

December 15, 2011

Present: Todd Catlin, Peter Bowman, Rod Wyant, Kathy Leab

Alternates: Todd Peterson, Chip Wildman

Absent: Polly Roberts

Staff: Shelley White,

Also Present: Atty. Coploff, Mr. & Mrs. Smith, Mr. DeMotte, Architect, Atty. DiPentima, Mr. Sabin., Landscape Architect, Residents

Mr. Catlin called the meeting to order at 7:30pm.

PUBLIC HEARING

Seated: Todd Catlin, Peter Bowman, Rod Wyant, Todd Peterson, Alt.

Continued

ZBA-0906 - Request of Smith, 22 Parsonage Lane, for Variance, Zoning Regulation(s) 17.5 (Increasing Non Conformity), 11.6.1(Side Yard Setback), for an addition that will encroach 12.4' into 50' side yard setback.

Mr. Demotte, Architect, was present to represent the Smiths. He stated that a soil scientist was hired and the wetlands have been flagged on the property and are indicated on the revised Proposed Site Plan titled Property Boundary Survey, prepared for Christopher W. & Marlene M. Smith, 22 Parsonage Lane, revision date 12-8-11, and he stated that the proposed plan was presented to the Inland Wetlands Commission, a site visit has been scheduled for next week and there will be a public hearing in January for this property. Mr. Demotte stated that the proposed addition has been moved and the encroachment of the garage into the side yard setback has been reduced to 9.4 ft and the mudroom is entirely out of the setback. He stated that the non conforming pool shed (56 sq. ft.) and detached garage (340 sq. ft.) total 396 sq. ft., the existing garage is 17 ft. into the setback and 5 ft. away from wetlands and the proposed plan would decrease the encroachment into the side yard setback to 263 sq. ft. He stated that the existing detached garage and separate pool shed would be removed and the wetlands would be ameliorated. Mr. Demotte stated that the unconventional shape of the lot and the wetlands on the property limits the buildable area and therefore is a hardship.

Mr. Sabin, Landscape Architect, stated that the proposed plan is within regulated areas and that the I/W Commission is reviewing the request for a permit and he expects that there will be a positive outcome at the next Inland Wetlands Meeting in early January 2012.

Mr. Catlin explained that there are four people seated for this Public Hearing and this application would need a unanimous vote for approval. He stated that the approval from the I/W Commission is usually done before coming to the ZBA and that the public hearing could be continued. He stated that all of the information could be presented in January after the Inland Wetlands Commission has made their decision and the ZBA could listen to the presentation tonight or in January, but the ZBA does not usually rule on anything that is pending in front of the I/W Commission. The applicant chose to proceed with their presentation of the Site and Landscape Plan.

Mr. Sabin presented the map titled Site and Landscape Plan, prepared for Chris & Marlene Smith, dated 12-5-11 by Dirk W. Sabin and submitted a report dated 12-12-11 that he prepared for the Inland Wetlands Commission. He stated that a little over 4,000 sq. ft. of wetlands exist on the lot and the

existing detached garage is along side of these wetlands and the applicant is proposing to demolish this structure and replace it with storm drainage in the form of a "Rain Garden". Mr. Sabin stated that the proposed plan will restore the wetlands and it will be maintained in a wet meadow condition. He discussed the proposed native plantings for buffering and the evergreen plantings used for screening for both the neighbor's and the Smith's benefit.

Mr. Sabin displayed the map titled Soil Erosion & Sediment Control Plan, Addition to the Smith Residence, dated 12-10-11, by Brian E. Neff, Licensed Engineer. He stated that there would be a series of catch basins that will drain into recharge galleries that are located at the north and east of the dwelling and the water from these galleries would be directed to the rain garden, which would be located at the area of the existing detached garage that is to be demolished.

The Commissioners and Mr. Sabin looked at the drawing titled Right Side Elevation – Stonewall. The drawing indicates the stonewall alongside the proposed driveway to be 2 feet high at each end and peaking at 5 feet in the middle. The driveway would be bituminous concrete but the applicant stated that pervious materials could be considered for the driveway. Mr. Sabin stated that the plantings would screen this wall and it would be barely visible. He stated that the net effect of this proposed plan is a decrease in the non conformity of the lot.

Mr. Demotte stated that the proposed plan is under the maximum lot coverage calculation. Mr. Catlin asked that this calculation be provided. Mr. Sabin stated that the lot coverage was conservatively calculated. Mr. Demotte discussed the changes in the eastern elevation architecture.

Mr. Demotte, Mr. Sabin and Mr. Smith stated that they discussed a "land swap" with Mr. Caroe, the adjoining neighbor. Mr. Smith submitted a letter to the Commission from him, addressed to Mr. Caroe, dated October 5, 2011(on file in the Land Use Office).

Atty. DiPentima stated that he was present to "assure members of the Board that if you are so inclined, to grant this application that you are well within your rights under the law to do so." He stated that the Smith's have taken into consideration the concerns of the neighbors, they have reduced the proposed plan and decreased the amount of square footage that would encroach into the setback area. Atty. DiPentima stated that there is Connecticut State case law that allows this board to take into consideration the fact that the Smiths have addressed the wetland problem and the substantial amelioration of the wetlands should be factored into the consideration of granting this variance. He stated that there is also Case Law that says if the reduction of a non conformity is an independent ground for granting a variance. Mr. Catlin stated that he commends the applicant for a very thorough application but he would like the land-based hardship addressed. Atty. DiPentima stated that the land-based hardship is the configuration of the lot.

Mr. Demotte stated that the only way to not encroach into the setback would be to remove the pool and push back the garage.

The Commission agreed to extend (letter of request for extension on file in the Land Use Office) the Public hearing to the January 19, 2012 regular meeting of the ZBA at Bryan Memorial Town Hall at 7:30 p.m. so that the applicant may obtain a ruling from the Inland Wetlands Commission.

Motion:

to continue ZBA-0906 - Request of Smith, 22 Parsonage Lane, for Variance, Zoning Regulation(s) 17.5 (Increasing Non Conformity), 11.6.1(Side Yard Setback), for an addition that will encroach 9.4' into 50' side yard setback, by Mr. Catlin, seconded by Mr. Wyant, by 4-0 vote.

The Commission briefly discussed the point that Atty. DiPentima discussed regarding case law. Ms. White stated that she would look into the matter.

Seated: Todd Catlin, Peter Bowman, Rod Wyant, Kathy Leab, Todd Peterson, Alt.

PUBLIC HEARING

ZBA-0907 –Request of Risely, 72 Wykeham Road, for Variance, Zoning Regulation(s) 11.6.1 (side Yard Setback), for locating a generator within the setback.

Mr. Catlin read a letter from Ms. Risely, dated 12-15-11, requesting that the public hearing be postponed until next month.

Motion:

to continue ZBA-0907 – Request of Risely, 72 Wykeham Road, for a Variance, Zoning Regulation(s) 11.6.1 (yard setback), for locating a generator within the setback,
by Mr. Wyant, seconded by Ms. Leab, passed by 5-0 vote.

Consideration of the Minutes:

The Commission considered the minutes for the November 17, 2011 regular meeting.

Motion:

to approve the minutes of the November 17, 2011 regular meeting of the Washington Zoning Board of Appeals as submitted,
by Mr. Wyant, seconded by Ms. Leab, passed by 5-0 vote.

Adjournment

Motion:

to adjourn at 8:18 pm, by Mr. Wyant, seconded by Mr. Bowman.

Mr. Catlin adjourned the meeting.

Submitted Subject to Approval,
Shelley White, Land Use Clerk