**ZONING BOARD OF APPEALS**

MINUTES

Public Hearing – Regular Meeting

**September 20, 2018**

7:30 P.M. Main Level Meeting Room

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

**MEMBERS ABSENT:** Mr. Peterson

**ALTERNATES PRESENT:** Mr. Wildman

**ALTERNATES ABSENT:** Mr. Gunnip

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

**OTHERS PRESENT:** Mr. Fleischmann, Atty. Woermer, Mr. Forese, Mr. Farmer, Mr. Schereschewsky, Mr. Farmer, Mr. Condon

**PUBLIC HEARING(S):**

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

SEATED: Mr. Bowman, Mr. Horan, Mr. Wyant, Mr. Wildman

Mr. Bowman noted that there were four members present and seated and that a unanimous vote would be required for an application to be approved.

**ZBA-1057: Appeal by Fleischmann, 219 Roxbury Rd, of a decision by the ZEO to issue a permit for installation of a driveway and fence on property owned by Tunis, 227 Roxbury:**

Atty. Woermer was present to represent Mr. Fleischmann, property owner of 219 Roxbury Rd. He stated that he had reviewed the Town records and explained how this property was subdivided in the 1980’s and the two rear lots had a temporary accessway through his client’s property. He noted that the 1989 subdivision was approved with the condition that the subdivision applicant provide a revised map showing a code complying driveway that will serve the two rear lots. This revised map was due within 48 hours of the approval and map was never submitted, making this subdivision invalid. Atty. Woermer informed the Commissioners that the Chairman of the Planning Commission at this time signed the unrevised map in error. He noted that he has come to ZBA to straighten this issue out and is requesting the Commission or the ZEO put something on the land records to show that there is an issue with a map not being submitted in accordance with the approval of 1989. Atty. Woermer stated that this would put the burden on the land owners to clear the issue. He requested that the original applicant, Sachs, be sent a letter that they must submit an amended plan to correct the problem.

Atty. Woermer informed the Commissioners that a Map was submitted but it was not revised.

Mr. Bowman asked if Atty. Woermer and the applicant have spoken with the neighbors and have tried to come to an agreement.

Atty. Woermer responded that he would like the Commission’s help with starting the process by sending notices to the neighbors indicating that there is an issue with the subdivision map and it affects all the property owners in the subdivision and it is in their best interest to submit a corrected map. He noted that if the Commission puts the properties on notice that their properties are not in compliance it puts the responsibility to rectify the situation into the all of the subdivision’s property owners.

There was a brief discussion regarding the work that is currently taking place on the driveway.

Atty. Woermer stated that he would notify the title company that there is a cloud and at the same time work with the adjacent property owners to make the subdivision valid.

Mr. Bowman asked if there were any questions. He stated that what Atty. Woermer has presented makes sense and that he would like to speak with Town Counsel to verify what actions the ZBA can take.

Atty. Woermer requested that this public hearing be continued and that they waive the right to any statutory time limitations.

**MOTION:** To grant a continuance of the public hearing at the regularly scheduled meeting of October 18, 2018, for application ZBA-1057: Appeal by Fleischmann, 219 Roxbury Rd, of a decision by the ZEO to issue a permit for installation of a driveway and fence on property owned by Tunis, 227 Roxbury, By Mr. Wildman, seconded by Mr. Horan, passed unanimously.

**ZBA-1058: Request of Cowles, 210 West Shore Rd, for a Special Exception/Section 12.1.1-Structure (Wetlands & Watercourse Setbacks), to tear down existing shed and rebuild with slightly larger footprint w/in 50ft of a water body:**

Ms. White stated that Mr. Reighard, agent for the property owner, sent an email dated September 20, 2018 granting a continuance for this public hearing to the regularly scheduled October 18, 2018 ZBA Meeting.

**MOTION:** To grant a continuance of the public hearing at the regularly scheduled meeting of October 18, 2018, for application ZBA-1058: Request of Cowles, 210 West Shore Rd, for a Special Exception/Section 12.1.1-Structure (Wetlands & Watercourse Setbacks), to tear down existing shed and rebuild with slightly larger footprint w/in 50ft of a water body, By Mr. Wyant, seconded by Mr. Bowman, passed unanimously.

**ZBA-1060: Request of Talbot (for Aburdene), 93 East St., for a Special Exception/Section 17.4 –Expansion of a Nonconforming dwelling, to raise existing structure, reconfigure existing additions and increase volume:**

Mr. Talbot of Peter Talbot AIA, Architects was present to represent the Aberdenes, property owners. He explained that this home was a historic school set close to the road. He stated that the current homeowners would like to raise the structure in order to address drainage issues that have developed over the years from the increase in the height of the street, reconfigure additions to make it less nonconforming, and decrease the existing 3 car garage to a 1 car garage to accommodate the reconfigured additions and increase in volume. They would like to maintain the historic character of the house.

The Commissioners and Mr. Talbot looked at the site plan indicating the existing and proposed structures. Mr. Talbot specified how they are proposing to reconfigure the additions.

There was a brief discussion regarding how the street has been raised over the years but has not encroached on the property.

The Commissioners and Mr. Talbot looked at the existing and proposed elevations. Mr. Talbot explained how the 3 car garage would be altered to accommodate the additions and would be changed to a 1 car garage. He noted the proposed plan would provide more storage and the structure would be less nonconforming. There was a brief discussion regarding the proposed look of the exterior. Mr. Talbot stated that the garage section would look more like a barn.

Mr. Talbot confirmed that there is an existing engineered 3-bedroom septic system. He noted that there is a partial basement and crawl space and that the mechanicals are in the basement side of the foundation. Mr. Talbot stated that water gets into the basement because of the raised street and they are proposing to raise the structure in order to provide a better foundation.

It was confirmed that the footprint of the structure will stay the same, the existing lot coverage is 4.8% and the proposed lot coverage is 5.42%.

There were no further questions.

**MOTION:** To close the public hearing for application **ZBA-1060:** Request of Talbot (for Aburdene), 93 East St., for a Special Exception/Section 17.4 –Expansion of a Nonconforming dwelling, to raise existing structure, reconfigure existing additions and increase volume, by Mr. Horan, seconded by Mr. Wyant passed by 4-0 vote.

**MEETING**

Mr. Wildman stated that this proposed plan makes sense and he does not have any problems with what is being proposed. Mr. Wyant, Mr. Horan and Mr. Bowman concurred. Mr. Bowman added that there is an issue the road being raised over the years and raising the structure is an appropriate solution for dealing with the drainage.

**MOTION:** To approve application **ZBA-1060:** Request of Talbot (for Aburdene), 93 East St., for a Special Exception/Section 17.4 –Expansion of a Nonconforming dwelling, to raise existing structure, reconfigure existing additions and increase volume, per plans titled “Aburdene – Renovations and Additions to the Residence of …” by Peter Talbot Architects, Site Plan sheet SP.101, Plan and Elevation sheets A.100-A-103, passed unanimously.

**ZBA-1061**: **Request of Schereschewsky, 1 Golf Course Rd, for a Special Exception/Section 12.14 – Noise Generating Equipment, to place A/C condenser units in setback:**

Mr. Schereschewsky, property owner, was present to present this application. He noted that he has a video of the decibel readings from the air conditioning condenser units to the nearest property line. He stated that according to the instrument he used the decibel level is under 50 dB at the property line. Mr. Shereschewsky explained how the contractors put the units in 2ft into the setback. They have offered to come out and relocate the units.

Mr. Bowman declined to review the video and requested the applicant obtain specific decibel measurements from the manufacturer of the condenser units that indicate the decibel levels at certain distances or hire a sound consultant.

**MOTION:** To continue the public hearing for ZBA-1061: Request of Schereschewsky, 1 Golf Course Rd, for a Special Exception/Section 12.14 – Noise Generating Equipment, to place A/C condenser units in setback, to allow the applicant to collect more information on decibel levels, at the Regular Scheduled ZBA Meeting of October 18, 2018, by Mr. Wyant, seconded by Mr. Bowman, passed by 4-0 vote.

**ZBA-1062: Request of Washington Club, Inc., 92 Green Hill Rd, for a Variance/Section 11.5.1A – Lot Coverage, 11.6.1 – Setbacks, to install platform tennis court with stairway:**

Mr. Farmer, president of the Washington Club, was present to represent the Club for this application. He informed the Commissioners that they are looking to reinvigorate the Club Hall, a building that gets used 2 to 3 times a year by the Club. He stated that the Historic District Commission approved the court and that the HDC’s wish was that the court be moved further down the hill as far as the ZBA would allow. Mr. Farmer stated that they are seeking a 7 ft. variance. They are proposing a stairway linking Club Hall to the proposed tennis court which is located right on the property line. There is currently a worn in path at this location. Mr. Farmer noted that they are proposing to remove the asphalt behind the hall and replace it with gravel.

There was a brief discussion regarding lighting. Mr. Farmer stated that the HDC put a restriction on the lighting that must be off by 10pm.

It was recorded that The Gunnery and The First Congregational Church have provided letters stating that they do not have any concerns regarding this application. (on file in the Land Use Office)

It was noted that the platform for the court is elevated on piers. The Commissioners and Mr. Farmer looked at the site plan and discussed the steep grade at the back of the Club Hall. Mr. Farmer informed the Commission that the proposed stairs would be constructed of pressure treated wood and gravel.

There was a lengthy discussion of how the tennis court would be constructed and the materials that are used. The Commission expressed concerns about the elevations and what the structure would look like from all sides. They requested more information regarding the structure, drainage, elevations and pictures of the structure and views from the road.

**MOTION:** To continue the public hearing for **ZBA-1062:** Request of Washington Club, Inc., 92 Green Hill Rd, for a Variance/Section 11.5.1A – Lot Coverage, 11.6.1 – Setbacks, to install platform tennis court to allow the applicant to collect more information regarding elevations and specifications of the proposed structure, by Mr. Wyant, seconded by Mr. Wildman, passed by 4-0 vote.

**CONSIDERATION OF THE MINUTES:**

**MOTION**: To approve the Minutes of the August 16, 2018 ZBA Regular Meeting as submitted, by Mr. Horan, seconded by Mr. Bowman, passed by 4-0 vote.

**ADJOURNMENT**

**MOTION:** To adjourn at 8:45 p.m., passed unanimously.

**Recordings of this meeting are available in the Land Use Office upon request.**

**Filed Subject to Approval.**

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

Shelley White, Land Use Clerk, September 27, 2018