Zoning Board of Appeals

MINUTES

Public Hearing – Regular Meeting

October 16, 2014

7:30 p.m. upper level meeting room

MEMBERS PRESENT: Mr. Bowman, Mr. Catlin, Mrs. Leab,

Ms. Roberts, Mr. Wyant

ALTERNATES PRESENT: Mr. Peterson, Mr. Wildman

ALTERNATE ABSENT: Ms. Kaplan

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Atty. Kelly, Mr. Stiles, Mr. Angiollo, Mr. Szymanski, Mr. Neff, Mr. Weaver, Atty. Fisher, Mr. Mello, Mr. Woodward, Ms. Wishnick, Mr. Harris, Mr. Spath,

Mr. Mack, Mr. Kost, Mr./Mrs. Mitchell,

Mr. Wyant

Ms. Roberts called the meeting to order at 7:30 p.m. and seated Members Bowman, Catlin, Leab, Roberts, and Wyant.

**ZBA-0971/Stiles and Angiollo/16 and 18 Tinker Hill Road and 24 and 25 West Shore Road/Variances: 11.5 (Lot Coverage) and 11.6.1 (Setbacks) to Demolish and Reconstruct House**

It was noted this was a continuation of the public hearing. Alternate Wildman was seated for Mr. Wyant who had not attended the previous session of the hearing.

Atty. Kelly submitted a letter to Ms. Roberts dated 10/16/14, which, he said, confirmed the discussion that had taken place at the previous meeting regarding lots with continuous frontage under single ownership. He said a title search had shown the lots in question had not been under single ownership since 1949. He also stated the owners were willing to merge the lots, which would render moot Mr. McGowan’s arguments against the application and would decrease the percentage of lot coverage.

Mr. Weaver, architect, detailed the revisions made since the last meeting, which included lowering the gable 3 ft., 3 in. and reducing the living room window in size to 15 ft. square; a 20% reduction in its surface area.

Mr. Stiles compared elevations of what had originally been proposed to elevations of the current proposal.

Mr. Weaver presented elevations that compared the volume and mass of the existing structure to those of the proposed structure. He explained that in response to input from the Board, the proposed house had been moved back 4 ft., 3 in. towards Tinker Hill Road and rotated slightly to make the NE corner less prominent. The previous front setback had been 26.2 ft.; 30.1 ft. was now proposed.

Ms. Roberts noted the volume within the setback had been reduced, but not the total volume of the structure, and Mr. Weaver said that was correct. Atty. Kelly stated the volume of the non conforming part of the structure had been reduced. Mr. Szymanski, engineer, noted the previous plans had reduced the volume by 7.8%, while the current proposal reduced it by 9%. Mr. Weaver stated the volume of the portion of the proposed building, which projects beyond the existing building, was 181 cu. ft. Mr. Szymanski noted that lowering the gable had resulted in a volume reduction of 497 sq. ft. and decreasing the size of the window reduced volume by 225 sq. ft.

Mr. Weaver pointed out the proposed ridge line was now behind the 50 ft. setback line.

Measurements from grade to the ridgeline and average grade to the ridgeline were noted.

The 7/30/14, 8/28/14, and current site plans were compared.

Ms. Roberts asked if the Inland Wetlands Commission had approved the application. Mr. Szymanski said it had approved tree clearing and blasting, but would not act on a final plan until ZBA had approved one.

Mr. Szymanski stated the existing lot coverage was 46.2%, whereas the proposed coverage was 40%. He noted the increase in impervious coverage was due to safety improvements to the driveway and parking area per DOT recommendations.

It was noted that neighbors were in support of the proposal. There were no comments from the public.

Ms. Roberts noted the plans included the merger of three lots into one. It was noted if the lots were not merged, the proposed lot coverage would be 48.6%. Atty. Kelly stated that 16.7% of the coverage was due to West Shore Road running through the property.

Ms. Roberts noted the applicants proposed to move the house back from West Shore Road as the Board had suggested.

Mr. Catlin was concerned about the proposed gable end and its height off the road. He asked the applicant to address the hardship pertaining to the gable. Atty. Kelly said that none of the setback regulations existed when the lot was created, that both Tinker Hill Road and West Shore Road had expanded on the property over the years, and that lot coverage had also expanded over time. He noted per state statutes structures not in compliance with the zoning regulations were given benefits as non conforming structures after having been in place for 3 years. He also noted the footprint of the building would not change except that it would be moved back and that drainage improvements would be made. He stated the proposed building conformed to the height requirements, that the Zoning Regulations regulate the footprint, but not the square footage on multiple floors, and that the neighbors were in support of the application.

Mr. Bowman examined the footprint of the existing vs. proposed house.

Mr. Weaver presented the interior plan, “Bed and Bath Plan,” and it was noted the size of the bathroom had been decreased.

Mr. Bowman thought the proposed gable was more prominent. Mr. Weaver said it had been pushed forward 1 ft., but that the entire building had been pushed back substantially. He also explained that the proposed gable was only 17 ft. wide; shorter than the existing gable, which he thought made it less imposing.

Mr. Weaver presented the north and east landscape elevations. Mr. Stiles noted that with the proposed vegetation the entire lower portion of the proposed house would not be visible.

Mr. Bowman stated he was not comfortable with the idea that as long as the proposed changes would make the building more conforming than the existing building, they were OK. Atty. Kelly responded at length on the discretionary powers of the Board, the criteria governed by the Zoning Regulations, the owners’ aesthetic concept, etc.

Mr. Catlin was concerned the proposed building appeared to be a “behemoth block” with a 35 ft. façade shooting off the road. He said the reality of the proposed building on this lot on the lake was troublesome.

Mrs. Leab noted that while revisions had been made, she sensed a decision had been made not to make the building smaller.

Mr. Bowman said the elevation bothered him as the view would be very oppressive from the road. He noted he had pointed this out at the last meeting.

Mr. Stiles stated the revised plans addressed the key issues raised by the Board at the last session of the hearing; the height of the gable and the size of the window. He noted again that they had reduced the window size by 20% and said due to the railings and setback from the road that about 15 ft. of the window would not be seen. Atty. Kelly thought the standards the Board was trying to impose would make the building smaller than what is legally allowed on the lot now. He also noted the three lots would be merged so that in effect, the applicants were asking for the same size building, but on a larger lot.

Mr. Catlin said the Board had been clear since the application had first been submitted that it was concerned about the physical height and the appearance from the road and lake as a straight sheer structure. He thought the proposal was an enormous piece of construction, which would sit on an elevated property above the lake. He thought this was more intrusive than the existing house.

Ms. Roberts said the applicants had made tremendous strides to bring the house to the appropriate scale and she thought it would be in scale with other houses around the lake. She said she was satisfied with the effort the applicant had made to decrease the height of the gable end and to propose landscaping.

Mr. Wildman noted that it was only from one angle that the proposed building would look monolithic.

Mr. Bowman said he was not satisfied with the number or extent of the proposed changes and questioned why the proposed ridgeline was higher than the existing ridgeline.

Mr. Szymanski spoke at length about the improvements made to the plan since it had first been submitted and noted the significant safety improvements proposed.

MOTION: To close the public hearing to consider ZBA-0971 submitted by Stiles and Angiollo/16 and 18 Tinker Hill Road and 24 and 25 West Shore Road for variances of sections 11.5 (lot coverage) and 11.6.1 (setbacks) to demolish and rebuild a residence. By Ms. Roberts, seconded by Mr. Catlin, passed 5-0.

Deliberation and Action on ZBA-0971:

Mr. Bowman did not see the difference between last month’s plans and the proposal presented this evening. He was troubled by the size of the proposed building, thinking it was inappropriate for a location so close to the road and to the lake. He said that dropping the ridge and decreasing the size of the window did little to address the Board’s main concerns.

Mr. Catlin agreed with Mr. Bowman, although he commended the applicants’ efforts.

Mr. Wildman thought the current proposal was a vast improvement over the existing building and noted the existing building could be replaced as is.

Mrs. Leab agreed with Mr. Bowman, but noted the applicants’ efforts to improve the plans based on the Board’s comments.

Ms. Roberts noted the variances requested were for lot coverage and setbacks and thought the setback issues had been adequately addressed by moving the house further from West Shore Road and using landscaping to soften the effect. She said she appreciated the improvements made to the gable end and said she was OK with the proposed volume, footprint, and location. She noted the property’s location between two roads was a true hardship and that West Shore Road accounts for much of the proposed coverage. She also noted that the merger of the lots would be a condition of approval.

MOTION: To approve ZBA-0971 submitted by Stiles and Angiollo/ 16 and 18 Tinker Hill Road and 24 and 25 West Shore Road for variances of Zoning Regulations sections 11.5 (lot coverage) and 11.6.1 (setbacks) to demolish and rebuild a residence.

Vote: 3-2: Denied.

Mrs. Leab, Ms. Roberts and Mr. Wildman voted Yes.

Mr. Bowman and Mr. Catlin voted No.

Mr. Wyant was reseated.

**ZBA-0973/Montrose Realty Partners, LLC./157 New Preston Hill Road/Variances: 11.6.2(Town Line Setback) and 17.4.A (Increase of Non Conforming Structure)/Garage**

Ms. Roberts noted the five regular members were seated.

Atty. Fisher presented the plans by Ferguson and Shamamian Architects, LLP., “Site Plan,” sheet A0.0, dated 1/8/14 and “Main House and Garage First Floor Plan,” sheet A1.1, dated 3/12/14. He noted that in 2002 previous owners had applied for variances to construct a garage, had withdrawn the application, and had then apparently built the garage without permits from the Town of Washington. The current proposal was to add on to the unauthorized garage, which straddles the Town boundary line.

Ms. Roberts noted she had not been able to inspect the site due to confusion regarding the street address. Atty. Fisher explained 157 New Preston Hill Road is the last address in Washington, while the driveway entrance is actually in New Milford and is 20-22 New Preston Hill Road.

The application had not been reviewed for completeness and Mr. Catlin noted the property owners within 200 feet had not been notified of the hearing as required. However, the secretary had sent a certified letter to the property owner with notification of the hearing and instructions for notifying neighbors.

The existing conditions site plan, “Sheet 1 of 3 – Topographic Survey – Overall Plan,” by Smith and Company, dated 5/2/14 was compared with the proposed site plan. Atty. Fisher noted the existing house was large and there was no other place to locate the garage and have the house design work because the service area is at that end.

Atty. Fisher stated he had only applied for a variance of Section 11.6.2 and did not appreciate the addition of the variance request from 17.4.A. Mrs. Hill and Ms. Roberts explained why 17.4.A had been added.

It was noted the hearing would have to be continued so that property owners within 200 feet could be notified of the hearing.

MOTION: To continue the public hearing to consider ZBA-0973 submitted by Montrose Realty Partners, LLC./157 New Preston Hill Road for variances of sections 11.6.2 (town line setback) and 17.4.A (increase of non conforming structure) for a garage. By Mr. Catlin, seconded by Ms. Roberts, and passed 5-0.

**ZBA-0974/Harris/193 West Shore Road/Variances: 2.3.9.A and 14.7.2.B (Driveway Width) and 11.5.A (Lot Coverage)/ Reconfigure Driveway**

Mr. Harris submitted proof that property owners within 200 feet had been notified of the hearing and circulated an unsigned, undated portion of a site plan showing the proposed driveway layout. He explained that he found the original driveway hammerhead was unsafe and so proposed a wider driveway. He noted it would remain gravel so it would be pervious.

Ms. Roberts stated the proposed layout did not look good; the driveway was wider than the house and looked like a parking lot. She asked why cars could not park in the garage and use the hammerhead to turn around. Mr. Harris agreed with the aesthetic points, but said a 12 ft. wide driveway was too narrow for two cars to negotiate.

Photographs of the current driveway/parking area were circulated.

Ms. Roberts asked for the proposed vs. current lot coverage. Mr. Harris said the approved lot coverage with the hammerhead was 19% and the proposed coverage would increase it to 21.9%. Mr. Catlin noted a previous variance for lot coverage had been granted for the construction of the house and so asked why another was needed now.

Mr. Bowman agreed the proposed driveway looked like a parking lot.

Ms. Roberts asked Mr. Harris to consider a way to modify the approved hammerhead and retain some landscaping, while still allowing him room to safely maneuver. Various possible configurations and landscaped areas were briefly discussed.

MOTION: To continue the public hearing to consider ZBA-0974 submitted by Harris/193 West Shore Road for variances of sections 2.3.9.A and 14.7.2.B (driveway width) and 11.5.A (lot coverage) to reconfigure the driveway. By Ms. Roberts, seconded by Mr. Wyant, and passed 5-0.

**ZBA-0975/Wyant/32 Plumb Hill Road/Variance: 13.11.3.B (Owner to Reside on Premises) Detached Accessory Apartment**

Mr. R. Wyant recused himself and Alternate Peterson was seated.

Copies of the 9/24/14 letter from Mr. H. Wyant were circulated.

Mr. Neff, engineer, presented the map, “Site Plan Analysis,” by Mr. Alex, revised to 9/11/14. He explained Mr. Wyant proposed to construct a small detached accessory apartment for a family farm worker on adjoining property owned by the Wyant family. He noted both properties were part of the long time family owned farming operation, that Mr. Wyant would reside next door and so could oversee the apartment at 32 Plumb Hill Road, and that other family members currently reside at #32. Approval of the apartment, he said, would allow another family member involved in the farm to live on the property. He noted the floor plan, and stated the proposed apartment was a very small efficiency apartment, which met the Zoning Regulations.

Mr. Catlin read the 10/14/14 letter from Mr. R. Wyant, Jr. in support of the application. He also noted property owners within 200 ft. had been notified of the hearing.

It was noted Mr. H. Wyant resides on the property he owns and the property where the apartment was proposed is owned by the Wyant family.

There were no comments from the public.

MOTION: To close the public hearing to consider ZBA-0975 submitted by Wyant/32 Plumb Hill Road for a variance of section 13.11.3.B (owner to reside on premises) for a detached accessory apartment. By Mr. Catlin, seconded by Mrs. Leab, passed 5-0.

Deliberation and Action on ZBA-0975:

Ms. Roberts said the application was straightforward and the hardship was that Mr. Wyant lived next door to the farm owned lot where the apartment was proposed. She thought he would be able to keep an eye on it.

Mrs. Leab had no problem with the application, noting that in this case Section 13.11.3.B did not apply in the way that was intended.

Mr. Peterson, Mr. Catlin, and Mr. Bowman had no objections.

MOTION: To approve ZBA-0975 submitted by Wyant/32 Plumb Hill Road for a variance of Zoning Regulations section 13.11.3.B (owner to reside on premises) for a detached accessory apartment.

Vote: 5-0: Approved.

Mr. Wyant was reseated.

**ZBA-0976/Mitchell/19 South Street/Variance: 11.6.1.c (Front Yard Setback)/Garage**

The five regular members were seated.

Mr. Neff, engineer, presented the map, “Property/Boundary Survey,” by Mr. Alex, revised to 9/25/14 and “Plan, Elevations, Section and Details,” sheet A-1, by Mr. Worcester, dated 9/2/14.

Mr. Catlin reported that property owners within 200 feet had been notified of the application and hearing date.

Mr. Neff stated the property owners wanted to preserve a stand of specimen Douglas fir trees and proposed the garage in the only location that would not require trees to be cut. He noted there is no other garage on the property and that the one car garage proposed was a modest size. He also pointed out it was proposed 22 feet from the front boundary line, would connect to the existing driveway, would be hidden behind the existing vegetation, and would match the architectural details of the house. He noted, too, that several nearby houses are located close to the road, so the proposed garage would be in keeping with the neighborhood.

Letters of support from the five adjoining property owners were noted and photos of the property circulated.

Ms. Roberts said she had inspected the property and thought the building would be well screened and that there was no other logical place for it. However, she did think the proposed cupola was too large for the building. Mr. Neff said its purpose was to let light inside.

There were no comments from the public.

MOTION: To close the public hearing to consider ZBA-0976 submitted by Mitchell/19 South Street for a variance of section 11.6.1.c (front yard setback) to construct a garage. By Mr. Catlin, seconded by Mr. Wyant,

passed 5-0.

Deliberation and Action on ZBA-0976:

Mr. Catlin thought the proposal was a modest one and the property was “tricky” due to the specimen trees.

Mr. Wyant said the application should be approved.

Mr. Bowman agreed, noting that surrounding houses were close to the road.

Mrs. Leab stated it was a thoughtful application.

Ms. Roberts agreed and noted the hardship was the topography of the lot.

MOTION: To approve ZBA-0976 submitted by Mitchell/19 South Street for a variance of Zoning Regulations section 11.6.1.c (front yard setback) to construct a garage.

Vote: 5-0: Approved.

**ZBA-0977/Mello/58 Potash Hill Road/Variances: 11.6.1.C (Front Yard Setback) and 17.4.A (Increase of Non Conforming Structure)**

**Demolish, Reconstruct House**

It was noted the five regular members were seated.

Mr. Woodward, contractor, and Mr. Mello presented a site plan and building plans, 6 sheets, by Woodco, LLC., revised to 8/25/14. Mr. Woodward noted the 50 ft. front setback line cuts through a corner of the existing dwelling. He said this setback was the only issue. He proposed to rebuild the house on the same footprint, but to increase the single story portion to a two stories. That would slightly increase the volume of the non conforming area.

The elevations were reviewed and the non conforming corner was pointed out. Ms. Roberts noted the 14 ft. long garage portion of the house was proposed to become two stories to match the rest of the two storied building. Mr. Woodward circulated a 3D view on his computer.

Mr. Catlin noted there was proof in the file that property owners within 200 feet had been notified of the hearing.

Mr. Mello said he understood that variances are specific and so if granted, he could make no changes to the approved plans.

There were no comments from the public.

MOTION: To close the public hearing to consider ZBA-0977 submitted by Mello/58 Potash Hill Road for variances of sections 11.6.1.c (front yard setback) and 17.4.A (increase of non conforming structure) to demolish and rebuild a house. By Ms. Roberts, seconded by Mr. Wyant, passed 5-0.

Deliberation and Action on ZBA-0977:

Mrs. Leab said the application was for a small change on a small portion of the building and that it would be in keeping with the existing lines of the building.

Mr. Bowman had no objection.

Ms. Roberts thought the variance request was reasonable.

Mr. Catlin said the need for the variance was through no fault of the owner.

Mr. Wyant had no objection.

MOTION: To approve ZBA-0977 submitted by Mello/58 Potash Hill Road for variances of Zoning Regulations sections 11.6.1.c (front yard setback) and 17.4.A (increase of non conforming structure) to demolish and rebuild a house.

Vote: 5-0: Approved.

**ZBA-0978/Haight/45 Old North Road/Variance: 12.1.1 (Wetlands/ Watercourse Setback)/Demolish, Rebuild House and Garage**

Mr. Mack, engineer, stated that the Inland Wetlands Commission had approved the proposal and that property owners within 200 feet had been notified. Plans included the demolition and reconstruction of the house in nearly the same footprint, addition of an attached garage, reconfiguration of the driveway, and installation of underground drainage facilities.

The map, “Site Plan,” by Stuart Somers Co., LLC., revised to 9/30/14 was reviewed. The location of wetlands in the front yard and a brook flowing from the south and around the north side of the back yard and the 100 ft. setback line were noted. Mr. Mack stated the wetlands had recently been reflagged.

The 50 ft. setback from wetlands and watercourses had not been indicated on the map and the members did not think the plan specifically indicated the non conforming work proposed and what variances were needed. Mr. Mack responded that a corner of the house would be within 47 feet of the wetlands so a 3 ft. variance was needed, and a large portion of the garage would be within the 50 ft. setback, the closest point being 20 feet from wetlands, and so a 30 ft. variance was needed. He marked portions of the 50 ft. setback on the plan and placed hatch marks on the portions of the structures that required the variance. Mr. Mack, Mr. Kost, and Mr. Spath all signed and dated the revised plan.

Ms. Roberts stated the hardship was that the wetlands ring the property.

MOTION: To close the public hearing to consider ZBA-0978 submitted by Haight/45 Old North Road for a variance of section 12.1.1 (wetlands/watercourses setback) to demolish and rebuild house and garage. By Mr. Catlin, seconded by Mr. Wyant, passed 5-0.

Deliberation and Action on ZBA 0978:

Mr. Bowman, Mr. Wyant, and Ms. Roberts stated the application was straightforward.

Mrs. Leab said there was a clear hardship due to wetlands.

Mr. Catlin said the request was a modest one and he had no problem with it.

MOTION: To approve ZBA-0978 submitted by Haight/45 Old North Road for a variance of Zoning Regulations section 12.1.1 (wetlands/watercourses setback) to demolish and rebuild house and garage.

Vote: 5-0: Approved.

Consideration of the Minutes

The 9/18/14 minutes were accepted as corrected.

Page 1: Line 2 in the first paragraph: Change “more conforming” to “less objectionable to the Board” to read, “…which helped make it less objectionable to the Board.”

Page 3: Line 9: Change “discussed” to “repeated their concerns about” to read, “The commissioners repeated their concerns about the size and volume of the proposed structure.”

Page 3: 5th full paragraph: Change “two minute” to “brief” to read, “It was decided they would take a brief recess.”

Page 4: Line 10: Change “Ms. Roberts” to “Mr. Catlin” to state, “Mr. Catlin asked for comments from the public.”

MOTION: To accept the 9/18/14 Public Hearing-Regular Meeting minutes as corrected. By Ms. Roberts, seconded by Mr. Catlin, passed 5-0.

Other Business

There was a brief discussion regarding whether there should be a limit to the number of applications considered at each meeting and it was the consensus there should be no limit; that as long as an application is submitted prior to the deadline and is complete it should be accepted.

MOTION: To adjourn the meeting. By Mr. Catlin.

Ms. Roberts adjourned the meeting at 10:57 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Administrator