TOWN OF WASHINGTON

BRYAN MEMORIAL TOWN HALL

**POST OFFICE BOX 383**

**WASHINGTON DEPOT, CT 06794**

**ZONING BOARD OF APPEALS**

**MINUTES**

**November 20, 2014**

**Present:** Roberts, Catlin, Leab, Bowman, Wyant, Wildman, Alt., Kaplan, Alt.

Absent: Peterson, Alt.

**Staff:** Nelson, Ajello

**Others:** Mr. Harris, Mr. Hamilton, Attny. Fisher, Ms. Wishnick, Architect, Attny. Slater, Mr. Stiles, Mr. Weaver, Architect, Mr. Szymanski, Engineer, Mr. Bennett. Mr. Wilson, Ms. Allen and Ms. Issavi

Ms. Roberts, Chairman, called the meeting to order at 7:31 pm.

**Seated:** Roberts, Leab, Bowman, Wyant, Wildman, Alt.

ZBA-0973 Request of Montrose Realty Partners, LLC. 157 New Preston Hill Road, for Variance, Zoning Regulation Section(s) 11.6.2 (town line setback) and 17.4.A (increase of non-conforming structure) to remodel and enlarge garage.

It was noted that this was a continuation of the Public Hearing. The applicant had failed to notify the property owners within 200 feet. Attorney Fisher submitted the appropriate paperwork to the Land Use clerk prior to the meeting.

Attorney Fisher explained that the detached garage that was built by the previous owners straddles the Washington –New Milford town line. The bulk of the property,73 acres being in New Milford and 9 ½ acres in the town of Washington. Attorney Fisher said his client is currently seeking a variance from the regulation that prohibits constructing a structure within 30 feet of a town line. He stated that his client owns the property on both sides of the town line and that the nearest neighbors are several hundred feet away. Attorney Fisher spoke to the importance of setbacks and town boundary line and the differences. In this instance, he said the town line is NOT a boundary because the same owner owns on both sides; the purpose of these regulations being to protect the neighbors.

Bordering neighbors had been notified and a letter dated November 4, 2014 was submitted to the board from Mr.Lorenti and Mr. Flatt. Ms. Roberts read the letter of approval to the commissioners. Ms. Wishnick, Architect, explained the desirability in having the garage attached to the house. The commissioners looked at Site Plan A0.0 and A1.1, Main House & Garage by Ferguson & Shamamian Architects, LLP. Dated January 8, 2014. The commissioners questioned why the garage couldn’t be rotated.

There were no questions or comments from the public.

Attorney Fisher stated there were no compliance issues with New Milford. He said, if the garage is detached from the main building it would be illegal in the town of Washington and attaching the garage would eliminate the existing non conformity. The hardship is that part of the property is in another town.

**Motion:** to close the Public Hearing for **ZBA-0973** Request of Montrose Realty Partners, LLC., 157 New Preston Hill Road, for Variance, Zoning Regulation Section(s) 11.6.2 (town line setback) and 17.4.A (increase of non-conforming structure) to remodel and enlarge garage by Ms. Roberts, seconded by Mr. Wyant, passed 5 – 0.

Deliberation and Action on ZBA-0973:

Mr. Wyant said he would support approving the variance. Mr. Bowman said he didn’t understand the hardship and that there should be a better way to configure the addition of the garage and voted no. Ms. Leab agreed with Mr. Bowman saying the applicant was asking to vary something and using the hardship as the same thing they were asking to vary. Mr. Wildman was in favor and voted yes. Ms. Roberts was in favor of attaching the garage to the house. She stated the purpose of the regulation is to protect the neighbors and in this case the neighbors do not object.

**Motion:** to approve **ZBA – 0973** Request of Montrose Realty Partners, LLC., 157 New Preston Hill Road, for Variance, Zoning Regulation Section(s) 11.6.2 (town line setback) and 17.4.A (increase of non-conforming structure) to remodel and enlarge garage, by 3 -2 vote. (Motion approved, but variance denied because a

4 -1 vote was required.)

**Seated:** Roberts, Catlin, Leab, Bowman, Wyant

**ZBA-0974-** Request of Harris, 193 West Shore Rd., for Variance, Zoning Regulation Section(s) 2.3.9.A & 14.7.2.B (driveway width), and 11.5.A (lot coverage) to reconfigure the driveway.

It was noted that this was a continuation of the Public Hearing where Mr. Harris came before the commission with plans for a driveway exceeding the maximum width permitted. Mr. Harris took the commissioners suggestions to heart when he had the proposed driveway redesigned and new photographs were circulated. The mouth of the driveway is now 22 feet wide and the new lot coverage 20.1%. Belgium block had been put down to discourage parking on the flagstone. The commissioners expressed concern that this could be driven over and suggested instead of flagstone, that planting shrubs would soften the look and discourage traffic. Ms. Roberts opened the floor to the public for questions and comments. Ms. Allen, resident, agreed with the commissioners regarding the planting of shrubs.

Mr. Harris said the hardship is coming straight off the state road that you need at least 20 feet of driveway to get in and out of the garage. There were also safety concerns. Mr. Catlin asked why Mr. Harris was applying for a variance for 2.3.9.A, which speaks to grade of the driveway. Mr. Ajello explained that the regulation was augmented to add the width of a driveway should not exceed 20 feet in width and speaks to hardship. The commissioners again suggested Mr. Harris use the Belgium blocks as a perimeter but add shrubs and plantings instead of flagstone.

**Motion:** to close the Public Hearing for ZBA-0974- Request of Harris, 193 West Shore Rd., For Variance, Zoning Regulation Section(s) 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, passed 5 - 0.

**Motion:** to approve **ZBA-0974-** Request of Harris, 193 West Shore Rd., For Variance, Zoning Regulation Section(s) 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, passed 5 - 0.

**ZBA-0979-**Request of Stiles & Angiollo, 16 & 18 Tinker Hill Rd. and 24 & 25 West Shore, for Variance, Zoning Regulation Section(s) 11.6.1.C (front-rear-side setbacks) and 11.5 (maximum lot coverage) to demolish and reconstruct house.

When the application was reviewed for completeness it was discovered that the property owners within 200 feet had not been notified of the hearing as required. However, Mr.Szymanski, Engineer, submitted to the record, signatures from abutters stating notification had been hand delivered and email letters submitted to the land use clerk, waving their right to notice. Mr. Szymanski read from a letter submitted by Attorney Kelly dated November 19, 2014, which summarized the new proposal and hardship request. An appeal of the previous denial was filed as a result of time constraints but the applicants were hopeful that the commission would act favorably to the new modifications. Mr. Szymanski explained the hardships faced by the parcel are location, its unique features, the small size and the driveway location. The only increase to lot coverage on the proposed property is associated with increasing the driveway entrance. Now the driveway is located at a 40º angle to the road. The proposed driveway would be perpendicular to the road and provide for two parking spaces. Mr. Szymanski continued saying the setbacks are difficult to comply with also. He looked at other neighboring properties and square footage at 3, 27,and 47 West Shore Rd., and 28 Tinker Hill Rd. and said the applicants proposed structure is consistent with these properties.

Mr. Weaver, architect, went over the changes to the floor plan. The upper level has been completely modified with the removal of the bathroom to the rear of the property. The gable has been removed and redesigned and the overall height of the structure has been reduced. He explained the height of the house was reduced by sinking the house into the ground and decreasing the overall maximum height by a foot. The gable was eliminated on the east elevation so that the proposed structure is within the volume of the existing building. Previously the gable was projecting into the front setback to a greater extent. Mr. Szymanski explained that decreasing the overall height allowed them to have a total maximum height of 28 ½ feet which complied with the regulations. The maximum allowed per the regulations is 40 feet now at 71.3 % of the maximum allowed. With respect to maximum mean height which is now reduced to 23 feet maximum mean height allowed is 35feet, which is 65.7% of maximum mean height that’s allowed per regulations. Moving the bathroom to the rear of the building allowed them to reduce the whole front of the building. Mr. Weaver, Architect, submitted floor plans and discussed the new changes. Mr. Catlin read from the map the ridge line is 1 ½ feet higher but significantly west and uphill, currently within setbacks allowed. Mr. Weaver pointed out the proposed ridgeline was now behind the 50 foot setback line.

The landscape plan (Planting Plan Concept for Stiles – Angiollo, SD.1, by Meadowbrook Gardens, LLC. Dated September 4, 2014) remains the same.

Ms. Roberts stated there were five letters of support from neighbors and asked if there were any comments or questions from the public.

Ms. Issavi of 27 West Shore Road read part of her letter in support of the application.

Mr. Catlin asked what was happening with the dock. The dock associated with this property is not being dealt with right now. There was concern if the air conditioner compressor and a generator might not have been addressed as part of the lot coverage issue. Mr. Szymanski said in his coverage calculations he had figured in a 12 square foot pad. He drew on map SD.1, dated October 23, 2014, Proposed Site Development & Parcel Merger Map prepared for Kenneth Stiles & Richard Angiollo by Arthur H Howland & Associates the proposed location for the pads.

Floor plans and elevations had been submitted at the meeting. Mr. Catlin stated that if this application is approved that before work begins that final plans submitted must match what was presented to the commission.

**Motion:** to close the Public Hearing for **ZBA-0979-**Request of Stiles & Angiollo, 18 Tinker Hill Road/25 West Shore Road/26 West Shore Road & 16 Tinker Hill Road for Variance, Zoning Regulation Section(s) 11.6.1.C (front-rear-side yard setbacks) and 11.5 maximum lot coverage) to demolish/rebuild residence, by Ms. Roberts, seconded by Mr. Catlin, passed by 5-0 vote.

Deliberation and Action on ZBA-0979:

Mr. Catlin commended the applicant on making a significant effort to address the issues raised regarding the original application. He said the applicant had a significant case of hardship and that the building was attractive and would be an improvement to the neighborhood.

Mr. Wyant agreed with Mr. Catlin and would support the passing of the variance.

Ms. Roberts said the shed dormer with a porch was just what the commission was looking for.

Mr. Bowman agreed with the shed dormer and open porch and thought the neighbors will appreciate the revision.

Ms. Leab agreed with previous comments made by the commissioners and thanked the applicant for understanding what “small” means.

**Motion:** to approve **ZBA-0979-**Request of Stiles & Angiollo, 18 Tinker Hill Road/25 West Shore Road/26 West Shore Road & 16 Tinker Hill Road for Variance, Zoning Regulation Section(s) 11.6.1.C (front-rear-side yard setbacks)and 11.5 maximum lot coverage) to demolish/rebuild residence, by Ms. Roberts, seconded by Mr. Wyant, passed by 5-0 vote.

**ZBA-0980-**Request of Hamilton, 199 West Shore Rd., for Variance, Zoning Regulation Section(s) 11.5.1.A (lot coverage) and 17.4 (nonconforming structures) to reconstruct house.

Attorney Slater, representing the applicants, addressed the commission. He began by saying what we are dealing with is an application looking to reduce a couple of nonconformities by moving a house out of a setback and making the septic system more compliant with the public health code and also not increasing but decreasing lot coverage. He said part of the hardship is the state road. Previously the applicant went before the Zoning Commission at a Special Meeting on October 19, 2014 where the commissioners general consensus was they were sympathetic to the applicant due to all the peculiarities associated with the nonconformities involved on the lot but all agreed the applicant must apply to the ZBA for a variance before zoning action could be taken.

Mr. Hamilton spoke to the commission about the property as it was when he purchased it and took down the house. The house went over the setback line, the septic system was not functioning. The well was within 40 feet of the septic and the house was within 20 feet of the septic. The proposed site plan reduced impermeable surface coverages. The house was turned so as not to violate the setbacks, pulling the house back so as not to encroach upon the septic and a well was drilled so that it conforms to all regulations. He said this property also had a problem with runoff water going into the lake and in the winter, freezing on the road. The applicant plans to have a water mitigation system so that this doesn’t happen again. He also plans on having extensive landscaping in order to soften what was there before.

The neighbors were notified and all approve.

Mr. Wilson, Engineer, reviewed the old property as it existed prior to the demo. There was a cabin in back, a small shed that did not meet setback requirements and the existing house was slightly nonconforming in one corner. Lot coverage was 26 plus %, and the nonfunctioning septic system was within 75 feet of the lake. The new septic system, which must be located in the only area on the property where it can be accommodated, increases the setback from the lake to 85 feet. The house has to go behind the septic. Mr. Wilson, Engineer discussed lot coverage and showed architectural plans. The commissioners looked at the elevations. There was a lengthy discussion on landscaping and its impact on the lake. Ms. Leab asked what the total lot coverage is on the proposed building. Mr. Wilson noted the total coverage on the proposed structure is 25.64% and the total coverage on the previous house was 26.07%.

Attorney Slater said that the town’s attorney was mistaken in suggesting that Mr. Hamilton abandoned his nonconformity when he demolished the house and said Mr. Hamilton sincerely believed that he was acting in good faith. He said he applied for a building plan right after the demolition. Mr. Catlin said this is a classic case for a lot coverage variance because the applicant has something different from what was there.

The commissioners expressed concern over the height of the proposed structure. Mr. Wilson, Engineer, figured to the top of the old house was approximately 22 feet and the proposed house would be 27 feet.

Ms. Roberts asked if there were any questions or comments from the public. Ms. Allen, resident wanted to know the answer to the volume question. Mr. Wilson explained that he did not have that figure because the setback requirements had been met. The commissioners looked at plans by Structural Consulting Services for Hamilton Investment Partners dated September 18, 2014 pages S0 – S12. There was a lengthy discussion of the plans. Mr. Bowman did not think the plans were easy to understand and were not accurate. He said they were basically structural and he was looking for something that would accurately show elevations. Ms. Roberts asked the commissioners if they felt comfortable enough with the schematics to vote. Mr. Catlin had some modest concerns about the profile facing the lake and thinks the profile of the roof could be improved through different dormers. He also said they had a significant hardship. The commissioners discussed several options the applicant might make with different dormers or sheds. Mr. Hamilton stated that if this board would vote in favor of his application he would take the center dormer out completely and leave it as a flat surface. The commissioners were willing to compromise with shed dormers. Mr. Hamilton said he would look into shed dormers or do nothing at all. The board was willing to approve the application with conditions.

**Motion:** to close the Public Hearing for **ZBA-0980-**Request of Hamilton, 199 West Shore Rd., for Variance, Zoning Regulation Section(s) 11.5.1.A (lot coverage) and 17.4 (nonconforming structures) to reconstruct house by Ms. Roberts, seconded by Mr. Wyant, passed 5 -0.

Deliberation and Action on ZBA-0980:

Ms. Leab said with the care and attention that was put into the project and given the hardship and misunderstandings that followed this application that she would be in favor of approval.

Mr. Bowman agreed with Ms. Leab’s comments and added since care went into the placement of the septic and everything else it would be unfortunate to stop the project.

Ms. Roberts also agreed and added she was appreciative that the owner was sensitive to lot coverage. Mr. Wyant agreed with previous comments and said he would support it.

Mr. Catlin asked the applicant to use caution and stick to the plans. He also believed there is a hardship

**Motion:** to approve **ZBA-0980-**Request of Hamilton, 199 West Shore Rd., for Variance, Zoning Regulation Section(s) 11.5.1.A (lot coverage) and 17.4 (nonconforming structures) to reconstruct house according to the plans presented with the central lake facing dormer removed but with the provision that the applicant could return with a revision of the central upper floor lake facing fenestration by Ms. Roberts, seconded by Mr. Catlin, passed 5 -0.

**Motion:** to accept the Zoning Board of Appeals Regular Meeting Minutes of October 16, 2014 as submitted by Ms. Roberts, seconded by Mr. Catlin, passed by 5-0 vote.

**Other Business**

Ms. Roberts said that Stiles & Angiollo had appealed the decision of the ZBA last month which they will now withdraw. She also cautioned the commissioners to be aware of F.O.I and comments that are made when sending emails. When Ms. Roberts said “do not reply to email” means do not make any comments. Email comments become part of the record. Ms. Roberts also mentioned the previous email from Attorney Olson and that she rejected her reasoning. She added the ZBA does not determine use, it’s a zoning issue.

**Motion:** to adjourn at 10:17 pm, by Ms. Roberts, seconded by Mr. Catlin.

**Submitted Subject to Approval**,

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 Linda Nelson, Land Use Clerk

**A recording of the meeting is available in the Land Use Office.**