

# June 20, 2013

**Present:** Polly Roberts, Todd Catlin, Kathy Leab, Rod Wyant

**Alternates:** Todd Peterson, Joan Kaplan

**Absent:** Peter Bowman, Chip Wildman, Alt.

**Staff:** Amber

**Also Present:** Mr. Worcester, Architect, Mr. Conrad, Architect, Mr. Monteleone, Atty. Kelly, Mr. Neff, Engineer, residents

Ms. Roberts, Chair, called the meeting to order at 7:32 pm.

Seated: Roberts, Catlin, Leab, Wyant, Peterson, Alt.

## **PUBLIC HEARING**

ZBA – 0944 – Request of Worcester (Glantz), 7 Senff Road, for Variance, Zoning Regulation Section(s) 11.6.1(Front Yard Setback), to construct roof over front entrance.

Mr. Worcester, Architect, was present to represent the Glantz's for this application. The Commissioners and Mr. Worcester looked at the drawing titled "Plot plan - Plan Elevations, Porch Roof - Glantz Residence," by William W. Worcester Architect, sheet A-1, dated 2-19-13. Mr. Worcester explained that they are proposing a roof over an existing stoop, which is mostly located in the town right-of-way. He noted that the Selectman's Office and the Highway Department have approved the proposed plan. Mr. Worcester stated that the existing location of the steps in the town right-of-way and the front of the existing house located 10 5/8 inches off of the front property line is a land-based hardship. He discussed safety factors as well.

Ms. Roberts read the letter addressed to the ZBA from the First Selectman dated April 8, 2013 (on file in the Land Use Office) which states that the Washington Highway Director has reviewed the proposed plan and that they have determined that the addition of a roof and railing to the existing stoop would not create any new obstructions to road maintenance.

Ms. Roberts read a letter of support for this proposed plan, addressed to the ZBA from Mr. Brighenti, adjoining neighbor, dated June 8, 2013 (on file in the Land Use Office).

Motion:

to close the Public Hearing for ZBA – 0944 – Request of Worcester (Glantz), 7 Senff Road, for Variance, Zoning Regulation Section(s) 11.6.1(Front Yard Setback), to construct roof over front entrance,

by Mr. Catlin, seconded by Mr. Wyant, passed by 5-0 vote.

## **MEETING**

Mr. Catlin feels that this is a classic land-based hardship because the house was constructed before the zoning regulations and this proposed plan is a very modest request. Ms. Roberts stated that she agreed with Mr. Catlin and that the roof would be over the existing steps, which is a very minimal increase to the non-conformity but not increase the existing front yard setback. Mr. Wyant stated that he agrees with the other commissioners and that the plan is simple and straightforward and he supports it. Ms. Leab stated that she agrees with the others and she thanked Mr. Worcester

for the thorough presentation. Mr. Peterson agreed with the other commissioners and supports this application.

Motion:

to approve ZBA – 0944 – Request of Worcester (Glantz), 7 Senff Road, for Variance, Zoning Regulation Section(s) 11.6.1(Front Yard Setback), to construct roof over front entrance per drawing titled “Plot plan - Plan Elevations, Porch Roof - Glantz Residence,” by William W. Worcester Architect, sheet A-1, dated 2-19-13 and supporting documents in the file, passed by 5-0 vote.

## **PUBLIC HEARING**

Seated: Roberts, Catlin, Leab, Wyant, Kaplan, Alt.

ZBA –0945 - Request of Wodtke, 81 Green Hill Road, for Special Exception, Zoning Regulation Section(s) 17.5 (Nonconforming Structures), to increase height of garage roof, add dormer above stairway, convert exterior porch to bathroom.

Mr. Conrad, Architect was present to represent the Wodtkes, property owners, for this application. Ms. Roberts read the Motion from the Certificate of Appropriateness issued by the Historic District Commission dated March 26, 2013 (on file in the Land Use Office).

There was a brief discussion regarding surrounding neighbors. It was confirmed that the neighbors were properly notified.

The commissioners and Mr. Conrad looked at the map titled “Property Boundary Survey,” prepared for Peter G. Wodtke & Barbara Jean Wodtke 81 Green Hill Road by T. Michael Alex, L.L.S. dated July 2002. Mr. Conrad explained how the existing building does not meet the front setback requirements.

The commissioners looked at the drawings titled “North, West, South Elevations-Wodtke Renovation,” by Crisp Architects, dated 5-24-13. Ms. Roberts noted that the proposed garage renovation would be most visible from the road.

Mr. Conrad and the Commissioners discussed the proposed renovations. Mr. Conrad stated that the proposed dormer over the new staircase would relieve hardship of non-conforming stair and head height per the building code.

Ms. Roberts asked if the profile and pitch of the roofline would remain the same with the proposed shed roofline for the addition of the master bathroom.

Mr. Conrad responded that he believe the pitch of the shed roof was slightly raised and the height of the proposed dormer over the staircase would not exceed the existing roofline.

There were no further questions or comments.

Motion:

to close the Public Hearing for ZBA –0945 - Request of Wodtke, 81 Green Hill Road, for Special Exception, Zoning Regulation Section(s) 17.5 (Nonconforming Structures), to increase height of garage roof, add dormer above stairway, convert exterior porch to bathroom, by Mr. Catlin, seconded by Mr. Wyant, passed by 5-0 vote.

## **MEETING**

Ms. Leab feels that this proposed plan is what the Special Exception is for because it allows for continued use of a single-family dwelling; the changes are sensible and will have little or no impact to the appearance of the building. She stated that the property has a land-based hardship because it is so close to the road and feels that this is a very nice plan. Mr. Wyant stated that he agreed with Ms. Leab and that the proposed plan meets the requirements of a Special Exception and he supports it. Mr. Catlin referred to Section 17.5.c.1 of the Zoning Regulations and stated that the proposed plan supports the continued use of a single-family dwelling; the modification is reasonable in scope, location, appearance, etc. He feels that the proposed plan is a modest change to a historic house and he is please that the Historic District Commission has seen and approved the proposed renovations. Ms. Roberts agrees with Mr. Catlin and stated that she is happy that the footprint of the existing dwelling is not changing. Ms. Kaplan stated that she agrees with the other commissioners and that the plans are wonderful and she wishes the property owners best luck.

### **Motion:**

to approve ZBA-0945 - Request of Wodtke, 81 Green Hill Road, for Special Exception, Zoning Regulation Section(s) 17.5 (Nonconforming Structures), to increase height of garage roof, add dormer above stairway, convert exterior porch to bathroom per map titled "Site Plan – Wodtke Renovation," by Crisp Architects, dated 2-24-13, four drawings titled " North, South, East & West Elevations-Wodtke Renovation," by Crisp Architects, dated 5-24-13 and supporting documents in the file, passed by 5-0 vote.

## **PUBLIC HEARING**

Seated: Roberts, Catlin, Wyant, Leab, Kaplan

ZBA-0946 – Request of Teh, 8 Kirby Road, for Special Exception, Zoning Regulation(s) 12.14 (Noise Generating Equipment) for installation of 3 a/c compressors.

Mr. Monteleone was present to represent the property owners for this application. Mr. Monteleone stated that the Historic District Commission approved the proposed plan.

The commissioners feel that the applicant should have applied for a Variance and discussed this with Mr. Monteleone.

The commissioners looked at the drawing titled "Proposed Lot Coverage-Chute Addition" by Halper Owens Architects LLC, sheet SK2, dated 8-2-05.

There was a brief discussion regarding window units vs. in ground units and the proximity of the neighbors.

The commissioners and Mr. Monteleone discussed the proposed plan. Mr. Catlin stated that he did not feel that it would be legal to grant this Special Exception and advised that the applicant apply for a Variance.

Mr. Monteleone submitted a letter of withdrawal (on file in the Land Use Office). ZBA-0946 was withdrawn.

## **PUBLIC HEARING**

Seated: Roberts, Catlin, Leab, Wyant, Peterson, Alt.

ZBA-0947 – Request of Ingrassia, 143 East Shore Road, for Variance, Zoning Regulations Section(s) 11.5.1 (Lot Coverage), 17.4 (Increasing Nonconformity), 11.6 (Minimum Setback), 12.1.1 & 12.1.3 (Wetlands & Watercourse Setback), to build a stone wall.

Atty. Kelly and Mr. Neff, P.E. were present to represent the property owners for this application. Atty. Kelly stated that some of the sections of the regulations that he included with this application are not required

The commissioners and Mr. Neff looked at the drawing titled “Septic System Repair Plan – The Ingrassia Residence” by Brian Neff P.E., sheet 1 of 1 with a revision date of 5-21-13. Mr. Neff discussed the need for the proposed retaining wall as a structural component of the proposed septic system. He stated that the site is extremely sloped down to the lake and the wall is necessary to prevent the leaching fields from sliding into the lake. Mr. Neff stated that the wall is facing north and vegetative ivy would be planted to cover the wall.

Ms. Roberts confirmed that neighbors were notified.

Mr. Neff explained the construction of the proposed wall. He stated that wall is seven feet tall and fifty feet long. He noted that with the wall exposed it is considered a structure the proposed plan vegetates the wall to cover it up.

Mr. Catlin asked if the lot coverage would increase.

Mr. Neff responded that it would not increase.

There was a brief discussion regarding freestanding walls.

Mr. Neff stated that the original plan included a wall that was proposed to have soil over it and planted with grass. He discussed planting grass in an north facing area that has substantial tree coverage.

There was a brief discussion regarding plantings.

Mr. Neff stated that the Inland Wetlands Commission and the Health Department have approved this revision with the ivy planting.

There was a discussion regarding the sections that should be struck from the request for this Variance.

Motion:

to close the Public Hearing for ZBA-0947 – Request of Ingrassia, 143 East Shore Road, for Variance, Zoning Regulations Section(s) 11.5.1 (Lot Coverage), 17.4 (Increasing Nonconformity), 11.6 (Minimum Setback), 12.1.1 & 12.1.3 (Wetlands & Watercourse Setback), to build a stone wall,

by Mr. Catlin, seconded by Mr. Wyant, passed by 5-0 vote.

## **MEETING**

Mr. Catlin stated that he feels the revision was necessary and he does not have any issues with this application. Mr. Wyant stated that he supports this application. Ms. Leab stated that she

supports this application. Mr. Peterson feels that this was an issue that needed to be addressed and he approves the proposed plan. Ms. Roberts noted that this is an exceptionally steep site and she appreciates Mr. Neff's efforts to design a proper septic system that would prevent any issues for the lake.

Ms. Roberts stated that they would strike the variance requests for Sections 11.5.1, 17.4 and 11.6 because there has been no change to the originally approved plan.

Motion:

to approve ZBA-0947 – Request of Ingrassia, 143 East Shore Road, for Variance, Zoning Regulations Section(s) 12.1.1 & 12.1.3 (Wetlands & Watercourse Setback), to build a stone wall, per the drawing titled “Septic System Repair Plan – The Ingrassia Residence-143 East Shore Road,” by Brian Neff, sheet 1 revision dated 5-21-13 and other supporting documents in the file, passed by a 5-0 vote.

## **PUBLIC HEARING**

Seated: Roberts, Catlin, Leab, Wyant, Peterson, Alt

ZBA-0948 – Request of 5 Whittlesey Road LLC, 5 Whittlesey Road, for Variance, Zoning Regulation(s) 13.11.3.b (Detached Accessory Apartment), to construct detached accessory apartment above existing garage.

Atty. Kelly was present on behalf of 5 Whittlesey Road LLC to present this application.

The commissioners and Atty. Kelly looked at the map titled “Property Survey” prepared for 5 Whittlesey Road, LLC, by Charles Farnsworth L.L.S. with a revision date of 10-3-8.

Atty. Kelly stated that the property owners would like to take what is equivalent to one bay of the barn/garage of the second floor to create a detached accessory apartment. The commissioners looked at the drawings titled “First Floor Plan and Second Floor Plan” by Mr. Neff.

Atty. Kelly stated that this property is part of Spring Hill Farm and the Ingrassias own Spring Hill Farm. Looking at the Property Survey, Atty. Kelly indicated which surrounding properties the Ingrassia family owns. He stated the farm is a vibrant, active entity a member of the Ingrassia family lives on the property as well as some of the farm employees. He said that the Ingrassias are trying to start an internship program for the study of viticulture and to provide this intern with housing.

Atty. Kelly noted that he had discussed the ownership of the property with the Zoning Commission at their last monthly meeting. The zoning regulations require that the owner resides on the property on which the detached apartment is being proposed and the Zoning Commission advised that the property owner should seek a variance for this requirement in order for a Special Permit to be considered.

Atty. Kelly stated addressed the hardship for this variance request. He gave a brief history of the farm and stated that the zoning regulations allow farming as a permitted use in a residential zone, it is an adjoining parcel which is common to have adjoining parcels as part of one farm unit. Atty. Kelly noted that if the ZBA were inclined to grant this variance they could put a condition on the approval that it is for farm use only.

Mr. Catlin responded that that condition would be unenforceable.

There was a brief discussion regarding Special Permits issued for a permitted use under special conditions upon approval. Atty. Kelly stated that they are asking for a variance of a single condition to a permit that has other requirements and is not in perpetuity.

Atty. Kelly discussed the definition of “property” in the zoning regulations. He stated that the Town talks about the importance of promoting farming but the regulations hinder the process. Atty. Kelly stated that in the regulations the definition of “family” includes farm workers so there is an intent in the regulations to house farm workers.

There was a brief discussion regarding whether a situation like this has been varied before.

Mr. Catlin stated that he is concerned that the adjoining properties are owned by different LLC’s.

Atty. Kelly stated that the properties are is owned by different LLC’s for liability issues. He stated that the reason why they stay as separate parcels is because the zoning regulations that do not promote farming because there can only be one residence per parcel which would not allow a farm to grow. He stated that this request for variance is on a condition that the Zoning Commission does not have authority to waive.

Ms. Roberts referred to Section 13.11 and read 13.11.1 (Intent) and Section 13.11.3 (accessory Apartment Detached).

Atty. Kelly stated that a family member will be residing on the property. He discussed the “Right to Farm” statutes.

Ms. Roberts stated that she does not have a problem with this because whether what the ZBA grants goes with this property in perpetuity or is only attached to the Special Permit but she feels that it does fill the intent of the zoning regulations. She stated that it is not a substantial second dwelling, clearly a small one-bedroom accessory apartment, and there is a main house dwelling. She understands Atty. Kelly’s point about supporting agriculture and feels that is fair to support the growth of farming.

Mr. Catlin feels that Ms. Roberts’s comments are valid but his issue with this application is the fact that this is a Zoning issue and he is unclear why the ZC would send Atty. Kelly to ZBA with this.

Atty. Kelly stated that the Zoning Commission cannot waive a regulation to grant a Special Permit.

Ms. Roberts read the excerpt from the 5-20-13 Zoning Meeting Minutes regarding 5 Whittlesey Road (on file in the Land Use Office). She suggested that if a variance is granted that the approval is made conditional on the Zoning Commission placing restrictions on their approval.

The Commission discussed how the special condition would be recorded on the Town records.

Mr. Wyant feels that the a property owner should be allowed to use the property as they see fit but the regulations hinder the process.

There were no further questions or comments.

Motion:

to close the Public Hearing for ZBA-0948 – Request of 5 Whittlesey Road LLC, 5 Whittlesey Road, for Variance, Zoning Regulation(s) 13.11.3.b (Detached Accessory Apartment), to construct detached accessory apartment above existing garage by Ms. Roberts, seconded by Ms. Leab, passed by 5-0 vote.

## **MEETING**

Ms. Leab stated that she understands what the regulation says but it does not consider this kind of multiple situation. She feels that this is perfectly reasonable to vary and the problem is the regulations not defining the situation. Mr. Peterson and Mr. Wyant stated that they support this application. Mr. Catlin stated that he concurs with Ms. Roberts reading of the intent of the regulation but is not comfortable with the specificity. He thinks that the intent of the property owners is very positive and goes along with the Town's interests. Mr. Catlin stated that it makes him nervous to have issues "kicked from Zoning" to the ZBA but he is okay with this. Ms. Roberts stated that she understands why the Zoning Commission cannot waive this regulation. Mr. Catlin stated that he is worried about the precedent that they could be setting.

Motion:

to approve ZBA-0948 – Request of 5 Whittlesey Road LLC, 5 Whittlesey Road, for Variance, Zoning Regulation(s) 13.11.3.b (Detached Accessory Apartment - Owner Residing on the Property), to construct detached accessory apartment above existing garage, subject to the Zoning Commissions granting a Special Permit for the current property owner for an agricultural use per the map titled "Proposed Plan-Subsurface Sewage Disposal System – Detached Garage Apartment – 5 Whittlesey Road," by Brian Neff, sheet 1 dated 5-8-13 and supporting documents in the file, passed by 5-0 vote.

## **OTHER BUSINESS**

### **Consideration of the Minutes:**

The Commission considered the Minutes of the May 9, 2013 regular Meeting of the Zoning Board of Appeals.

Motion:

to approve the Zoning Board of Appeals Regular Meeting Minutes of May 9, 2013 as submitted by Mr. Wyant, seconded by Ms. Roberts, passed by 5-0 vote.

The commissioners briefly discussed whether an architect or someone similar could be that applicant.

### **Adjournment:**

Motion:

to adjourn at 9:14 pm, by Ms. Roberts, seconded by Mr. Wyant, passed by 5-0 vote.

Ms. Roberts adjourned the meeting.

Submitted Subject to Approval,  
Shelley White, Land Use Clerk

