

Town of Washington, CT
P.O. Box 383
Washington Depot, CT 06794
ZONING COMMISSION
MINUTES
Special Meeting – Public Hearing
November 19, 2018

6:30 p.m.

Upper Level Meeting Room

Executive Session to Discuss Pending Litigation and Claims – 101 Wykeham Road, LLC./101 Wykeham Road (Executive Session is not open to the public.)

SPECIAL MEETING

7:30 p.m.

Upper Level Meeting Room

MEMBERS PRESENT: Mr. Solley, Mr. Reich, Mr. Werkhoven, Mr. Averill, Mr. Armstrong

ALT. PRESENT: Ms. Radosevich

ALT. ABSENT: Ms. Lodsins, Mr. Sivick

STAFF PRESENT: Ms. Hodza, Ms. White, Ms. Hill

ALSO PRESENT: Mr. Szymanski, Mr. & Mrs. Solomon, Atty. Kelly, Mr. & Mrs. Fredlund, Mr. Stewar, Mr. & Mrs. Wright, Ms. Baird, Ms. Mercier, Members of the Public

Call to Order

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

Seated: Mr. Solley, Mr. Reich, Mr. Averill, Mr. Werkhoven, Mr. Armstrong

Pending Litigation and Claims/101 Wykeham Road, LLC. - Discussion /Action only if needed based on what transpires at the above listed Executive Session:

There was no continued discussion or action needed at this time.

PUBLIC HEARING

Erben Partners, LLC. /169 West Shore Road/Special Permit: Section 17.9/Reconstruct Nonconforming Accessory Building:

Mr. Szymanski P.E. was present to represent Erben Partners, LLC. He explained that the property owner is proposing to rebuild the existing garage structure within the same footprint. He offered to review Ms. Hill's staff report with the Commissioners.

Concern #1 is regarding the Deck. Mr. Szymanski stated that the property owner would like to build the deck but is willing to remove it. Ms. Hill explained that the applicant would have to get a variance from ZBA if they wanted the deck.

Concern #2 is regarding enclosing the Lower Level. Ms. Hill's report asks if the lower level is enclosed would this not increase the volume and as a result increase the nonconformity of a nonconforming building? She noted that this would also require a variance from ZBA. It was noted that the existing lower level/foundation is open. Mr. Stewart stated that he thought it would look better if it were enclosed. There was a brief discussion regarding the foundation. It was noted that the three walls and floor would be a poured concrete. The existing structure's foundation/lower level is open to the elements.

It was noted that the applicant is proposing to remove the garage door and install a door on the side of the proposed building and change it to an accessory building. This is addressed in Concern #4 of the Administrative Report. Mr. Szymanski informed the Commissioners that the property owners would be using the lower level to store kayaks, paddleboards, etc.

Concern #3 is regarding the Inland Wetlands Approval is to allow demolition and rebuilding of an accessory building but does not include the addition of a deck or the enclosed lower level. The applicant would be required to obtain IWC approval for these additions.

Mr. Szymanski addressed both Concern #4 and #5. Concern #4 is regarding the Assessor's records showing the existing structure as a garage and the applicant is proposing a studio as the intended use. This is a change of use and the Commission should consider whether this is an increase in the nonconformity of a nonconforming use. This would also need a variance based on hardship from the Zoning Board of Appeals. Concern #5 is regarding the Septic System and Water Service. The IWC approved septic system and water service to this building but the plans that were submitted do not indicate a bathroom or sink. Ms. Hill's report indicates that the Health Department has not approved interior plumbing for this structure. Would installation of plumbing increase the nonconformity of the nonconforming building, in the Zoning Commission's opinion? Mr. Szymanski stated that he recommended to the applicant that plumbing not be included as part of this application. He noted that the lack of plumbing will address Concern #4 and will not increase the intensity of use.

Concern #6 was regarding Proof that Adjoining Property Owners were notified of this public hearing. Mr. Szymanski submitted the Certificate of Mailing receipts at the beginning of the public hearing.

Mr. Solley asked if anyone from the public would like to comment. There were no comments.

Mr. Solley read a letter submitted by Cohen and Wolf, P.C. Attorneys at Law, on behalf of The Lake Waramaug Association, to the Zoning Commission, dated November 19, 2018. The letter states that the LWA is opposed to this application and included reasons why the Commission should deny this application (on file in the Land Use Office). The following reasons were explained in detail: 1. "The applicant – by its own admission - has failed to establish that the structure was lawful at the time it was created, 2. Section 17.9 only permits to replacements of

existing structures, and the Application proposes the construction of a different structure, 3. Mr. Szymanski's claim that the existing structure is not feasible to repair is not credible and must be further evaluated by the Commission at the Applicant's expense, 4. The Proposed new nonconforming structure for a new use as a "studio" would be inconsistent with the general standards for a Special Permit contained in Section 13.1(C)(4) which cautions against creating new structures directly adjacent to the paved highway and within the CT DOT right of way for West Shore Road."

Ms. Hill stated that she recommends the Commission grant a waiver for "The applicant...has failed to establish that the structure was lawful at the time it was created" because she could not find any records from the 1940s so it cannot be proven or disproven that a special request was granted for the existing structure to be located at its current location. Ms. Hill noted that this is a decision the Commission must make for themselves.

Mr. Szymanski responded to the concerns of the LWA. He noted that the replacement of the structure does not have to be the same as the structure that exists and he explained how the proposed structure meets the regulations. Mr. Szymanski noted that the volume, height, and dimensions have all been decreased. He stated that for the record, the applicant will be removing the deck from the proposed structure if the Commission deems it necessary, and he will sign and initial the plans to indicate this change. Mr. Szymanski confirmed, per earlier discussions tonight, the lower level will not be enclosed and will be indicated as such on the plans. He addressed the LWA's question regarding infiltration and noted that this is not part of this application as they are replacing an existing building. The LWA recommended locating "the new surface water infiltration system on the portion of the lot South of West Shore Road given the steep slopes and wetland on the upper portion of the 3.7-acre lot." Mr. Szymanski informed the Commissioners that Mr. Hayden, Soil Scientist, of the Lake Waramaug Task Force reviewed and approved the plans. He stated that the door will be removed from the roadside which addresses the concerns of the proposed structure being dangerous for pedestrians. The right of way will remain as it exists today.

There was a brief discussion regarding insulating the structure. The applicant confirmed that the proposed structure would not be insulated. Mr. Szymanski confirmed that the use would be as a boathouse and not a studio based on Section 17.9. Mr. Szymanski revised the application (initialed and dated) to show the use as a boathouse.

There was a brief discussion regarding the 1939 Zoning Regulations. Ms. Hill stated there are no records of applications from the 1940s.

There was a brief discussion regarding the ability to repair the existing structure. Mr. Stewart stated that Mr. Sedito of Ruscoe-Sedito had deemed the building unsafe. Mr. Solley stated that a letter acknowledging this from Mr. Sedito could be requested by the Commission.

There were no further comments from the Commission or the public.

MOTION: To close the public hearing to consider the application submitted by Erben Partners, LLC., 169 West Shore Rd for a Special Permit: Section 17.9 to Reconstruct Accessory Building - Garage, by Mr. Werkhoven, seconded by Mr. Reich, passed by 5-0 vote.

Consideration of the Minutes

Consideration of the Regular Meeting of the Town of Washington Zoning Commission on October 22, 2018:

The Commissioners discussed possible revisions.

MOTION: To approve the Regular Meeting Minutes of October 22, 2018, as submitted, by Mr. Solley, seconded by Mr. Averill, passed by 5-0 vote.

Pending Applications

Erben Partners, LLC/169 West Shore Road/Special Permit: Section 17.9/Reconstruct Nonconforming Accessory Building:

Mr. Solley stated that the application has significantly changed since the beginning of the meeting and he is in favor of this application with the agreed upon conditions. He asked if the other Commissioners had any comments.

Mr. Averill stated that he was ready to vote.

MOTION: Special Permit by Erben Partners, LLC., 169 West Shore Rd for a Special Permit: Section 17.9 to Reconstruct Accessory Building will be used as a boathouse per drawing A110 "Proposed Floor Plans & Elevations," by JansonGoldstein, LLP with handwritten changes initialed and dated by Mr. Szymanski, P.E. with the following conditions: 1. There will be no plumbing, 2. No deck, 3. The foundation will remain open on the lake side of the structure, 4. No insulation, and 5. Applicant must submit a letter from Ruscoe-Sedito stating that the structure is structurally unsound and irreparable to the Land Use Office. The Zoning Commission waives the requirement for the applicant to prove the existing structure was lawful at the time it was built due to lack of records from that time period, by Mr. Averill, seconded by Mr. Werkhoven, passed by 5-0.

New Applications

There were no new applications to discuss.

Other Business

Petition to Amend the Washington Zoning Regulations/Add Sections 7.8, 7.8.1 and 7.9 to permit waiver of Section 3.2 by Special Permit:

A public hearing has been scheduled for December 17, 2019, at 7:30 pm, Bryan Memorial Town Hall.

Enforcement

Ms. Hodza informed the Commissioners that her monthly report has not been prepared due to this Special Meeting being scheduled earlier in the month.

Communications

10/28/18 Letter re: Neighborhood Concerns about Potential Duplex at 11 Dodge Farm Road:

Mr. Werkhoven recused himself from this discussion. Ms. Radosevich was seated in his place.

Mr. Solley read the above-mentioned letter.

Ms. Hodza stated that there is no application in the Land Use Office. She has been discussing the matter with the property owners but she does not feel that this should be discussed at this time.

Ms. Hill stated that the property owners would need to get permission from the Zoning Board of Appeals to use the property as a two family/multifamily dwelling and the neighbors would be heard at this time.

As it stands, multifamily houses are not allowed in the residential zones.

There was a brief discussion regarding the lack of reason for enforcement at this time and applications have not been submitted.

Mr. Werkhoven was reseated.

11/15/18 Letter re: Revision of Sections 12.8 and 12.8.1:

Ms. Solley read the letter addressed to Ms. Hill and the Zoning Commission from the Fredlunds, 27 Bee Brook Rd, dated 11/15/18.

Mr. Solley stated that the Zoning Commission will be considering revisions to 12.8 and 12.8.1 but would like to do some more research on how other towns that are similar to Washington deal with these types of events.

Privilege of the Floor

There were no comments from the public.

Administrative Business

Approval of 2019 Calendar:

MOTION: To accept the Zoning Commission Meeting Calendar for 2019 as presented, by Mr. Reich, seconded by Mr. Averill, passed by 5-0 vote.

Adjournment

MOTION: To adjourn at 8:58 pm, by Mr. Averill, seconded by Mr. Solley, passed unanimously.

Respectfully submitted,

Shelley White, Land Use Clerk
November 26, 2018

***Filed subject to approval**

****All documents are on file in the Land Use Office and a digital recording of this meeting is available upon request.**