TOWN OF WASHINGTON

Bryan Memorial Town Hall

Post Office Box 383

Washington Depot, Connecticut 06794

Zoning Board of Appeals Regular Meeting

**MINUTES**

April 15, 2021

7:30 PM- Virtual Meeting Via Zoom

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

Absent: Mr. Wildman

Alternates Present: Ms. Rebillard, Mr. Gunnip

Alternate Absent: Mr. Sarjeant

Staff Present: Ms. Rill, Mr. Tsacoyannis

Public Present: Mr. Virbickas, Mr. Ciarlone, Mr. Johnson, Ms. Broadhead, Ms. Bailey, Mr. Bailey, Mr. Cavallaro, Mr. Shabet

**Chairman Bowman called the meeting to order at 7:35pm.**

With Mr. Wildman not in attendance, Chairman Bowman stated that he would like to hear ZBA-1113: Request of Cook, prior to ZBA-1110 – Request of SMF Universal, LLC, to give Mr. Wildman some time to join the meeting, as he had been seated for this Application at the previous meetings. Mr. Virbickas, representing ZBA-1110: SMF Universal, LLC said he had no issue with this.

**ZBA-1113: Request of Cook, 248 West Shore Road, for a Variance – Section(s): 12.1.1 – Wetlands and Watercourses Setbacks – for a patio** **(2min 15sec.):**

Seated for this Public Hearing will be Chairman Bowman, Mr. Wyant, Mr. Weber, Mr. Horan and Mr. Gunnip.

Mr. Ciarlone, representing the property owner, stated that there is currently a number of randomly placed stones in the patio area. The area is fairly muddy due to a lack of root system caused by minimum sunlight, making it difficult to slide chairs in and out as well. Mr. Ciarlone explained that he would be removing the existing stone and create a formal patio consisting of 15’6” x 8’6” of bluestone with stone dust in between. Chairman Bowman asked if the patio would be permeable. Mr. Ciarlone stated that normally he would place what is called processed stone under the patio, then place the stone dust on top. He explained that he would be placing stone dust instead, making the patio more permeable.

Mr. Weber questioned if the patio would be significantly above Lake Waramaug. Mr. Ciarlone stated that the elevation change from the Lake to the patio is approximately 9 feet. Mr. Weber then referred to the dimensions on the map provided by the applicant which measured the length of the corners of the patio to the water’s edge. Mr. Ciarlone explained that from one corner, the length was 30 feet, and from the other corner it measured 35 feet. Mr. Ciarlone went on to explain that he would be removing all materials by hand to prevent any materials from entering the lake, and would also be installing a silt fence.

With no further questions from the Board, Chairman Bowman requested a Motion to close the Public Hearing.

**MOTION:** To close the Public Hearing in the matter of ZBA-1113: Request of Cook, 248 West Shore Road, for a Variance – Section(s): 12.1.1 – Wetlands and Watercourses Setbacks – for a patio. By Mr. Wyant, seconded by Mr. Gunnip, passed 5-0 vote.

The Board stated that this would be an improvement to the property, and felt that this would have a very minimal impact on the lake, however, Chairman Bowman stated he would like the as-built dimensions from the corner of the completed patio to the property line as a condition of approval.

**MOTION:** To approve ZBA-1113: Request of Cook, 248 West Shore Road, for a Variance – Section(s): 12.1.1 – Wetlands and Watercourses Setbacks – for a patio with the following conditions: an as-built survey be submitted upon completion providing exact measurements from the corner of the completed patio to the property line which shall be no closer than 25 feet. Motion made by Chairman Bowman, seconded by Mr. Wyant, passed 5-0 vote

**Request of Bailey, 17 Buffum Road, for a Variance – Section(s): 11.6.1 – Minimum Setback and Yard Dimensions and 17. 4 – Nonconforming Structures – for reconstruction of a barn (19min. 48sec.):**

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

Mr. Johnson of West Mountain Builders, representing the property owners, explained that his clients were proposing to rebuild an existing barn. The current barn has deteriorated over time, and currently not square. Mr. Johnson explained there would be a slight change in the footprint to make the structure square, as well as a volume increase. The volume increase will be due to the addition of a foundation.

Mr. Johnson explained that he will try to repurpose as much of the material as possible while rebuilding the barn.

Mr. Weber questioned why the applicant chose to keep the one-and-a-half-foot clearance to the front road setback rather than rotating the new structure entirely. Mr. Johnson explained that preserving the history of the barn in its exact location was important to the Bailey family, as Ms. Bailey grew up in that area, and this barn was a landmark.

Chairman Bowman questioned if an area of the roof would not be in the setbacks. Mr. Johnson confirmed this.

With no further questions from the Board, Chairman Bowman requested a Motion to close the Public Hearing.

**MOTION:** To close the Public Hearing in the matter of ZBA-1114: Request of Bailey, 17 Buffum Road, for a Variance – Section(s): 11.6.1 – Minimum Setback and Yard Dimensions and 17. 4 – Nonconforming Structures – for reconstruction of a barn, by Mr. Wyant, seconded by Mr. Horan, passed 5-0 vote.

The Board members agreed that they supported the application.

**MOTION:** To approve ZBA-1114: Request of Bailey, 17 Buffum Road, for a Variance – Section(s): 11.6.1 – Minimum Setback and Yard Dimensions and 17. 4 – Nonconforming Structures – for reconstruction of a barn, by Mr. Wyant, seconded by Ms. Rebillard, passed 5-0 vote.

**ZBA-1115: Request of Beck, 4 Perkins Road, for a Variance – Section(s): 12.1.1 – Wetlands and Watercourses Setbacks, 11.5.1.A – Maximum Lot Coverage, and 11.6.1 – Minimum Setback and Yard Dimensions – for reconstruction of a single-family dwelling (37min. 25sec.):**

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

Ms. Broadhead, representing the property owner, stated that there is currently a three-bedroom house on the property, and it would be replaced by a three-bedroom house. The current home is not currently sitting on the foundation and has a lot of water damage to it. Ms. Broadhead explained that she received approval from the Inland Wetlands Commission as well as the Health Department. The proposed house will be located closer to the road than the existing, however, Ms. Broadhead designed the proposed in the buildable area.

Chairman Bowman stated that he did not believe an awkward buildable area could be considered a hardship and did not understand why the garage was located in a nonconforming area. Ms. Broadhead explained that this plan was more square and efficient.

Chairman Bowman stated that there would be a significant increase in the volume of the home. Mr. Horan stated that his problem with the application was that the home was presented as having four different hardships, however, they were hardships based on the new design of the home. The Board agreed with Mr. Horan.

Ms. Broadhead asked for clarification as to what the Board wanted. Chairman Bowman explained that a hardship would need to be proven, and currently there was not a hardship. Chairman Bowman suggested that as much of the house as possible be designed in the buildable area. Mr. Cavallaro, the owner of 6 Perkins Road, stated that he has seen Ms. Broadhead’s work in the past and had no doubt that Ms. Broadhead would do a great job. Ms. Broadhead stated that she would like to ask for a Continuance.

**MOTION:** To grant a Continuance to ZBA-1115: Request of Beck, 4 Perkins Road, for a Variance – Section(s): 12.1.1 – Wetlands and Watercourses Setbacks, 11.5.1.A – Maximum Lot Coverage, and 11.6.1 – Minimum Setback and Yard Dimensions – for reconstruction of a single-family dwelling, by Mr. Wyant, seconded Mr. Weber, passed 5-0 vote.

**ZBA-1110: Request of SMF Universal, LLC, 9 Main St, for a Variance – Section(s): 11.5.2 – Maximum Lot Coverage, and 11.6.1 – Minimum Setback and Yard Dimensions – for a new deck and new trash/recycling enclosure (1hr. 07min):**

Seated for this Public Hearing will be Chairman Bowman, Mr. Wyant, Mr. Horan, Mr. Weber and Mr. Gunnip.

Mr. Virbickas, representing the property owner, stated that his client was proposing a deck on his dining establishment so that their customers would have a space to dine that would allow for safe social distancing as well as a place to enjoy outdoors as weather permits. Mr. Virbickas explained that his client agreed to reduce the size of the proposed deck by 33%, from a 30’ x 60’ deck, to a 20’ by 60’ deck. As for parking spaces needed, Mr. Virbickas explained that the business would need a minimum of 17 parking spaces available, and they have 13 spaces. The Regulations allow for shared parking with other businesses, and the property owner of 9 Main also owns property across the street.

As for the trash enclosure, Mr. Virbickas stated that his client was proposing a stockade fence, (or something similar), enclosure to hide the dumpsters from plain sight.

Coverage would be at 28.4%, including walkways on the site. The applicant noted that this property was one of the larger commercial parcels in this area that used the least amount of coverage. Mr. Virbicka also pointed out the difficulty of having three front-yard setbacks, with Main Street, Route 45 and Route 202 all surrounding the property.

Chairman Bowman asked for a specific hardship as to why they needed the deck. Mr. Virbickas stated that they needed the deck because of the limitations in place for dining establishments due to social distancing, and his client wanting to provide a safe and comfortable atmosphere to allow this. He added that the size, shape of the property, along with its close approximately to wetlands, made this site incredibly difficult to work with.

Chairman Bowman stated that he had driven by the site the previous day and saw an estimated 6-10 picnic tables on the property. He questioned the need for the deck, as well as the deck’s size.

Mr. Gunnip questioned the 60-foot length of the proposed deck. Mr. Virbickas explained that his client wished to maintain the view associated with the 60-foot length of the deck.

Mr. Shabet, owner of 9 Main Street, stated that on several occasions he has witnessed 20 cars in the parking lot of his establishment at a time. He added that he has had a professional parking lot painter come to his site and was told there is potential for 18 spots.

Mr. Shabet added that deck was a way to add to the property without encroaching on the nearby wetland area. He added that the deck could also be used for yoga classes or painting classes that could add to the community after peak times.

Mr. Shabet stated that he had been discussing with Washington officials and well as the Connecticut Department of Transportation regarding a road cut off of Route 45 so that additional parking could be added below his property.

With no further questions, Chairman Bowman asked for a Motion to close the Public Hearing.

**MOTION:** To close the Public Hearing in the matter of ZBA-1110: Request of SMF Universal, LLC, 9 Main St, for a Variance – Section(s): 11.5.2 – Maximum Lot Coverage, and 11.6.1 – Minimum Setback and Yard Dimensions – for a new deck and new trash/recycling enclosure, by Mr. Wyant, seconded by Mr. Weber, passed 5-0 vote.

Chairman Bowman asked the Board members for their thoughts on the matter.

Mr. Wyant stated that he was concerned with the parking situation a was leaning towards a no vote.

Mr. Weber stated that he felt the applicant’s effort to comply with the deck reduction that was asked of him by the Board, as well as working out the parking layout, were effective. He also felt that a hardship was hard to prove.

Mr. Gunnip agreed with Mr. Weber. He stated that he felt the need for the deck but questioned the size of it. He added that proving the hardship was difficult. He also questioned Mr. Shabet’s account of working with local and State officials to add more parking below, made him pause.

Mr. Horan stated he is in favor on the application, explaining that he felt the hardship was the three front yard setbacks of the property and did not want to restrict the business based on that.

Chairman Bowman stated that he could not see a hardship, explaining that any consequence at the hands of Covid could be gone by the time the deck is constructed. He added that he understood the desire to do a lot of things with the property, however, felt that there was too much proposed for this lot and its intended purpose. He felt the height of the deck would be objectionable from Route 202. Chairman Bowman also stated that the suggestion of the deck being used for other things other than what was presented bothers him because the intended purpose as a deck for an eating establishment is no longer its sole purpose and questioned how many people were actually intended for the space. Chairman Bowman added that he felt the location of the trash enclosure was dangerous and could obstruct site lines.

Chairman Bowman then asked the Board members to vote. The results are as follows:

Mr. Wyant – No

Mr. Horan – Yes

Mr. Weber – Yes

Mr. Gunnip – No

Chairman Bowman - No

**MOTION:** To deny ZBA-1110: Request of SMF Universal, LLC, 9 Main St, for a Variance – Section(s): 11.5.2 – Maximum Lot Coverage, and 11.6.1 – Minimum Setback and Yard Dimensions – for a new deck and new trash/recycling enclosure. Denied 3-0-2 vote.

**CONSIDERATION OF THE MINUTES (1hr. 44min.):**

**MOTION:** To accept the March 18, 2021 Washington Zoning Board of Appeals Meeting Minutes as submitted, By Mr. Weber, seconded by Mr. Wyant, passed 5-0 vote.

**OTHER BUSINESS (1hr. 54min):**

Mr. Weber questioned what occurred with the Application for 22 Tompkins Hill Road. Chairman Bowman explained that under Section 17 of the Zoning Regulations that states if the lot was legal when it was established, it can be used as its continued use. Chairman Bowman explained that the Variance the Anderson’s were asking for was not necessary because of this.

Ms. Rebillard questioned if there was anything new with 57 Flirtation Avenue. Mr. Tsacoyannis stated that there had been applications submitted for both the lot line revisions, as well as a few Zoning Permits, and all were expected to be approved.

Chairman Bowman asked Mr. Tsacoyannis about a fence located at 240 Woodbury Road. Chairman Bowman stated that the fence was in place, but was unsure if the height of it was what was agreed upon. The Board determined they had compromised at a 4-foot fence.

Ms. Rebillard questioned if the air conditioning screenings at 139 Wykeham Road had ever been taken care of. Chairman Bowman said they had not, and the Board questioned if there were time limitations on Variances and if there should be for the future.

**ADJOURNMENT (1hr. 54min.):**

**MOTION:** To adjourn the April 15, 2021 Washington Zoning Board of Appeals meeting at 9:25pm, by Mr. Weber, seconded by Mr. Gunnip, passed 5-0 vote.

Respectfully Submitted,

Tammy Rill

Land Use Clerk

April 20, 2021

To listen to this evening’s meeting recording, click here:

<https://townofwashington-my.sharepoint.com/:u:/g/personal/trill_washingtonct_org/EVnAdNCSWhFIvyMgZQJWR14B7BRB-v0zbf7gEtpp4j-Ejg?e=SgGMDq>