application presented by Eliot Johnson of West Mountain Builders. Motion made by Mr. Wyant, passed 5-0 vote.

CONSIDERATION OF THE MINUTES (1hr. 14min. 39sec.):

MOTION: To approve the May 13, 2021 Meeting Minutes as submitted, by Mr. Wyant, seconded by Mr. Weber, passed 5-0 vote.

ADJOURNMENT:

MOTION: To adjourn the June 17, 2021 Washington Zoning Board of Appeals Meeting at 8:50pm, by Mr. Wyant, seconded by Mr. Horan, passed 5-0 vote.

To view the recording of this evenings meeting, click here:

https://townofwashingtoncc-my.sharepoint.com/:v/g/personal/trill_washingtonct_org/EWdFYg9OMKBDp0PwZsW8J-8BJRHINqILUvj5ux3vE3hbfA?e=ba0EnZ

Respectfully Submitted,

Tammy Rill

Tammy Rill

Land Use Clerk

Town of Washington

June 22, 2021

