**ZONING BOARD OF APPEALS**

MINUTES

Public Hearing – Regular Meeting

**May 25, 2017**

7:30 P.M. Main Level Meeting Room

**MEMBERS PRESENT:** Mr. Catlin, Mr. Wyant, Mr. Bowman

**MEMBERS ABSENT:** Mr. Horan, Mr. Peterson

**ALTERNATES PRESENT:** Mr. Wildman, Mr. Gunnip

**ALTERNATES ABSENT:** Ms. Kaplan

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

**OTHERS PRESENT:**  Mr. Talbot, Mr. and Mrs. Sarjeant, Atty. Coploff, Ms. Klema,

Mr. Carragan

**PUBLIC HEARING:**

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

**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, Mr. Wyant, Mr. Bowman, Alt. Mr. Wildman, Alt. Mr. Gunnip

Mr. Catlin read a letter dated 04-21-17 from Mr. Eliot Johnson of West Mountain Builders, stating the applicants request for an extension of their application to the next Zoning Board of Appeals meeting scheduled for 06-15-17.

**MOTION**: To Continue 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 June 15, 2017 at 7:30 p.m. in the Main Level Meeting Room at Bryan Memorial Town Hall. By Mr. Wyant, seconded by Mr. Wildman, 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, Mr. Wyant, Mr. Bowman, Alt. Mr. Wildman, Alt. Mr. Gunnip

Mr. Catlin read an email dated 05-25-17 addressed to Zoning Enforcement Officer, Michael Ajello, from Arthur Howland & Associates, P.C., requesting their application be continued to the next Zoning Board of Appeals meeting scheduled for 06-15-17.

**MOTION:** To Continue the Public Hearing for ZBA-1032/Request of WLR214, LLC/213 & 214 West Shore Road/For Special Exception from Section 17.5, Nonconforming Structure to the next ZBA meeting scheduled on June 15, 2017 at 7:30 p.m. in the Main Level Meeting Room at Bryan Memorial Town Hall. Passed 5-0 vote. By Mr. Wyant, seconded by Mr. Wildman, passed 5-0 vote.

**ZBA-1036: Request of Washington Art Association, Inc./4 Bryan Memorial Plaza/For Variance from Section 12.1.1. Wetlands & Watercourse Setbacks & Section 12.1.3 Wetlands and Watercourse Setback from Leach Field:**

**Seated:** Mr. Catlin, Mr. Wyant, Mr. Bowman, Alt. Mr. Wildman, Alt. Mr. Gunnip

President of Washington Art Association, Mr. Peter Talbot presented this application. Mr. Talbot read a letter he submitted dated 05-04-17, which gave explanation for this explanation.

Mr. Talbot submitted drawings prepared by Brian Neff, P.E., Septic System Repair Plan, revision date 04-12-17 and A2 survey dated 02-2015, and drawings prepared by Gray

Organschi, dated 01-29-17. He reviewed these plans with Board members. He explained the request for the variance from the setback from the river to the leach fields. Mr. Talbot discussed the need for ADA compliance and a compliant entry way, interior renovations and additions for studio and support spaces that will meet current standards and program needs. He noted the hardships based on the small size of the lot being 0.368 acres and configuration of existing nonconforming structures with Canoe Brook bisecting the lot. Mr. Talbot explained given the location of the building in the Depot Business District and all of the non-conforming zoning issues, the Art Association would be applying to the Zoning Board for a Special Permit. (The purpose of this application was only concerning the leaching field.

Mr. Talbot stated the existing building is 23 ft. from Canoe Brook and the proposed additions will not encroach any closer. He explained they are requesting the variance from the required 50 ft. to 25 ft. at the north end, and 28 ft. at the south end and relocating a nonconforming 168 ft. portion of the building, which is 31 ft. from the river.

Mr. Talbot explained the existing septic system is located on the south side of the building and is failing, undersized and obstructs the installation of the proposed ADA compliant entrance to the Gallery. He noted the new septic tank and leaching field proposed location to the west of the existing building under the patio. Mr. Talbot stated they looked into other options for the location of the new septic tank and no other options were available. Mr. Talbot informed the Board that Inland Wetland Commission and Health Department have approved this application. He expressed his desire to have this proposed plan approved and work to begin around the same time as the Plaza Improvement Project commences, which is in August/September 2017.

Mr. Talbot explained there would be two phases of this project; one being the septic plans and phase two would be the removal of the middle portion of the building and rebuilding the gallery with a new kitchen and bathroom. The stated this phase two would also include adding a children’s studio space and storage in the back. Using the maps and drawings provided, Mr. Talbot showed the details of this plan and addressed questions from the Board.

Mr. Catlin asked if there were any questions from the Public or Board members. No questioned were noted.

**MOTION:** To close the Public Hearing for ZBA-1036/Request of Washington Art Association, Inc./4 Bryan Memorial Plaza/For Variance from Section 12.1.1. Wetlands & Watercourse Setbacks & Section 12.1.3 Wetlands and Watercourse Setback from Leach Field. By Mr. Wyant, seconded by Mr. Wildman, passed 5-0 vote.

Mr. Bowman stated that he was happy Inland Wetlands and Health approved this and has no objections to this application. Mr. Catlin stated he agreed, adding that the ADA compliance plan is critical and acknowledged there is a very large land based hardship with this tiny lot with all the setbacks. He added that although not relevant to the Board, that the Art Association has been a very integral part of this community for a long time and supports that in which increases its viability for the community. Mr. Wyant, Mr. Wildman and Mr. Gunnip concurred with members statements and supports this application.

**MOTION:** To Approve ZBA-1036/Request of Washington Art Association, Inc/4 Bryan Memorial Plaza/For Variance from Section 12.1.1. Wetlands & Watercourse Setbacks & Section 12.1.3 Wetlands and Watercourse Setback from Leach Field, to construct ADA compliant entry, interior renovations, studio and support spaces, and septic repair per plans prepared by Brian Neff, P.E., Septic System Repair Plan, revision date 04-12-17 and A2 survey dated 02-2015, and drawings prepared by Gray Organschi, dated 01-29-17, with the following condition: any change to the approved site plan will void the variance. Passed 5-0 vote.

**ZBA-1037: Request of Dean and Jane Sarjeant/9 Church Hill Road/For Special Exception from Section 17.5 for Expansion of Nonconforming Structures:**

**Seated:** Mr. Catlin, Mr. Wyant, Mr. Bowman, Alt. Mr. Wildman, Alt. Mr. Gunnip

Mr. and Mrs. Dean Sarjeant were present for this application. Mr. Sargeant gave background on this property with respect to this Special Exception to enlarge and modify an existing upper level deck. He stated the existing deck is completely unsafe, unsupported and undersized. Mr. Sarjeant explained that they are requesting to expand the deck to 300 sq. ft. that is consistent in appearance and style with other houses in their neighborhood. Mr. Sarjeant stated this deck will be a complete rebuild. In response to Mr. Catlin’s questions, Mr. Sarjeant explained the existing deck layout and his plans, the application to add an upstairs deck above the existing one below. He noted that Health Department and Inland Wetlands has approved this application.

Mr. Catlin asked if there were any questions from the Public or Board members. No questions were noted.

**MOTION:** To close the Public Hearing for ZBA-1037/Request of Dean and Jane Sarjeant/9 Church Hill Road/For Special Exception from Section 17.5 for Expansion of Nonconforming Structures. By Mr. Wyant, seconded by Wildman, passed 5-0 vote.

Mr. Wildman has no problem with this application and supports it. Mr. Gunnip stated his understanding for the need to replace this deck and making it safe and is in support of this application. Mr. Wyant concurred with Mr. Wildman and Mr. Gunnip. Mr. Catlin agreed with other members. He stated it supports the continuing use of its single family dwelling, as well as being a modest request. Mr. Bowman was in agreement with members and supports this application as well.

**MOTION:** To Approve ZBA-1037/Request of Dean and Jane Sarjeant/9 Church Hill Road/For Special Exception from Section 17.5 for Expansion of Nonconforming Structures, to build a deck, per drawings by Dean Sarjeant of fence rail, dated 05-25-17, drawing of footprint of deck dated 05-25-17, two copies of survey dated 05-25-17 and packet “Deck Designer” dated 05-25-17, with the following condition: any change to the approved site plan will void the Special Exception. Passed 5-0 vote.

**ZBA-1038: Request of David L. Resnick & Catherine M. Klema/356 Nettleton Hollow Road/For Variance from Section 11.6 Minimum Setback and Yard Dimensions:**

**Seated:** Mr. Catlin, Mr. Wyant, Mr. Bowman, Alt. Mr. Wildman, Alt. Mr. Gunnip

Atty. Jeffrey Coploff of Trevenen & Coploff, LLC presented application, along with applicant, Ms. Catherine M. Klema. Also present was Mr. John Carragan, owner of Carragan Heating and Air Conditioning, LLC. Mr. Carragan has submitted a letter dated April 19, 2017 which explains his work at this property involving the homeowners heating systems and noting that upon their request, has submitted a quote for air conditioning for the second floor. In this letter, he does state that he has selected a small, efficient and quiet unit as possible (spec sheet was submitted for file) and why it is necessary to install this in the location being proposed. Mr. Carragan noted that installing the unit on the south side of the house (within 50 ft. of the existing fan coil located in the attic) would allow for the unit to work most efficiently.

Atty. Coploff explained that his client is only looking to cool the three bedrooms on the second floor of the original section of the house. He stated the best place to install the unit is about 42 ft. from the road, as explained in the letter submitted by Mr. Carragan. Atty. Coploff and Ms. Klema had photos of the home to show the proposed location of the unit. Mr. Catlin asked how far this proposed unit is from the property line. After Atty. Coploff and Mr. Catlin did the calculations, it was determined the unit would be about 27 ft. from the property line. (This was notated on the drawings submitted and initialed and dated by applicant.)

Mr. Gunnip noted that he is familiar with the property and there are no neighbors close enough that would be able to hear this unit running. Mr. Catlin did ask the applicant if there was any other location for this unit to be installed that would be less nonconforming. Ms. Klema explained this was the most logical location and took into consideration being mindful to neighbors, as other possible locations would put the unit closer to them.

Mr. Catlin asked if there were any questions from the Public or Board Members. No questions noted.

**MOTION:** To close the Public Hearing for ZBA-1038/Request of David L. Resnick & Catherine M. Klema/356 Nettleton Hollow Road/For Variance from Section 11.6 Minimum Setback and Yard Dimensions. By Mr. Wyant, seconded by Mr. Wildman, passed 5-0 vote.

Mr. Bowman stated he has no objections to this application and the location for this unit is in the most sensible spot. Mr. Wildman, Mr. Gunnip and Mr. Wyant agreed with Mr. and support this application. Mr. Catlin stated this is a classic hardship with an older home being located so close to the road. He felt that it was a modest request and supports this application.

It should be noted that ZBA-1039 for Special Exception that this applicant submitted has been withdrawn.

**MOTION:** To Approve ZBA-1038/Request David L. Resnick & Catherine M. Klema/356 Nettleton Hollow Road/For Variance from Section 11.6 Minimum Setback and Yard Dimensions, to install AC compressor, per five color photographs, AC specification sheet, Topographic & Property Survey prepared by Riordan Land Surveying, dated 04-23-03, and a sketch provided this evening by applicant, dated 5-25-17 signed by applicant and counsel, with the following conditions: any change to the approved site plan will void the Variance. Passed by 5-0 vote.

**CONSIDERATION OF THE MINUTES:**

Board members reviewed the April 20, 2017 meeting minutes.

**MOTION:** To accept the minutes of the April 20, 2017 meeting as submitted. By Mr. Wildman, seconded by Mr. Wyant, passed 5-0 vote.

**OTHER BUSINESS/DISCRETION OF THE FLOOR:**

Mr. Catlin discussed his correspondence with Atty. Kari Olson, town counsel, regarding proper protocol for voiding/rescinding a prior approved variance or special exception. He referred to a recent application that came before the Board in which a variance was approved contingent on a previous variance on the property being rescinded, which was put in as a condition of the approval. He explained that Atty. Olson had stated that the homeowner needs to sign off on specific forms, the previous variance/special exception needs to be struck from record, and these forms need to be filed on the Land Use Record with Town Clerk. Mr. Catlin stated that per counsel, the voiding/rescinding of a variance cannot be done by simply making it a condition of the approval. It was noted that the required forms for this procedure will be distributed to Board members.

Mr. Catlin stated that in June the Board will hold election of officers.

**ADJOURNMENT:**

**MOTION:** To adjourn the meeting at 8:23 p.m. By Mr. Wildman. Passed 5-0 vote.

**Filed Subject To Approval**

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

Donna Pennell, Land Use Clerk

June 2, 2017