TOWN OF WASHINGTON

BRYAN MEMORIAL TOWN HALL

**POST OFFICE BOX 383**

**WASHINGTON DEPOT, CT 06794**

**ZONING BOARD OF APPEALS**

**MINUTES**

**August 21, 2014**

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

Absent:

**Staff:** White, Ajello

**Others:** Mr. Worcester, Architect, Mr. Kleinberg, Mr. Benner, Mr. Duke, Mr. Stiles, Mr. Angiollo, Mr. Szymanski, Mr. Weaver, Architect, Residents

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

PUBLIC HEARING(S)

**Seated:** Roberts, Wyant, Wildman, Alt., Peterson, Alt.**,** Kaplan, Alt.

ZBA-0968- Request of Worcester (for Fowlkes), 93 East Street, for Special Exception, Zoning Regulation Section(s) 17.5 (Nonconforming Structures), to add 3rd bedroom. Mr. Worcester was present to present this application of behalf of the Fowlkes, property owners. He stated that the property owners are proposing to demolish the existing three car garage and storage area then add a master bedroom suite, bedroom, take out the existing bedroom in the old schoolhouse portion of the dwelling and bring the school house back to its original state.

Mr. Worcester noted that there are no proposed changes to the exterior of the old schoolhouse portion of the dwelling.

The commissioners looked at and discussed the drawings titled “Site Plan Including Lot 99 East St.,” “Floor Plan and East Elevation,” & “North, South and West Elevation,” prepared for Fowlkes Residence by William W. Worcester Architects dated 7-3-14 sheets Sp-1, A-1 and A-2.

Ms. White confirmed that the Land Use Office received proof of certified mailings to the surrounding property owners.

Mr. Worcester indicated that the proposed volume would be reduced by 81 cubic feet, the overall footprint would be reduced by 260 square feet, the distance from the side property line would be increased by 3 feet – 8 ¾ inches and lot coverage would be decreased from 3.3% to 3.1%.

There were no further questions or comments.

**Motion:** to close ZBA-0968**-** Request of Worcester (for Fowlkes), 93 East Street, for Special Exception, Zoning Regulation Section(s) 17.5 (Nonconforming Structures), to add 3rd bedroom, by Mr. Catlin, seconded by Mr. Wyant, passed by 5-0 vote.

**MEETING**

Ms. Roberts stated that Section 17.5 (Special Exceptions for Nonconforming Structures) of the Zoning Regulations exists to allow this type of renovation. She read Section 17.5.C. 2 of the Zoning Regulation and feels that this proposed plan is fully in keeping with the requirements. Mr. Catlin stated that he is in favor of this application and that it is modest in scope, supports the continued use of a family dwelling, historically appropriate and is an overall improvement. Mr. Wyant, Mr. Bowman and Ms. Leab agree with Ms. Roberts and Mr. Catlin and stated that they support this application.

**Motion:** to approveZBA-0968**-** Request of Worcester (for Fowlkes), 93 East Street, for Special Exception, Zoning Regulation Section(s) 17.5 (Nonconforming Structures), to add 3rd bedroom as per the site plan titled “Proposed Alterations, Fowlkes Residence,” prepared for Isabel L. Fowlkes by William W. Worcester Architect, dated 7/3/14 sheet #SP-1 and other pertinent documents in the file, passed by 5-0 vote.

**ZBA – 0969- Request of Casey, 6 Old North Road, for Variance, Zoning Regulation Section(s) 11.6.1 (Rear Yard Setback), to construct carport.** Mr. Duke, Partner, and Mr. Benner, Contractor, were present to represent Mr. Casey, Property Owner, for this application.

Ms. White confirmed that five return receipt cards out of the seven certified notifications sent to the adjoining neighbors were returned to the Land Use Office.

The commissioners looked at the site plan titled “Garage- Casey Residence” prepared for Casey by William W. Worcester with a revision date of 9-11-12 sheet SP-1 which was approved by the ZBA in August 2012 (ZBA-0928)

The commissioners looked at the site plan titled “Proposed Carport-Casey Residence” prepared for Casey by William W. Worcester date of 7-30-14 sheet SP-1.

The commissioners discussed the survey. It was noted that the side yard setback for the proposed carport would be 4 feet. 2.5 inches.

In the Explanation for request for variance, date July 31, 2013, the applicant stated that this application is a revision of the previously approved application which places the structure, which has been changed to a carport, less than 30’ from the property line. Extraordinary physical conditions, steep hillside, only location for parking and the right commonly enjoyed by other property owners in the areas were listed as the factors that the previously granted variance was based on.

Mr. Duke stated that these factors still exist and however they would prefer a carport over a garage which would allow for a transparent structure and would not require cutting of trees that serve as visual screening from an adjoining property. He noted that the roof for the proposed carport would be one foot higher than the previously approved garage to give the structure the same roof pitch as the house, the carport would be 17’-8”x16’ and the previously approved garage had a footprint of 20’x20’

There were no further questions or comments.

**Motion:** to close ZBA – 0969- Request of Casey, 6 Old North Road, for Variance, Zoning Regulation Section(s) 11.6.1 (Rear Yard Setback), to construct carport, by Mr. Catlin, seconded by Mr. Wyant, passed by 5-0 vote

**MEETING**

Mr. Catlin supports this application and feels that this is a very tricky, steep lot. He appreciates the open carport and the smaller footprint of the structure. Ms. Leab stated that she is familiar with the site and agrees with Mr. Catlin that it is a very difficult site. Mr. Bowman feels that this is a smart response to a difficult site. Ms. Roberts stated that she agreed with the other commissioners and that if this application is approved ZBA-0928 must be vacated and noted on the land records. Mr. Wyant stated that he does not have a problem with this application.

**Motion:** to approve ZBA –0969- Request of Casey, 6 Old North Road, for Variance, Zoning Regulation Section(s) 11.6.1 (Rear Yard Setback), to construct carport, as per site plan titled “Proposed Carport” prepared for Casey Residence, by William W. Worcester Architect, dated 7/30/14, sheet # SP-1 and other pertinent documents in the file with the condition that Variance ZBA-0928 granted August 16, 2012 is considered null and void, passed by 5-0 vote.

**ZBA-0670-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) 11.5 (lot coverage) & 11.6.1(yard setbacks) to demolish/rebuild residence with proposed deck.** Mr. Szymanski, Engineer, and Mr. Weber, Architect, were present to represent Mr. Angiollo and Mr. Stiles to discuss this application. Mr. Szymanski noted that the applicant is not proposing a deck with this application.

He stated that the subject property is located at 25 West Shore Road and he submitted pictures of the existing property for the record. Mr. Szymanski stated that the existing driveway is extremely narrow and steep at a 30% grade, comes back at approximately a 35º to 45º angle into a parking area. They are working with the Department of Transportation in designing a new driveway that would be perpendicular to West Shore Road which would allow easier maneuverability from both directions and improve the sight line by blasting the existing ledge. The applicant is proposing two parking spaces and a small turnaround which results in an increase in lot coverage of approximately 325 square feet.

Mr. Szymanski stated that his clients have worked with him to maintain the existing footprint. The proposed front setback is slightly further back from the existing front setback, the volume of the proposed structure is less than the existing structure, replace the ramp/bridge on the Tinker Hill side of the house and construct new retaining walls with an associated walkway terracing up to the main entrance of the house. He noted that they are proposing to remove the existing deck, deck stairs, bridge stairs and the concrete ramp at the rear of the residence, which would decrease the nonconformity of the property.

The commissioners and Mr. Weber, Architect, looked at and discussed the floor plans for the proposed structure.

The commissioners looked at the map titled “Proposed Site Development and Proposed Zoning Location Map,” dated July 30, 214, sheet SD.1 and “Existing Conditions Map,” dated July 7, 2014, sheet EC.1 prepared for Kenneth Stiles & Richard Angiollo by Arthur H. Howland & Associates, PC.

Mr. Szymanski stated that in effort to decrease the lot coverage the applicants were prepared to merge the second parcel and a portion of the third parcel indicated on these maps with the first parcel. However, testimony from Mr. McGowan on behalf of the Lake Waramaug Association was brought to his attention today at 3:30 pm and he would like to address some of these concerns. In this email address to Mike Ajello, dated August 20, 2014 from Mr. McGowan he states that the LWA feels that based on Section 17.2 (Nonconforming Lots) of the Zoning Regulations the three parcels indicated on the proposed plan “do not meet the requirement for minimum lot area and thus are nonconforming in terms of lot area.” Mr. McGowan suggested that a title search be done on all three parcels in order to determine ownership at the time of the adoption of the Zoning Regulation regarding lot size requirement and if merging of these parcels is possible.

Mr. Szymanski acknowledged that they are prepared to continue this Public Hearing in order to perform the title searches and modify the proposed plan for this application.

He explained the reconfiguring of the driveway and how it would improve the safety of people entering and exiting the property as well as people using West Shore Road. Mr. Szymanski noted that they would be seeking approval from the Inland Wetlands Commission and the Zoning Commission for this proposed plan.

Mr. Catlin asked if there would be any alternative to blasting the ledge or possibly another location for the driveway.

Mr. Szymanski responded that they did consider other options and that the only other location is where the septic is located.

Mr. Weaver reviewed the elevations, cross sections and floor plans with the commissioners. It was noted that the height of the existing house is 27.5 feet and the proposed is 30 feet. The volume would be decreasing from 37,656 cubic feet to 35,030 cubic feet. He submitted a spreadsheet comparing existing and proposed volume, square feet and setbacks and illustrating the decrease in nonconformity with this proposed plan.

Mr. Weaver confirmed that the ground floor, which is now used for storage, is included in the volumetric calculations. They are proposing to make the ground floor habitable space.

Ms. Roberts referred to Mr. McGowan’s communication and stated that the purpose of Section 17.2 allows for nonconformity but not an increase in the nonconformity or cutting up parcels of land. She agrees with the LWA that a title search should be performed on all the parcels to find out if they were ever conjoined.

Mr. Szymanski stated that the second and third parcel have always been independent of each other. He said that he would have Atty. Kelly certify the title search for the Town’s records.

There was a brief discussion regarding the height of the proposed structure and whether a variance would be need for the increase. Mr. Szymanski stated that a variance would be required for the increase in height if they were to retain the existing structure but they would be demolishing the existing structure and constructing a new structure. He stated he would look into it and add it to the modified application if needed.

Mr. Ajello confirmed that the variance overrides the nonconformity 17.4 but he would examine it further to make sure.

Ms. Roberts read the concerns in Mr. McGowan’s communication and asked that they be addressed.

Mr. Szymanski stated that he would forward the title search to Mr. McGowan and Ms. White so she could send it to the commissioners.

Ms. Leab asked that if the public were to have any more comments on this application that they respond in a timely manner so that concerns could be addressed.

Mr. Catlin asked about the dock.

Mr. Szymanski responded that the property owners do not have any plans to change the dock.

Mr. Catlin requested an as-built floor plan and elevations with dimensions.

Mr. Catlin stated that he appreciates the smaller components in the design of the structure and feels that this house is very tall and encouraged the applicants to work on the height a little more.

Mr. Weaver stated that the lower level of the proposed structure would be 10 feet above West Shore Road. The lower level has French doors that open out to a grassed area.

There was a brief discussion regarding the South Elevation.

The commissioners discussed the size and volume of the proposed structure.

Mr. Szymanski stated that the goal is to make a structure that is less nonconforming than the existing structure. He noted that the hardship for this application is the irregular, narrow shape of the lot combined with its small size which makes it difficult to adhere to the Zoning Regulations.

Mr. Kleinberg, from the LWA, stated that the inability to adhere to the Zoning Regulations, as he understands it, is not a legitimate hardship.

Mr. Szymanski stated that the shape and size of the lot is the hardship and the setbacks overlap on the property.

Mr. Kleinberg asked if tearing down the existing building creating the property owner’s hardship.

Ms. Roberts stated that they are proposing to build in almost the exact same footprint of the existing grandfathered structure and she did not feel that they were creating their own hardship.

Mr. Szymanski responded that the existing building is uninhabitable, rotted and moldy. He reiterated that the existing driveway is unsafe. The proposed structure would be habitable, meet building code and have a safer driveway as well as be less nonconforming.

There was a brief discussion regarding Section 17.4.

There was a brief discussion regarding pushing the structure further back toward Tinker Hill. Mr. Szymanski stated that he would explore this option.

Mr. Weaver stated that they would submit a landscaping plan as well.

Ms. Roberts asked that they consider the east elevation fenestration.

**Motion:** to continue ZBA-0670**-**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) 11.5 (lot coverage) & 11.6.1(yard setbacks) to demolish/rebuild residence, by Ms. Roberts, seconded by Mr. Wyant, passed by 5-0 vote.

**Consideration of the Minutes:**

It was the consensus of the commissioners that they would consider the minutes from the regularly scheduled ZBA meeting of July 17, 2014 at the next regularly scheduled ZBA meeting September 18, 2014 at Bryan Memorial Town Hall in the Upper Level Meeting Room.

**Privilege of the Floor**

No one from the public was present at this time.

**OTHER BUSINESS**

**Other Business:**

It was noted that an As-Built survey of the Teh property has not been submitted to the Land Use Office.

Ms. Roberts suggested that a discussion regarding Certified/Return Receipt versus Certificate of Mailing would be and item on the August 21, 2014 regularly scheduled ZBA Meeting.

**Adjournment:**

**Motion:** to adjourn at 8:50 pm, by Mr. Catlin, seconded by Mr. Wyant.

**Submitted Subject to Approval**,

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Shelley White, Land Use Clerk 8-28-14

\*Please refer to the subsequent ZBA Meeting Minutes for possible corrections.

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