

**TOWN OF WASHINGTON, BRYAN MEMORIAL TOWN HALL
PO BOX 383, WASHINGTON DEPOT, CT 06794
ZONING BOARD OF APPEALS MINUTES
OCTOBER 15, 2015**

CALL TO ORDER

6:43 p.m. [START audio file ZBA Meeting 10-15-2015 #1of2.wma]
Members Present: P. Roberts, T. Catlin, P. Bowman, R. Wyant, K. Leab
Attendees: Attorney K. Olson, J. Kelly, I. Bloom, J. Mackesy
Recording Clerk: S. Silvernail
P. Roberts: Call the October 15, ZBA meeting to order and move that we go into Executive Session.
R. Wyant: I'll second.
P. Roberts: All in favor?
Multiple Voices: Aye.
P. Roberts: And seated will be the five regular members and present are our Attorney Kari Olson, James Kelly, Ira Bloom, and Jennifer Mackesy.

EXECUTIVE SESSION

6:44 p.m. [STOP audio file ZBA Meeting 10-15-2015 #1of2.wma]
[Recording clerk left the room until called to return at 7:47 p.m.]
7:47 p.m. [START audio file ZBA Meeting 10-15-2015 #2of2.wma]
K. Leab: I move the Executive Session be ended.
P. Bowman: I second it.
K. Olson: All in favor.
Multiple Voices: Aye.
K. Olson: All right, there you go. Nice to see all of you.
[K. Olson and P. Roberts left the meeting]

PUBLIC HEARING

7:50 p.m. **ZBA-0998 Request of Anderson/92 Bell Hill Rd for Special Exception of a Nonconforming Dwelling, Zoning Regulation9s) 17.5.A.1.a (Special Exception for Nonconforming Structures) to raise a roof.**
Members Seated: T. Catlin, R. Wyant, P. Bowman, K. Leab, J. Kaplan (alternate)
Members Absent: P. Roberts
Alternates Present: C. Wildman, T. Peterson
Attendees: B. Neff, D. Pennell, M. Ajello, P. Talbot
Recording Clerk: S. Silvernail

- T. Catlin: So we're going to continue with ZBA meeting of October 15th. It's ten minutes to 8:00 so we're going to begin with ZBA-0998 Request of Anderson/92 Bell Hill Rd for Special Exception of a Nonconforming Dwelling, Zoning Regulation 17.5.A.1.a (Special Exception for Nonconforming Structures) to raise a roof.
- B. Neff: Yes, good evening, for the record, I'm Brian Neff for ... Anderson ... 92 Bell Hill Road which ... 1700s era house with a couple of later additions onto the house—
- T. Catlin: [interposing] Oh, Brian, I have to interrupt you for just one second. The four regular members are going to be seated and Joan [Kaplan], Okay?
- Clerk: For the record, can you say the names please?
- T. Catlin: Of course, so Todd Catlin, Rod Wyant, Peter Bowman and Kathy Leab and Joan Kaplan, alternate.
- B. Neff: The proposal is to allow the roof on the rear gable addition to the original house to be lifted up. Right now there's an access way from the second floor of the original house into the later additions that's got a very low amount of headroom. It's going from the second floor of the original house into the later addition [papers shuffling] It may have been an attic at one time, but it's such a low headroom that I have to duck down to get into the access to this bedroom. So the proposal is to leave the footprint as is, no changes to ... no modification of anything in terms of the setback requirements or coverage. Just simply to raise the roof on that rear gable to be able to get access to the second floor bedroom. I submitted plans that show the building with actually two rooflines, the original existing roofline and an elevated roofline to allow for the headroom. I think it shows things the clearest in terms of the proposed modification. It's remaining the same in terms of number of bedrooms, square footage. This will just be an increase in the volume of the building to allow that access into the second floor bedroom.
- T. Catlin: So does that drawing A200 that you're picking up with the roof being raised?
- B. Neff: Yes, a A200 does show the two, you know, the existing roofline and the proposed elevated roofline.
- T. Catlin: And that difference is three feet seven inches [3'7"] higher, something?
- B. Neff: Yes, three foot seven and three-quarter inches. So that's where the only change is, just that one request.
- T. Catlin: Okay, do you by any chance have any photographs of it because I went by today and it's not there?
- B. Neff: Well, the rear portion has been removed which was permitted for demolition.
- T. Catlin: Okay.
- B. Neff: The original house is remaining and that's going to be—

T. Catlin: [interposing] I saw that.

B. Neff: If the special exception is granted then ... build the roof at the higher level. If it's not approved then it would go back to the original existing level. It's been documented as far as the building height so that can be reproduced, but the request for the exception is just to raise that roof section in back.

T. Catlin: Okay, so you don't have any photographs of it?

B. Neff: No.

T. Catlin: No, okay.

Male: Do you have ...?

B. Neff: Yes.

Male: [inaudible, papers shuffling]

B. Neff: Floor plan here which shows the second floor with access going into this rear bedroom. The roofline is very low there.

P. Bowman: This is existing?

B. Neff: Yes, that's the existing plan. We have to walk down a stair, through a little entry way, and then into the bedroom which is kind of an awkward access. Very little amount of headroom right at the intersection of the old building and the new. Low enough that I would have to bend over in order to get in there and I'm not the tallest person.

T. Catlin: And this part of the structure was there so you're reconstructing all of this?

B. Neff: Yes.

T. Catlin: And all of that footprint is identical to what was there?

B. Neff: Yes, rebuild exactly ... the porch—

T. Catlin: [interposing] Heights—

B. Neff: [interposing] You're right.

T. Catlin: Pitches or anything?

B. Neff: Yes, everything else would be exactly the same as shown on the plan A200. It's going to match the same roof pitch as existing or originally existing.

T. Catlin: Okay.

P. Bowman: So the extent of the raised roof is just this portion right here?

B. Neff: [inaudible]

T. Catlin: So the rest of the building is being reconstructed exactly as it was?

B. Neff: That's correct.

T. Catlin: Okay. Where is the setback line which is, you know?

B. Neff: Well there's really.

T. Catlin: I mean I presume that's why you're applying for a special exception?

B. Neff: This is actually within the side setback line. This is actually, actually this is going to be the front, the driveway is right here ... of Judea Cemetery. So it'll be a fifty-foot setback on that to the front. It just barely makes it on the backside of thirty feet.

T. Catlin: What would you ... I'm just wondering cause this is sort of what we're talking about—

Multiple Voices: [inaudible]

B. Neff: That area is actually outside the setback line, but the lot is nonconforming in terms of the less than allowable area for acreage. It's very close to Judea Cemetery Road. This was built prior to zoning regulation so it's really nonconforming existing situation.

P. Bowman: Technically the expansion of a preexisting nonconforming building.

T. Catlin: If a part of the, Mike? If a part of the building is outside of the setbacks then?

M. Ajello: When you say outside you mean?

T. Catlin: Well outside—

M. Ajello: [interposing] Within the interior part of the lot?

T. Catlin: Oh, is this an interior lot? Yeah, yeah, exactly.

M. Ajello: No, no, no.

K. Leab: No, no.

T. Catlin: Outside of the side yard and the rear ... and the ... setback.

M. Ajello: Nonconformity cannot be increased without the variance that you're discussing?

T. Catlin: Even if it's outside of the actual addition? I thought it was only the part that was within it?

M. Ajello: It's only the part is nonconforming cannot be expanded ... there.

T. Catlin: Right, that's what I'm sort of.

M. Ajello: You're house is too close to the road, you might be able to add on to that house with—

T. Catlin: I thought it was only the portions that were within the setback that we had to worry about? So the house is not—

M. Ajello: Correct, I'm trying to say it—

T. Catlin: Okay.

K. Leab: Okay.

M. Ajello: I'm trying to say it.

Male: Sounds like it.

M. Ajello: Same thing.

T. Catlin: Okay, so I'm confused as to why a variance is needed or why a special exception is needed here if it is outside of?

M. Ajello: Well one of the things I'm having trouble with is I don't remember discussing this and I don't think they came to me with this.

T. Catlin: Okay. Are you following this Brian?

B. Neff: Yeah.

T. Catlin: Okay, because I mean there are no ... I mean I'm just looking at this and if this is the front yard and you're at thirty, I mean I suspect this is fifty feet, more than fifty feet.

B. Neff: Yes.

T. Catlin: And this is clearly more than fifty feet so either side would be. I mean no matter.

K. Leab: Hmmhmm.

Multiple Voices: [inaudible]

T. Catlin: So even if it were, you know, the area here is appears to be out.

B. Neff: It's kind of in the middle—

T. Catlin: [interposing] Out of the setback here.

B. Neff: Well if that's not required for an exception then that's good.

J. Kaplan: Yes, precisely that.

Multiple Voices: [Laughter]

T. Catlin: Is there, is there?

M. Ajello: When you asked about photographs, the first thing I would have said is go get photographs of this.

T. Catlin: Right.

M. Ajello: And look at their plan. Now it's been pretty busy in the office.

T. Catlin: Right.

M. Ajello: Somebody might have come in and said we have remodeling to do. Remodeling is allowed, but this seems to be more than remodeling. I'm familiar with the house.

T. Catlin: Okay.

M. Ajello: Matter of fact, I worked in the house ... and I know the footprint is not changing and we probably can reconstruct it. I was ... to be ... owner or the previous owner has photographs.

Male: I would like to see photographs.

B. Neff: It's been measured and it's been documented in terms of.

M. Ajello: I went by. It looks right. I saw the documents. I think they're correct.

T. Catlin: Well, perhaps let's ask if the public has any comment then we can discuss it in the Board. Does anybody, neighbors have comments? Peter?

P. Talbot: I'm a neighbor.

T. Catlin: Identify yourself for the record?

P. Talbot: Peter Talbot, I own the property that wraps around this. This used to be the farmer's house. The house I grew up in. I personally don't think it requires a special exception due to the fact that all the ... increasing is not within any of the setbacks.

T. Catlin: Right.

P. Talbot: Even if you do feel it is required, I grew up in the ... house and know that's been problematic ... no problem raising the roof on that section of the house.

M. Ajello: I have a question. What's the address of the house?

P. Bowman: 92.

B. Neff: 92 Bell Hill.

M. Ajello: So Bell Hill is the frontage?

T. Catlin: Yeah, I mean, there are no dimension on the survey to front and side yard setbacks ... do you have a scale ruler?

B. Neff: Yes, there's a 35-foot—

Male: [inaudible]

Male: Proportionally it looks like you're.

B. Neff: Well the center portion that will be raised actually is beyond setbacks.

P. Bowman: Which this would be the closest I would assume.

B. Neff: And from Bell Hill Road it's 35 feet so if you go 50 that's kind of in the middle of the old part of the house so the area in question is actually outside the setbacks. Although the original part of the house is within setbacks.

M. Ajello: It complies. It complies with setbacks.

T. Catlin: It's outside of the setback.

B. Neff: The part ... elevated—

Multiple Voices; [inaudible]

M. Ajello: It's outside the ...

T. Catlin: Beyond, correct, beyond the setbacks.

Female: Beyond.

B. Neff: That the area that's in question is outside that, but the house itself is in the front setback.

M. Ajello: Understood, and that's not being changed.

B. Neff: That's correct.

M. Ajello: Okay.

T. Catlin: I guess we have a couple of choices. We can discuss this as a Board and vote on it. I don't suppose there's any negative to granting a special exception if it doesn't really apply? ... I don't really know, but I think would be inclined to do is encourage you to continue, do your dimensions

and figure out if the addition is in fact outside beyond the setbacks and if so, withdraw the application.

- B. Neff: Okay, so.
- T. Catlin: And if not come back.
- B. Neff: So if the building if a section in question is outside the setback lines?
- M. Ajello: It complies.
- B. Neff: It complies.
- J. Kaplan: It complies and that's that.
- M. Ajello: Even if the lot is nonconforming it still complies to setback. The side yard's okay on that and ... addition there?
- B. Neff: Yeah, the side yard is not a problem.
- M. Ajello: Okay, now let me ask you one more question.
- T. Catlin: And would this not be an interior lot?
- M. Ajello: What is the language of the frontage of the lot?
- B. Neff: Well it's got frontage Bell Hill and Judea Cemetery Road.
- M. Ajello: How much is on Bell Hill?
- B. Neff: Of course it makes a curve right.
- M. Ajello: Approximately how much is on Bell Hill?
- B. Neff: Let's see, we've got.
- T. Catlin: What is interior lot length, 50 and side yard?
- M. Ajello: Frontage lot would be 200 feet and I don't know that that.
- T. Catlin: No, no, but what's the setback if it's an interior, if it's a?
- M. Ajello: Be 75 and 50.
- T. Catlin: 75 and 50.
- M. Ajello: 75, 50, 50.
- T. Catlin: Okay.
- M. Ajello: But there's another factor here which is complex and that is the definition of frontage, that's frontage on town road.
- T. Catlin: Right.
- M. Ajello: It doesn't say the frontage has to be on one town road.
- T. Catlin: Right, well I would assume in this case, I mean unless the applicant wishes to argue differently, but I mean it has a Bell Hill address so I would.
- B. Neff: Well if you go to the center of the curve between the two roads like the midpoint between Judea Cemetery Road and Bell Hill you've got 129.9 feet frontage.
- M. Ajello: Okay, this is something I've brought to the attention of the Zoning Commission before. My opinion is what the words say is frontage on a

town road, but if the frontage and it clearly says that you have a choice of frontage if you're on a corner lot, but no where does it say the frontage can be counted on both roads. If you count it on both roads then you have setbacks on both roads and that doesn't sound right. But in this case it's not. It's truly not an interior lot, but it is a preexisting nonconforming lot and should have a language to that degree in our ...

- T. Catlin: Brian, you ... oh, go ahead.
- P. Bowman: Do you have any idea if we have a lot coverage issue, because it's.
- T. Catlin: It's preexisting and they're not.
- Multiple Voices: [inaudible]
- B. Neff: Would theoretically. It takes up a good portion of that lot so I'm sure it's got—
- P. Bowman: [interposing] I'm just wonder if there's a point in granting a variance. If there's no reason to ask for one, I don't think you should ask for one, but if it's a lot coverage issue then there'd be justification in looking at it and saying there's a reason to ask for a variance.
- T. Catlin: But it doesn't sound like the footprint is changing.
- Multiple Voices: No, no.
- P. Bowman: Other than the fact that half the building's gone.
- T. Catlin: I think I would be inclined to say that I think you should continue this, investigate in fact what the setbacks are, draw them on the plan, and then decide whether or not because I don't think it's going to. You're going to, you said you were going to build the addition ... as is if we didn't approve it.
- B. Neff: Right.
- T. Catlin: So that's not going to hold you back from pouring foundations, beginning work, presumably come back in a month with that information.
- B. Neff: Yeah, come back and put in ...
- T. Catlin: And if it is outside of those setbacks or not be in the setback then you don't need to be here.
- B. Neff: Well I guess the question is going to be whether it really is an interior lot so if it doesn't need to—
- M. Ajello: We're going to have a great deal of difficulty calling a corner lot an interior lot.
- Multiple Voices: Yes, yes.
- M. Ajello: There are two definitions. We call a flag lot an interior with access ... the way we define that. People who lay out subdivisions call the corner lots, corner lots and everything in-between interior lots.
- Female: Hmmhmm.
- M. Ajello: Nobody calls a corner lot an interior lot.

B. Neff: Yeah, it's got a lot of road frontage, but on two different roads.

M. Ajello: So does it inhibit the application in either way by measuring the 50-foot frontage on both roads?

B. Neff: Let's see.

P. Bowman: What is this?

Multiple Voices: [inaudible]

P. Bowman: I suppose there's no harm in pursuing.

Multiple Voices: [inaudible]

T. Catlin: I would just say that's the applicant's choice.

Multiple Voices: [inaudible]

M. Ajello: I really don't think it matters, Brian, because the definition of road frontage doesn't say that it has to be on one road and it does clearly say that if you're a corner lot you can choose your frontage.

Female: Hmmhmm.

M. Ajello: You can choose which road ... which road you count as your address.

B. Neff: Or even if the situation if you counted the road frontage ... still comply.

M. Ajello: Right, and to make matters worse, it's a curved corner, curved property line.

Multiple Voices: [inaudible]

M. Ajello: There's no definitive points, but I am pretty sure that we can do this administratively without ...

B. Neff: Well it looks like the part in question, if I'm measuring this correctly. If it's 75 feet measured off of Bell Hill Road that would cut into this ...

M. Ajello: No it would. No, well.

Male: Be considered an interior lot.

M. Ajello: Okay, it, yes, if it were 75 feet off of Bell Hill Road ... so this is considered an interior lot ... has to ... we've been through it. We actually had a ... with Kari Olson once and she gave an opinion on that, but if you ... there isn't any ... didn't work right with our decisions.

T. Catlin: Anybody else on the Board have a feeling about whether we should be?

M. Ajello: Because it's a special exception.

T. Catlin: What's that?

Female: I think it's absurd.

M. Ajello: ... I'm sorry.

K. Leab: Our choice seems to be.

Multiple Voices: [inaudible]

B. Neff: I guess the thing would be to maybe continue it until ... possible that this doesn't need a special permit, special exception, then.

Multiple Voices: [inaudible]

M. Ajello: The other thing we can do is set you on the agenda for discussion with Zoning next week and let them interpret it.

T. Catlin: I suppose the alternate is that we could on this Board is treat it as an interior lot and grant special exception for being within the 75 foot front yard setback.

P. Bowman: Yeah, I don't think there's a problem ... a special exception.

K. Leab: Would that affect the property ever?

T. Catlin: I don't know.

K. Leab: If it is treated as an interior lot once?

T. Catlin: I don't know and I think that's a.

Multiple Voices: Yes, yes.

J. Kaplan: Your first inclination was to continue it. See whether you have the option to simply have it confirmed as we all tend to think is the common sense response and then you don't need a variance or special exception and you can carry on.

B. Neff: Okay.

J. Kaplan: And as Todd said this is not going to hold you up from doing whatever.

B. Neff: No, that's correct.

J. Kaplan: From wherever you are in your construction schedule in any case.

B. Neff: True.

T. Catlin: From this Board member I don't have an immediate problem.

Multiple Voices: [inaudible]

B. Neff: Okay, I just ... say request a continuation til the next meeting.

T. Catlin: Okay.

B. Neff: If it's not applicable, then I would withdraw the request.

J. Kaplan: [inaudible]

T. Catlin: Okay, great.

B. Neff: Thanks very much.

MOTION

To continue public hearing ZBA-0998 Request of Anderson/92 Bell Hill Rd for Special Exception of a Nonconforming Dwelling, Zoning Regulation9s) 17.5.A.1.a (Special Exception for Nonconforming Structures) to raise a roof. Motion by T. Catlin, second by R. Wyant, passed 5-0.

PUBLIC HEARING

8:10 p.m. **ZBA-0999 Request of Atkins/159 West Shore Road, for Variance, Zoning Regulation Section 11.6.1.C (Minimum Setback and yard Dimensions) and Section 11.5.1.B (Maximum Lot Coverage) to construct a 10' x 14' boathouse.**

Members Seated: T. Catlin, R. Wyant, P. Bowman, K. Leab, T. Peterson (alternate)

Members Absent: P. Roberts

Alternates Present: C. Wildman, J. Kaplan

Attendees: D. Pennell, M. Ajello, P. Talbot

Recording Clerk: S. Silvernail

T. Catlin: We're at ZBA-0999 Request of Atkins/159 West Shore Road, for Variance, Zoning Regulation Section 11.6.1.C (Minimum Setback and yard Dimensions) and Section 11.5.1.B (Maximum Lot Coverage) to construct a 10' x 14' boathouse.

P. Talbot: Peter Talbot, architect, representing the Atkins who are traveling ... apologize that they couldn't be here. [papers shuffling] We are going to have two applications tonight. I'm going to read through this boathouse. The second one will impact a little bit, but I'll just touch possibly this ... so basically this is solely for this existing parcel. Here are all the abutters that have been communicated with, their names, the yellow is the property with the existing house and the existing driveway are here [refers to plan] shuffleboard court and steps and a lot of basically sort ... with 9-1/2% or ... 8400 or so square feet of represented as the public right-of-way that runs through the middle of the property.

The proposal in this drawing is going to be used for both this application and the next one is showing the whole, what we're proposing for the whole project. Right now versus what we had submitted previously where we had a roof removed, a driveway added, and there was a discussion about lot coverage and different type of lot coverage. This is now what you're looking at in both of these applications. The second one we are leaving the driveway where it is. We're just adding the areas in red ... wraparound covered porch plus what the application I'm talking about right now is solely about this 10' x 14' boathouse shed which is. We have located. We've rotated from where it was before 90 degrees so that it no longer is positioned so it's parallel to the road and to the lake. It is now perpendicular to the road and the lake so that the narrow end is facing the lake and the road. Thus ... some of the people that have written letters in opposition to this, less visible and less of an obstruction between the road and the lake. I'm going to read my letter cause I'm feeling a little fuzzy and it's probably easier.

On behalf of Kathy and Paul Atkins we respectfully request reconsideration of 11.5.1.B Lot Coverage and 11.6.1.C Front Yard Setback to construct a small 10 x 14 foot shed on their property for storage of boat related equipment classified as a boathouse in Section 21.1.11 of town regulation.

1. According to Section 12.1.1.B.1 these same regulations the boathouse is allowed within 50 feet of Lake Waramaug up to the water eliminating any requirement at all from the rear setback for the lake frontage property line setback. However, we have located the structure 25 feet from the lake to the front of this building or the back of the building or whatever you want to call it. This was done in compliance with the wishes of the Lake Waramaug Association to provide a buffer between the boathouse and the lake. We've also located this boathouse at the widest section of available land as far as possible away from the lake and the road while still being practical to function for boathouse equipment storage. Given that the road crosses over the property with no clearly defined property line, we are based on the recommendations of the Land Use Office using the edge of the pavement as the property line with a 50-foot front yard ... the proposed structure is 40 feet from the edge of the road. [refers to plans] So this is from here to here is 40 feet versus what is required for 50. So we were requested for relief of 10 feet. The hardship is that the boathouse could be in compliance with the front yard setback. However to respect the wishes of the Lake Waramaug Association to protect the lake it has been located as far as practical from the lake resulting in a need to request a variance for the road. In addition of the recommendation of the lake Waramaug Association the structure has been repositioned so that the axes is oriented perpendicularly to the lake and the road increasing by four feet the front yard setback from 44 feet which it could have been to the requested 40 feet. So we're asking for ten feet, a relief of ten feet from the front yard on a lot that has about 400, 390 feet of lake frontage here. Road frontage, a significant amount of road frontage here. There is ample distance between all of their property lines on the side yards. It's a pretty unusual situation along the lake that you have. You're only asking for, if you were to propose a new structure such as the one we're doing, you're only asking for a variance of ten feet.
2. The second item relates to lot coverage. When calculated without the state road, this is compliant. We are 4,839 square feet below the maximum allowable at 7.1% versus the allowable of 12.5%. The road represents a hardship ... is 8,488 square feet covering approximately 9.4% of the lot. In addition the road on this lot unlike other lots with a road right-of-way is particularly long providing lake frontage to three other lots south of the road ... [refers to plan] up in here, which are not subject to including the road in their lot coverage. So this is an unusual situation for a parcel of land on West Shore Road in the Town of

Washington. The 140 square foot shed being requested for the proposed house represents 0.16% increase to the lot, very insignificant. When considered with the special exception application which I will be presenting to you shortly, being concurrently requested for the new porch on the preexisting nonconforming structure, the total lot coverage including the boat storage shed is 16.5% which is 1% below the adjusted allowable lot coverage of 17.5%. We have 12.5% allowable. There is an allowable additional 5% for preexisting nonconforming structures. Now albeit this is a new structure that we're adding to a preexisting property, not to the building itself, but I think it speaks to the character and nature of the houses that were built that are nonconforming around the lake. We believe that this allowable, with a special permit under your Zoning regulations, will be an appropriate addition to the lakefront. It is a small, much needed, and esthetically pleasing structure in keeping with the character and uses around the lake. We believe there is a real hardship and respectfully urge you to approve this significantly reduced request from what was submitted at the September meeting. Sincerely, Peter Talbot

At one of the last meetings people were questioning that it was going to be used as a party house, that we're going to have French doors and chairs and people out there drinking and not using it as boat storage. We have turned it perpendicularly at other people's requests as well as your own so that these double doors that we have are not facing the lake. There is nothing facing the lake other than there is a window that we have there. If you all wish it to be removed, we can remove it. [papers shuffling, refers to plan] This is the view that you would see of it from the lake. It's wood shingles with trim, wood roof, and it sits up ... eight inches or so above the ground. The items that they have presently that they're storing in their garage which they had hoped to be able to store in their new garage which they are no longer going to be able to have. I've got a letter from the Lake Waramaug Association today that informs me that in 10 x 14 foot structure you can put ten kayaks and all kinds of other things that I have to say it's questionable.

Multiple Voices:

[laughter]

P. Talbot:

What the inventory that we took today was they have two paddle boards. (one is 11'6" x 2.5' the other is 10'2" x 32"), three kayaks (one that's 8'2" x 30" and two that are 12' x 30"). They've got skis for their motorboat. They've got kayak paddles. They've got oars, a bunch of different oars. They've got two ... boards that are. They've got skim board. They've got two inflatable large inner tubes ... life vests and a bunch of water toys.

T. Catlin:

Where do they keep all that stuff now?

P. Talbot:

They keep it in their garage so they don't have enough room for their cars. We had hoped to have a new ...

Multiple Voices: [inaudible]

T. Catlin: Up the road.

P. Talbot: ... store stuff. So we did a little map if anyone cares to see it of how we're going to hang the boats. There's the paddle boards and then their boat's going to be hung above ... I tried. The last meeting I was here you all said make it lower, make it smaller, make. I don't know. We're not going to be able to do it. So that is, if you have any questions about.

T. Catlin: Just one question, the window faces the lake, the single door faces the road, and the double doors face west?

Multiple Voices: [inaudible]

P. Talbot: Correct.

J. Kaplan: But Peter—

T. Catlin: [interposing] I need to do one thing though because I didn't seat anybody on this. So it's the four regular members and let's do Todd [Peterson] on this please. Go ahead Joan.

J. Kaplan: But why did you say just a second or two ago, I couldn't do it. You have done it, haven't you?

P. Talbot: Well, I thought I did. No, I was being asked by this Commission to reduce the height even more than I'd already reduced it and reduce the widths.

K. Leab: But you've solved the problem.

J. Kaplan: You've done everything else, Peter, and I tell you if these people were charged for the pain they've caused you [laughter] they probably wouldn't have done this.

Multiple Voices: [laughter]

J. Kaplan: It pains me to see you so pained. I made the comment. The comment I was about to make. Many months ago on another and Polly corrected me and redirected me by saying that we were not here to offer suggestions about how to protect a facade or disguise something. My response now is that all the cars that go up and down West Shore Road are going to be looking at the longer side of this building and it is closer to the road. So if it were in fact camouflaged in some way that would be less troubling to me, but I don't count. So that's not the point. You've done the best you can do.

K. Leab: Hmmhmm.

J. Kaplan: The ground falls very steeply and very abruptly in front of where that space is between the little boathouse and the edge of the water. It literally goes like this and it's all rocks. So they couldn't. They're not having their new kitchen are they?

T. Catlin: Let's keep it on the boathouse.

Multiple Voices: Boathouse, yeah.

J. Kaplan: Sorry, okay.

K. Leab: Turning of the boathouse makes all the difference.

Male: Yeah.

T. Catlin: Any thoughts from the Board?

K. Leab: Yes, I think this makes a big difference because the turning of it certainly eliminates the party house factor. It doesn't matter about the roof anymore.

J. Kaplan: And there's no steeple on it anymore. There was something on top of it.

P. Talbot: No, not on ...

K. Leab: No.

Multiple Voices: [inaudible]

K. Leab: I think this particular thing also is very community minded in that much thought has been given in the revision of it to the effect on the neighbors and to being part of a community. I think that's very important.

T. Catlin: Well said. Does anybody have an issue with the increase in lot coverage because obviously goes very hand in hand with the next application which we are not talking about, but we're being asked to increase, although minimally, the existing lot coverage for this. In the following application we're being asked to do so again. So I just want to make sure everybody is comfortable. How big is it? 8 x 12?

P. Talbot: 10 x 12, 14.

T. Catlin: So 140 additional square feet?

Female: Hmmhmm.

T. Catlin: Everybody's comfortable with that?

Multiple Voices: Yes.

T. Catlin: Any comments from the public? Anybody else have anything else?

K. Leab: I move to close the public hearing.

MOTION To close public hearing by K. Leab, second by R. Wyant, passed 5-0.

REGULAR MEETING

8:28 p.m. ZBA-0999 Request of Atkins/159 West Shore Road, for Variance, Zoning Regulation Section 11.6.1.C (Minimum Setback and yard Dimensions) and Section 11.5.1.B (Maximum Lot Coverage) to construct a 10' x 14' boathouse.

T. Catlin: Rod?

R. Wyant: I think this is well done. I think he has demonstrated that shift in the building is a good thing. I support it.

T. Catlin: Okay, Peter?

P. Bowman: I have no objection to it. I think it's perfectly reasonable.

T. Catlin: Okay, Kathy?

K. Leab: I think this is much more reasonable and I think that we should accept it as per the plan that has been tendered.

T. Catlin: Todd?

T. Peterson: I agree with everyone. I was interested in finding out exactly how much was going to be stored in here and we got a pretty meticulous census on how much is going in there. I think this is perfectly in keeping with what's needed.

T. Catlin: Okay, I agree. I think this is a particularly tricky lot. It does have an extraordinary amount of West Shore Road. It's long. It has enough sort of buffer on either side to absorb the building which I think is very important. I appreciate that it's been turned and the Lake Waramaug Association and various neighbors appear to be happy with it.

MOTION **ZBA-0999 Request of Atkins/159 West Shore Road, for Variance, Zoning Regulation Section 11.6.1.C (Minimum Setback and yard Dimensions) and Section 11.5.1.B (Maximum Lot Coverage) to construct a 10' x 14' boathouse as shown in the plan dated September 24, 2015 Land Use Commission SESP1 [?] by T. Catlin, second by unanimous consent, passed 5-0.**

P. Talbot: I don't know if you want to reference this?

T. Catlin: Can we have that for the record? Oh, we have that already.

T. Catlin: I just referenced this. Is that different?

P. Talbot: It's ... BH.101.

T. Catlin: Can we also for the record reference for the boathouse BH.101 which is found in the record. And those photographs are in there as well? Okay.

PUBLIC HEARING

8:31 p.m. **ZBA-1000 Request of Atkins/159 West Shore Road, for a Special Exception for Expansion of a Nonconforming Dwelling, Zoning Regulation 17.5.A.1.c (Special Exception for Nonconforming Structures) to build a porch, etc.**

Members Seated: T. Catlin, R. Wyant, P. Bowman, K. Leab, C. Wildman(alternate)

Members Absent: P. Roberts

Alternates Present: T. Peterson, J. Kaplan

Attendees: D. Pennell, M. Ajello, P. Talbot

Recording Clerk: S. Silvernail

T. Catlin: So moving on to ZBA-1000 Request of Atkins/159 West Shore Road, for a Special Exception for Expansion of a Nonconforming Dwelling, Zoning Regulation 17.5.A.1.c (Special Exception for Nonconforming Structures) to build a porch, etc. I'd like to seat the four regular members which is

Todd Catlin, Rod Wyant, Peter Bowman, Kathy Leab, and Chip Wildman as the alternate. Peter Talbot again.

P. Talbot: I'm going to read this one. On behalf of Kathy and Paul Atkins at 159 West Shore Road we respectfully that under Section 17.5 in addition to Section 17.5.A.1.c that the ZBA approve a lot coverage of 5% over the standard allowable lot coverage of 12.5% to 17.5% the addition and renovation to their home. This regulation as you all are aware of was put in place as I understand it to allow for preexisting nonconforming buildings that are already in excess of their lot coverage be given an additional 5%. [papers shuffling] ... for this project ... easier without having to ask for a hardship related to the road or what the definition of lot coverage is. They would like to add a wraparound porch increasing an existing nonconforming property with a lot coverage 14,212 which equals 15.7% to 14,798 which is 16.4%. Now these percentages and that lot coverage is indeed including, as much as I would like to come in and argue this road should not be included in this, that lot coverage is included. This road is included. So they may be shooting themselves in the foot by requesting this in the way that they are if they ever want to come back to you and ask for a variance to do something else, increase the lot coverage. Unless at that point we would have to change your regulations and acknowledge this road to not be included in lot coverage. It's some of the ways the attorneys have interpreted, your own being one of them, ... this a little wiggly. So that said, we are looking at it as if entire lot coverage. The boathouse being 10 x 14, which we've just applied and you've accepted, would result in a total of 14,938 square feet which is 16.5%. So once you add this in you're at 16.5% still under the maximum lot coverage of 17.5%.

T. Catlin: Current is? Peter, tell me again what the current is? 15.8%

P. Talbot: It will be. The existing?

T. Catlin: Yeah.

P. Talbot: It's 15.7%.

T. Catlin: 15.7% and you're proposing 16.5%?

P. Talbot: We're proposing 16.5%.

T. Catlin: Including the boathouse?

P. Talbot: Including the boathouse.

T. Catlin: Okay.

P. Talbot: The property was once the Loomarwick Inn. Where the Loomarwick Inn was locate was a much grander house and about twice the footprint including porches of what the existing house has, refer to the past historical photographs that are in your file. It's sort of morphed from one structure to another, but it was always two or three stories tall with big wraparound porches and had a significantly larger lot coverage then and was a much bigger structure ... There was more driveway that wrapped

around. The basis of our request as a special exception is justified as the original house of Loomarwick Inn had much more lake house character. I will show you all. [refers to plan] This is what the house looks like right now. The yellow is the existing footprint. Here's photographs of it and what we are proposing is something that will ... We're adding this wraparound porch on the front so this is the view from the road looking up at it versus what is here now. We are proposing a two-story addition over the garage so that they have a new master suite. So you can see here that that's a second floor and the orange is the new wraparound porch on the first floor.

- P. Bowman: Peter, how deep is the porch?
- P. Talbot: I think it's nine feet, eight or nine feet. [papers shuffling]
- T. Catlin: Perhaps I'm looking at the wrong thing here, Peter, but it shows a tiny little piece here and I think it's your air-conditioning compressors?
- P. Talbot: Those are air-conditioning ... as well.
- T. Catlin: Oh they are, so I ... okay.
- P. Talbot: Move them around ...
- T. Catlin: Okay, that's what that is.
- P. Talbot: Yeah, it's eight feet. The original house was sited and fit into the landscape around the lake while being significantly larger than the existing very nondescript structure built in the Loomarwick Inn site. Existing plain facade and lack of covered porches are not keeping with what was historically there nor with other residences presently around the lake. A subtle and minimal addition of the new front porch will be significantly smaller than ... with only two stories, not three like the Loomarwick Inn yet will anchor and enhance the property and remain in compliance with Section 17.5 of the Zoning regulations. We respectfully request approval of this application. So these drawings sort of show in dotted in the existing line. When you're driving along West Shore Road, the existing side of the garage with the lower roof will then be popped up another story with some interesting fenestration and lack of fenestration down here unless we're able to figure out how to add more to it so there is a little bit of a view out this way. So this covered porch wraps around with a new entry and then in the back we're leaving the existing structure where it is. We're really not, and you can see it's not, a major increase to the building and certainly significantly less than what we had been proposing before when we were looking at putting in the garage, removing this, putting in the new big driveway. Any questions?
- T. Catlin: When was the structure built?
- P. Talbot: I think it was built in the '80s I believe.
- T. Catlin: Which is built on the? Was the Loomarwick Inn physically?
- P. Talbot: Burned down.
- T. Catlin: At that time?

P. Talbot: I don't know the exact history of that, but it was constructed as a ... somebody was telling me it was sort of a prefab structure that was brought in and put on the foundation or the location where the existing inn was.

T. Catlin: Okay, within a short period of time. I mean one burned down and it was rebuilt at some point?

Multiple Voices: [inaudible]

T. Catlin: Somebody said here it was ...

M. Ajello: I'm wondering how they could have got a prefab structure down the hill, but they may have floated it.

P. Talbot: Well, I don't, I think it was panelized when they say prefab.

M. Ajello: Still Town Hill and Tinker Hill Road before the Lake Shore was there.

P. Talbot: No, no, no, the new, the house that's there now ... in the '80s ...

M. Ajello: I have no idea when it was reconstructed.

P. Talbot: I think the whole structure burned then this was put up by the people.

T. Catlin: Not ... years later. I mean ... again, I'm just curious. I don't know if anybody else is. I mean why you have come with a special exception for a relatively modern building.

P. Talbot: Just so I didn't have to prove a hardship to you.

T. Catlin: That I get, but what makes it?

P. Talbot: The whole issue with the.

T. Catlin: Well what's not conforming about the building that you're?

P. Talbot: We're increasing the lot coverage and if I recall the last time there was debate about what is lot coverage. Whether you change gravel and you swap out or you don't or you do. So it was just something I didn't want to get into that discussion with you.

T. Catlin: Okay, I was. I don't know about anybody else on the Board. I mean I read this exception as quite specifically for really unique buildings and not for nonconforming structures which is having too much lot coverage. I think the spirit of the special exception is for first application we heard. You know, the ... farmer's house that's three feet off the road. It's on a corner. It's on a tiny lot. It was built in 1790. I mean it has a lot of reason for that and I'm struggling with a.

P. Talbot: Well the way that's stated is, yes, I agree with you ... intent of that and where you have ... [papers shuffling] ... but I think that if you read through it carefully you'll see it actually speaks more about something that is nonconforming prior to ... we're in excess of the 12.5% lot coverage and it has been that way ... and the fact that it was an historic, significantly larger building on that parcel ... albeit it was a bigger piece of land, but there were a lot of little cottages around it. If you look at the photograph 1935, there are a lot of structures that still cabins that are related to it on the outreaches of it ... That's why I chose the ... there. This is an unusual parcel of land. The house that's there is pretty ugly. I know ... committee,

but we are trying to find a way to accomplish client program in a much reduced version from what they wished initially without trying to come before and request a hardship in other ways you may either deny or feel uncomfortable granting at this point. So I did discuss this at length with the Land Use Office.

- M. Ajello: It's been so long now, but I want to point the words which we've all read and how ... in that the Zoning Board may grant a special exception to permit a nonconforming single family dwelling, which it is, or a nonconforming historically or culturally significant building accessory to, and we leave out farming, a principal single family dwelling use. Tricky words, but I think that the porch is an accessory to a culturally or historically significant building. At least to me it is because the Loomarwick Inn dominated this area of the lake for many years and some of the buildings still exist.
- P. Talbot: But the section that you read right at the beginning of that it says a single family nonconforming. It doesn't necessarily get into the ... relative to the coverage of historic ... It's a preexisting nonconforming structure.
- M. Ajello: ... both single family dwelling and it is, to me it's historically and culturally significant.
- P. Talbot: Does it have to be both of those?
- M. Ajello: No, one or the other. It's both and then it goes on to say A, B, and C and C of course is the lot coverage section.
- P. Bowman: I don't know a special exception was developed with this in mind, but I don't think it's wrong to apply this. It's a bit of stretch, but I don't think it's unreasonable.
- T. Catlin: I just, I know these things are all, you know, each application is unique, but I'm uncomfortable with the concept of allowing lot coverage to become grounds for a special exception. If the lack of ... makes the nonconformity, I don't think that's what the spirit of this regulation is at all and I just am concerned now that's going to be.
- K. Leab: I don't think the spirit of this regulation in the first place as we tried to write it ended in the Zoning regs looking that way.
- T. Catlin: Say that again.
- K. Leab: I don't think or I think that the way we had originally proposed this special exception to Zoning did not come out that way at all.
- T. Catlin: Right.
- K. Leab: And has not been rewritten yet so there it is.
- T. Catlin: Right, okay. I mean there's just a lot of discussion about nonconforming structures include some of the oldest. I mean include, not exclusive, any of the oldest and most historic structures in town. Hence the regulation to allow them to continue to be used. I think this is a modest application. I commend the applicant's and Peter for listening to the Board and making a

significant alteration. I'm just more concerned it's an I-dotting-T-crossing kind of thing.

- K. Leab: I do think we should simultaneously recommend to Zoning at sometime soon that this particular section be rewritten.
- T. Catlin: Right, any comments from the public?
- M. Ajello: I just checked that section you read and you're absolutely right. It does say restriction in that area and lot coverage in the back.
- T. Catlin: Where are you seeing that Mike?
- M. Ajello: I'm looking at the previous section ... before the regulation. So they seem to accept that area and lot coverages as part of accepting the nonconformity for buildings that were unusual situations like Lake Waramaug before the road was pushed through or whatever. I think it relieves you from having to recognize hardship in this case we know that the road can be recognized as hardship.
- T. Catlin: Okay, anybody else have anything else?
- K. Leab: Once again I'd like to say that the change in the application does show a sensitivity to the community and to topography and to the intent of the planning of the town.
- C. Wildman: Only one question, what's the foundation of the porch going to be?
- P. Talbot: Piers.
- C. Wildman: It's just some porches may become enclosed. It won't be this application.
- P. Talbot: It would have to be another application if they wanted to enclose that.
- C. Wildman: It's just that it happens to a lot of houses on the lake, well wow we can have another room.
- P. Bowman: It's a wood porch essentially? Not a covered terrace, but a porch?
- P. Talbot: It's a wood porch. It's stepped down four levels, couple steps down to the ... with a roof over it.
- P. Bowman: What a porch should be.
- T. Catlin: Okay, anybody else, anything?
- K. Leab: I move that the public hearing be closed.

MOTION To close public hearing by K. Leab, second by R. Wyant, passed 5-0.

REGULAR MEETING

8:52 p.m. ZBA-1000 Request of Atkins/159 West Shore Road, for a Special Exception for Expansion of a Nonconforming Dwelling, Zoning Regulation 17.5.A.1.c (Special Exception for Nonconforming Structures) to build a porch, etc.

- T. Catlin: Chip, what do you think?

C. Wildman: I have no problem with this application ... eight feet past the building?
Multiple Voices: [inaudible]
C. Wildman: It was eight? I have no problem with this.
T. Catlin: Okay, Kathy?
K. Leab: I agree. I think with this again, effort has been made. I think this is modest now. Didn't used to be quite so modest. A great improvement has been made in terms thought and consideration and so I'm for it.
T. Catlin: Okay, Peter [Bowman]?
P. Bowman: I agree with what Chip and Kathy have said. I do appreciate that the property owners and architect have listened to our comments in the previous application and substantially revised their wishes.
R. Wyant: I agree with everybody here at the table. I think it was very well thought out and I think we should support it.
T. Catlin: Okay, I am in a conundrum, but my issue is not with the project. I think the applicant has done an exceptional job at taking our concerns into account. I think there is an historic piece that's interesting and I think they've done a very nice job that's in keeping with the neighborhood and all those sorts of things. I however am concerned with this special exception concept so in this instance given sort of where the Board is I am going to not support this application.

MOTION

ZBA-1000 Request of Atkins/159 West Shore Road, for a Special Exception for Expansion of a Nonconforming Dwelling, Zoning Regulation 17.5.A.1.c (Special Exception for Nonconforming Structures) to build a porch, etc. as shown in the plans marked SD.1.C, same site plan referenced last time, also referenced SD.SP.1 for the call, plan dated Sept 24, 2015 by T. Catlin, second by unanimous consent, passed 4:1 in favor.

P. Talbot: Thank you very much.
T. Catlin: I don't think we had minutes last month.
K. Leab: Yes, we had them.
T. Catlin: Oh, you have them. I didn't see them.
K. Leab: Regular Meeting, September 17th.
T. Catlin: Has anybody read the minutes from the last meeting?
K. Leab: I move that the consideration of the minutes be postponed.
J. Kaplan: Yes [second]
Multiple Voices: Yes, yes.

MOTION **To postpone consideration of minutes by K. Leab, second J. Kaplan, passed 5:0.**

T. Catlin: We will postpone accepting the minutes until next month. Is there any other business? So finally I would like to read a pre-prepared statement from Polly who wished she could be here.

Since November of 1999, Katherine Leab has served the Zoning Board of Appeals and she is stepping down after this meeting. The town owes her a debt of gratitude for sixteen years of diligent service. Her innate understanding of the issues faced by ZBA, thoughtful comments, insightful questions, expert editing, and impartiality will be sorely missed. I will personally miss her quiet, wry humor. We thank her and wish her peace particularly on the third Thursday of every month.

T. Catlin: Thank you.

K. Leab: It has been a pleasure.

Multiple Voices: [well wishing, expressions of gratitude]

K. Leab: I will miss this. This is a very nice group of people and an extremely civic minded, not political, commission.

T. Catlin: With our gratitude, I ask for a motion to close to adjourn.

MOTION: **To adjourn by unanimous consent, second by R. Wyant, passed 5:0.**

8:57 p.m. **Meeting Adjourned.**

8:57 p.m. **[STOP audio file ZBA Meeting 10-15-2015 #2of2.wma]**