**ZONING BOARD OF APPEALS**

MINUTES

Public Hearing – Regular Meeting

**March 16, 2017**

7:30 P.M. Main Level Meeting Room

**MEMBERS PRESENT:** Mr. Catlin, Ms. Roberts, Mr. Wyant, Mr. Peterson, Mr. Bowman

**ALTERNATES PRESENT:** Ms. Kaplan, Mr. Wildman, Mr. Horan

**STAFF PRESENT:** Mr. Ajello, Ms. Pennell

**OTHERS PRESENT:**  Mr. Neff, Mr. Sabin, Mr. Lombino, Ms. Brodhead, Mr. Cavallaro

**PUBLIC HEARING:**

Mr. Catlin called the meeting to order at 7:30 p.m.

**ZBA-1027: Continued: Request of Malcolm MacLean/22 Nichols Hill Road/For Variance from Section 11.6.1, Minimum Setback and Yard Dimension, Section 12.1, Wetlands and Watercourse Setback and Section 17.4 Nonconforming Structure:**

**Seated:** Ms. Roberts, Mr. Bowman, Mr. Peterson, Mr. Wyant, Alt. Mr. Wildman

Mr. Brian Neff, P.E., presented this application. He submitted revised plans A.02 for “Proposed Exterior Elevations” by F&H Architectural Design dated 08-03-15 (and correctly dated by Mr. Brian Neff on 03-16-17), plans A.01 “Proposed Floor Plan” dated 08-03-15 and plans “Proposed Garage/Barn Section” dated 03-13-17 by Mr. Brian Neff. He explained that the previous proposal for this garage was for an 18’ 10 ½” overall framing height and the new proposal will have be reduced to 15’ 6 ½” total height. Mr. Neff stated the roof pitch will be reduced and allow for an 8’ overhead door with clearance for hardware/opener. He stated there is no longer the proposal for overhead storage space. Mr. Neff noted that the framing will be constructed on the existing foundation and footprint. He explained the hardship in enlarging this garage/barn is due to this being a non-conforming structure built in 1960. Mr. Neff explained that the applicant would like to have the height of this building modestly increased so that it can accommodate modern day vehicles.

Ms. Roberts asked if the Public had any questions or comments. None were noted.

Mr. Bowman stated he believes this is a more attractive revision compared to the initial proposal submitted. He noted that he understands the need to increase the height slightly according to today’s standards and accommodate a vehicle. Mr. Bowman is in support of this application.

No further comments or questions from the Board.

**MOTION:** To close the Public Hearing for ZBA-1027 Request of Malcolm MacLean/22 Nichols Hill Road/For Variance from Section 11.6.1, Minimum Setback and Yard Dimension, Section 12.1, Wetlands and Watercourse Setback and Section 17.4 Nonconforming Structure. By Mr. Wyant, seconded by Mr. Bowman, passed by 5-0 vote.

Mr. Wildman stated he feels Mr. Neff addressed all the concerns the Board had from the prior meeting and supports this application. Mr. Peterson and Mr. Wyant both concurred and are in support of this application. Ms. Roberts agreed stating that

aesthetically this is a much more attractive proposal and supports this application.

**MOTION:** Approved ZBA-1027 Request of Malcolm MacLean/22 Nichols Hill Road/For Variance from Section 11.6.1, Minimum Setback and Yard Dimension, Section 12.1, Wetlands and Watercourse Setback and Section 17.4 Nonconforming Structure, to construct a garage per plans A.02 Proposed Exterior Elevations” by F&H Architectural Design dated 08-03-15 and correctly dated by Mr. Brian Neff on 03-16-17; per plans A.01 “Proposed Floor Plan” dated 08-03-15; and per plans “Proposed Garage/Barn Section” dated 03-13-17 by Mr. Brian Neff subject to the following conditions: any change to the approved site plan will void the variance. Passed by a 5-0 vote.

**ZBA-1028: Request of Tracy and Jeff Beck/3 Perkins Road/For Variance from Section 11.6.1 Minimum Setback and Yard Dimensions, Section 12.1, Wetlands and Watercourse Setback and Section 17.4, Nonconforming Structure.**

**Seated:** Mr. Catlin, Ms. Roberts, Mr. Bowman, Mr. Peterson, Mr. Wyant

Ms. Nathalie Brodhead, architect from Atelier d’Architecture, LLC, presented this application. Ms. Brodhead showed plans dated 02-20-17 S1 “Boat House Site Plan, plans A0 “Boat House Floor Plan” and plans A1 “Boat House Elevations” along with marked up photos and plans of the proposed changes. She explained the hardship is due to the boat house flooding every spring and due to this, the applicant is asking to raise the finish floor 3’-½”, allowing for a new composite waterproof floor on top of the existing slab. Ms. Brodhead explained that by raising this finished floor and the new hip roof, the roof will be 11” above the existing roof height. She noted that by doing so, along with the proposal to demolish the large stone chimney, this will allow for more lake views from the road. Ms. Brodhead stated they are also proposing to eliminate the existing covered porch, leaving just the front deck floor and installing cut stone steps. She further noted that they are also requesting to demolish the large concrete platform that is 72’ x 16’ which extends into the lake, replacing this with a smaller wooden floating dock 16’ x 5’ that connects to the dock further out. Mr. Catlin asked if Inland Wetlands Commission has approved this dock replacement. Ms. Brodhead said they have approval from Inland Wetlands.

Mr. Catlin inquired as to what the boat house is utilized for. Ms. Brodhead explained that currently the building is used for storing equipment they use for boating. She pointed out there is no electrical or plumbing in this boat house and no plans of installing such.

Mr. Catlin expressed concern for the windows on the West side and although no current electricity in this boat house, there is a future possibility that electrical can be put in place. He noted that if this occurred, he would have concern with the lighting issue. A brief discussion took place regarding this. Ms. Brodhead again stated that her client has no intention of installing electrical or plumbing. Mr. Bowman noted that having more windows can eliminate what one can do on the inside, such as adding cabinets, etc.

Mr. John Cavallaro of 6 Perkins Road spoke from the public giving some history on this property. He additionally stated he is pleased with this application and happy that it is not being turned into a contemporary home as he has watched happen too many other properties recently on the lake. Mr. Cavallaro supports this application.

In addressing questions from Mr. Catlin about tearing the current structure down, Ms. Brodhead stated they will be tearing this boat house down, leaving the existing foundation and adding the composite flooring on the same footprint. She did note that the current foundation may have some damaged areas which she looked at with the contractor. Mr. Brodhead stated the contractor explained that the areas of concern with the foundation can be repaired and not removed. Mr. Bowman asked if railings will be installed. Ms. Brodhead explained no railings will be installed as the existing deck is being lowered and in doing this, it meets code thus not requiring the railing. Mr. Catlin inquired as to the material that will be used for siding and roofing. Ms. Brodhead stated there will be asphalt singles and clapboard siding to coincide with the main house.

Mr. Catlin asked if there were any further questions from Public or Board members. None were noted.

**MOTION:** To close the Public Hearing for ZBA-1028 Request of Tracy and Jeff Beck/3 Perkins Road/For Variance from Section 11.6.1 Minimum Setback and Yard Dimensions, Section 12.1, Wetlands and Watercourse Setback and Section 17.4, Nonconforming Structure. By Ms. Roberts, seconded by Mr. Wyant, passed 5-0 vote.

Mr. Bowman supports this application, stating it is a reasonable modification. He is pleased with the concrete slab in the lake being removed, as well as the roof over the porch on lakeside of the boat house. Mr. Catlin concurred with Mr. Bowman and feels this is a modest request and a significant improvement. Ms. Roberts was happy to see the chimney removed as she feels it is massive. She stated the hip roof will be much more attractive and supports the concrete slab removal, as well as installing the steps. Ms. Roberts is pleased that lake views will be improved and stated this is an attractive plan. Mr. Wyant agreed with the other members and stated this project is an improvement to the property and is in support of it. Mr. Peterson also concurred, stating the chimney is quite large for this property and removing it, as well as the concrete slab, will give the property a softer appearance. He supports this application.

**MOTION:** Approved ZBA-1028 Request of Tracy and Jeff Beck/3 Perkins Road/For Variance from Section 11.6.1 Minimum Setback and Yard Dimensions, Section 12.1, Wetlands and Watercourse Setback and Section 17.4, Nonconforming Structure to reconstruct a boat house per plans dated 02-20-17 S1 “Boat House Site Plan, plans A0 “Boat House Floor Plan” and plans A1 “Boat House Elevations” with existing photos by Atelier d’Architecture, subject to the following conditions: any change to the approved site plan will void the variance and there will be no electricity or plumbing. Passed by a 5-0 vote.

**ZBA-1029: Request of Steve Kempf and Dixie Carter/147 West Shore Road/For Special**

**Exception from Section 17.5, Nonconforming Structure:**

**Seated:** Mr. Catlin, Ms. Roberts, Mr. Bowman, Mr. Peterson, Mr. Wyant

Mr. Catlin read aloud the letter received from Mr. Eliot Johnson of West Mountain Builders dated 03-06-17 requesting this application be continued to the next month’s ZBA meeting due to conflicts in scheduling. Mr. Johnson noted in this letter that all abutters were notified of this scheduling issue and the intent to postpone the application to next month’s meeting.

**MOTION:** To continue the Public Hearing for ZBA-1029 Request of Steve Kempf and Dixie Carter/147 West Shore Road/For Special Exception from Section 17.5, Nonconforming Structure to the next ZBA meeting scheduled on April 20, 2017 at 7:30 p.m. in the Main Level Meeting Room at Bryan Memorial Town Hall. By Mr. Wyant, seconded by Ms. Roberts, passed by 5-0 vote.

**ZBA-1030: Request of David Lombino/217 Sabbaday Lane/For Variance from Section 11.5.1A, Maximum Lot Coverage and Section 17.4, Nonconforming Structures:**

**Seated:** Mr. Catlin, Ms. Roberts, Mr. Bowman, Mr. Peterson, Mr. Wyant

Mr. Dirk Sabin, ASLA and applicant Mr. David Lombino presented this application. Mr. Sabin stated that this property is a preexisting non-conforming lot a little over one quarter acre in size and 12,316 sq. ft. He explained that the property is occupied by the house itself, a large Steep Rock easement, existing driveway and well. Mr. Sabin noted the issue with this property is the small size of this lot and the existing coverage. He stated the proposal is to move the existing driveway approximately 30 ft. west and more towards the center of the home to provide a safer all weather entrance to the home. Mr. Sabin noted the First Selectman Mark Lyon has approved the driveway road opening permit to the new location. Mr. Sabin explained the construction process for this new driveway, noting it will be well landscape and no change in coverage on the property.

Mr. Catlin noted that the 10ft. driveway cut appears to be narrower than existing driveway and questioned if there was enough space in this area for vehicles to turn around. Mr. Sabin stated there would be room for this to happen. Mr. Catlin asked what the existing driveway will be utilized for. Mr. Sabin stated this area will be planted out and home owners would like to put in a garden.

Upon Ms. Kaplan’s question regarding a previous approved variance on this property, Mr. Catlin discussed the previous owner of this property having an approved variance on May 28, 2015 for the construction of a two car garage. He explained that if the Board was to consider this application, this previous variance would have to be rescinded. Mr. Lombino stated he had no intentions to construct a garage nor to sell his home. However, he stated that if in the future they had to sell, he feels leaving this approved variance would be beneficial to the listing. Mr. Lombino stated there was a process in place with the oversight of the Building Department and the permit approval process that makes removing this previous approved variance at this time seems punitive. He requested the Board allow this variance for the two car garage to remain on the deed. Mr. Sabin expressed his opinion that there is a mechanism in place to oversee the future possibility of someone wanting to execute this variance in the future and individuals could rather simply go through the approval process. He noted that with this process in place, he saw no need to remove this variance. Mr. Catlin discussed the approval for this previous variance was based on the garage being built on the driveway and there was no increase in lot coverage, within setbacks and only increasing the non-conformity of the building effectively. Mr. Catlin understood applicant’s concern, but suggested they relook at the application and think about if in the future they choose to build a garage or even a shed, to present an idea of how this will be done with the current application, as the Board would prefer to see the application as a whole. Mr. Catlin indicated that the Board would likely look favorably on such a request, but it needed to be applied as such. Board members were in agreement to Mr. Catlin’s suggestion. Ms. Roberts added that by hanging on to the existing variance, it is additional coverage. Mr. Lombino stated that the time and cost involved in doing this is substantial and feels the Board should think about this.

A brief discussion continued between Board members and Mr. Lombino. Mr. Catlin pointed out to Mr. Lombino that he can continue this application and consult further with Mr. Sabin if he wishes to. Although Mr. Lombino preferred to keep this previous approved variance on the deed, he wanted this application to move the driveway to be considered for approval and agreed to removal of the variance.

Mr. Bowman asked Mr. Ajello, Zoning Enforcement Officer, what the mechanics were to remove this existing variance. Mr. Ajello stated that Board would make it a condition of approval to remove this variance, referencing the application number and date it was approved.

Mr. Catlin asked if there were any further questions from the Public or Board members. None were noted.

**MOTION:** To close the Public Hearing for ZBA-1030 Request of David Lombino/217 Sabbaday Lane/For Variance from Section 11.5.1A, Maximum Lot Coverage and Section 17.4, Nonconforming Structures. By Mr. Wyant, seconded by Ms. Roberts, passed 5-0 vote.

Mr. Peterson stated he understands the situation and supports this application. Mr. Wyant stated he is comfortable with this application as long as the applicant is as well, to which Mr. Lombino replied that he is. Ms. Roberts stated she is fine with this and the understanding that as the plan states, applicant is trading the previous 1,022 sq. ft. for the other 1,022 sq. ft. She is happy that the previous variance will be rescinded. Mr. Catlin stated he agreed with Ms. Roberts, feeling this is a modest request and understands the need to improve access to the home. He did add that there are two letters that were received from abutting neighbors in support of this application. Mr. Catlin stated one letter is from Ms. Elizabeth Bradley dated 03-04-17 of 188 Sabbaday Lane and the other from Steep Rock Association Executive Director, Ms. Lori Paradis Brant, dated 03-06-17. These letters are in the file for review. Mr. Bowman voiced his support of this application with the condition that the previous approved variance is rescinded. He stated he would like to see an as-built drawing on the new proposed driveway to be ensure the square footage is accurate, to which Mr. Sabin was willing to provide for the file.

**MOTION:** Approved ZBA-1030 Request of David Lombino/217 Sabbaday Lane/For Variance from Section 11.5.1A, Maximum Lot Coverage and Section 17.4, Nonconforming Structures to move a driveway per plans “Proposed Drive Re-Location” dated 02-22-17 by Sabin Landscape Architects subject to the following conditions: any change to the approved site plan will void the variance and to void the previous approved Variance ZBA-0984 to Frank and Julie Dolen for a garage dated 03-27-15.

Passed 5-0 vote.

**ZBA-1031: Request of WLR214, LLC/213 & 214 West Shore Road/For Special Exception from 12.14, Noise Generating Equipment:**

**Seated:** Mr. Catlin, Ms. Roberts, Mr. Bowman, Mr. Peterson, Mr. Wyant

Mr. Paul Szymanski, P.E. from Arthur Howland & Associates, presented this application. Mr. Szymanski described the layout of the property and where the proposed generator location. He stated the proposed location will be to the rear of the garage, approximately 14’ off the Gilmore property line to the east. Mr. Szymanski showed plans dated 02-22-17 “Proposed Zoning Map Location” by Arthur Howland & Associates. He stated that putting the generator in this location as it is the least visible and most remote location from the abutting property owners. He did note that he needs to submit the acoustical information with respect to certifying the decibel level. Mr. Szymanski stated they will voluntarily submit an acoustical as-built post construction.

Mr. Catlin and Board members agreed they would like to have this information to review prior to looking at this application any further. Mr. Bowman added his concern for the capturing of the generator exhaust in the proposed location. Mr. Szymanski will provide this information to the Board. Mr. Catlin inquired to the specific location of this 14 KW generator. Mr. Szymanski stated it will be located between the garage and the 3 ft. retaining wall.

**MOTION:** To continue the Public Hearing for ZBA-1031 Request of WLR214, LLC/213 & 214 West Shore Road/For Special Exception from 12.14, Noise Generating Equipment to the next ZBA meeting scheduled on April 20, 2017 at 7:30 p.m. in the Main Level Meeting Room at Bryan Memorial Town Hall. By Ms. Roberts, seconded by Mr. Wyant, passed 5-0 vote.

**ZBA-1033: Request of WLR214, LLC/213 & 214 West Shore Road/For Special Exception for from Section 17.5, Nonconforming Structure:**

Mr. Paul Szymanski, P.E. from Arthur Howland & Associates, presented application.

He noted this property is under new ownership and they are requesting some modifications to a previous application submitted, which was for a second story addition. He used models to show these modifications. The first proposed change is to remove a portion of the front of the building to make a front entry area rather than the proposed livable space. Mr. Szymanski stated they are also proposing to extend the roof line to the end of the gable, perpendicular to the road way. He stated that on the side of the home, they are proposing to remove the chimney and extend the roof line over, providing a small covered area in the rear of the home. Ms. Roberts questioned how this is becoming smaller. Mr. Catlin took out plans from the prior application from previous owners for Board to review and asked Mr. Szymanski to walk members through these changes as compared to previous plans submitted. Mr. Szymanski noted that the proposed increase in volume is 742 sq. ft. and the decrease is 1045 sq. ft., approximately 303 sq. ft. reduction. Mr. Catlin stated the mass of the building appears to modestly increase, but the footprint stays the same. Mr. Szymanski utilized a model for illustration of changes. Ms. Roberts stated the model appeared to have some issues unrelated to the previously approved application and it is not quite accurate.

Mr. Catlin discussed the prior special exception that was handled by Peter Talbot, Architect. He noted the huge effort to make it perpendicular to the road, having a low roof and the facade was broken up with lots of jigs and jags. Mr. Catlin stated this proposal is not at all similar to this and sees this application as a completely different application, rather than a minor alteration as presented. Mr. Bowman stated the scale of this project is extremely different. Mr. Catlin is concerned with the proposed elevation on the road side and the complete alteration of the architectural style of the building. Mr. Catlin stated that previous application was also for Special Exception and was approved with a specific architectural style, which is not represented in the current application.

Board members and Mr. Szymanski further discussed the two very different applications, with Board members making suggestions to relook at this proposal. Mr. Catlin encouraged Mr. Szymanski to read the minutes from the prior application to get a better idea of what the Board previously approved and the concerns associated with the previous approved application. Mr. Szymanski expressed his understanding with this and will discuss this with the architect.

**MOTION:** To continue ZBA-1033 Request of WLR214, LLC/213 & 214 West Shore Road/For Special Exception for from Section 17.5, Nonconforming Structure to the next ZBA meeting scheduled on April 20, 2017 at 7:30 p.m. in the Main Level Meeting Room at Bryan Memorial Town Hall. By Mr. Wyant, seconded by Ms. Roberts, passed 5-0 vote.

**ZBA-1032 Request of WLR214, LLC/213 & 214 West Shore Road/For Special Exception for from Section 17.5, Nonconforming Structure:**

**Seated:** Mr. Catlin, Ms. Roberts, Mr. Bowman, Mr. Peterson, Mr. Wyant

Mr. Paul Szymanski, P.E. from Arthur Howland & Associates, presented application. He explained that the existing garage is located on the uphill side of West Shore Road. Mr. Szymanski stated they are proposing an increase in garage height from approximately 21’-10” to 22’- ½” and increase in the width from approximately 12’-3” to 13’-3”. He noted this increase is to accommodate a larger vehicle, pointing out that the current garage only can accommodate a very small vehicle and not an average sized one. Mr. Szymanski stated the idea is to keep the current roof pitch and center it over the new width that would be approximately 9”, noting the total height is just under 16 ft.

Mr. Catlin inquired as to the width of the existing interior of the garage. Mr. Szymanski noted that it is approximately 10’-8”, and they are proposing 11’- ½”.

Board members and Mr. Szymanski discussed ideas on how to make some changes without having the structure so grow larger. Mr. Catlin stated he felt this garage can be reworked without making it grow in size. Mr. Szymanski will look over these plans and take into consideration the Board member’s suggestions.

**MOTION:** To continue ZBA-1032 Request of WLR214, LLC/213 & 214 West Shore Road/For Special Exception for from Section 17.5, Nonconforming Structure to the next ZBA meeting scheduled on April 20, 2017 at 7:30 p.m. in the Main Level Meeting Room at Bryan Memorial Town Hall. By Mr. Catlin, seconded by Mr. Wyant, passed 5-0 vote.

**CONSIDERATION OF THE MINUTES:**

Board members reviewed the February 16, 2017 meeting minutes. A correction to page 4, first paragraph that reads “Ms. Roberts announced to the Board that she will be stepping down from her position as Vice Chairman after the April 20, 2017 meeting” will be changed to, “Ms. Roberts announced to the Board that she will be stepping down from her position on ZBA and as Vice Chairman after the April 20, 2017.”

**MOTION:**  To accept the minutes of the February 16, 2017 meeting as amended. By Ms. Roberts, seconded by Mr. Wyant, passed 5-0 vote.

**ADJOURNMENT:**

**MOTION:** To adjourn the meeting at 9:00 p.m. Passed 5-0 vote.

**Filed Subject To Approval**

**Submitted by:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Donna Pennell, Land Use Clerk

March 23, 2017