

July 19, 2012

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

Alternates: Chip Wildman, Todd Peterson

Absent: Peter Bowman, Joan Kaplan, Alt.

Staff: Shelley White, Mike Ajello

Also Present: Mr. Kahlstrom, Mr. Szymanski, P.E., Mr. Deitz, Ms. Wilson, Mr. & Mrs. Deitz, Ms. Seitz, Mr. Millburn, Mr. Tiernan, Mr. Rook, Ms. Dana, Architect, Mr. Andrasen Architect, Atty. Kelly, Mr. Neff, Engineer, Mr. Clark, Engineer, Mr. Kleinberg, Mr. Wilson, Residents

Ms. Roberts called the meeting to order at 7:30 pm.

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

PUBLIC HEARING

ZBA-0920 – Request of Whitson, 73 West Shore Road for Variance, Zoning Regulation(s) 11.6.1 (Front Yard Setback), for installation of a generator.

Mr. Kahlstrom was present to represent Mr. Whitson for this application. He submitted a new drawing indicating the proposed location of the generator, the distance from the front of the generator to the middle of the road and the north side of the generator to the north corner of house. Mr. Kahlstrom stated that he would forward the spec sheet to the Land Use Office for the 14KW Kohler, self-contained unit.

There were no further questions or comments.

Motion:

to close ZBA-0920 – Request of Whitson, 73 West Shore Road for Variance, Zoning Regulation(s) 11.6.1 (Front Yard Setback), for installation of a generator,
by Ms. Roberts, seconded by Mr. Wyant, passed by 5-0 vote.

MEETING

Mr. Catlin stated that he had no issues with the location of this generator and believes that there is a land based hardship due to the topography of the property and as long as a specification sheet is forwarded to the Land Use Office for the file he is in favor of this application. Mr. Wildman stated that the slope and grade make it difficult to place the generator at any other location on the property. Ms. Leab, Ms. Roberts and Mr. Wyant agreed with Mr. Catlin and Mr. Wildman.

Motion:

to approve ZBA-0920 – Request of Whitson, 73 West Shore Road for Variance, Zoning Regulation(s) 11.6.1 (Front Yard Setback), for installation of a generator, passed by 5-0 vote.

PUBLIC HEARING

Seated: Polly Roberts, Todd Catlin, Rod Wyant, Kathy Leab, Chip Wildman, Alt.

ZBA-0923 – Request of Keating, 67 West Shore Road for Variance, Zoning Regulation(s) 11.5.1(Lot Coverage), 11.6(Front & Side Yard Setback), 12.1.1(Wetlands & Watercourse Setbacks), 17.3.a (Increase in Nonconforming use), 17.4.a (Increase in Nonconforming Structure), for expansion of a deck.

Mr. Szymanski, P.E was present to represent the Keatings for this application. He stated that the main house is further up the hillside across the road and submitted pictures of the existing deck. Mr. Szymanski stated that one of the pictures is of the existing wood steps from West Shore Road to the deck. The Commission and Mr. Szymanski looked at the map titled Proposed Improvement Location Map, prepared for Herbert and Mary Jo Keating, sheet PR-ZL, dated June 12, 2012 by Arthur H. Howland & Associates, P.C. Mr. Szymanski stated that they are proposing to “square off” the deck and make the entire structure approximately 8 feet deep and add an area of approximately 8 x 7.5 sq. feet on to the deck. He stated that they decided to treat this piece of the property as its own piece and the variances that they are requesting are Section 12.1.1 – because the structure is adjacent to the Lake, Section 11.5.1 – because this piece of property is so small the lot coverage is increased, Sections 17.3.a & 17.4.a – The deck is considered a pre existing non conforming use and a structure as a deck is not permitted as a primary use and is not listed as a permitted accessory use under Section 6.3, and Section 11.6 – due to the fact that the property is approximately 33 ft. long variances would be needed around the perimeter of the deck.

Mr. Szymanski stated that they have not submitted an application for an Inland Wetlands Permit because they would like to see if the variances could be granted by the ZBA. Ms. Roberts stated that the lot coverage goes from 47.5% to 66% and all of the issues they are seeking variances for are very large. Mr. Szymanski stated that it could be looked at on a square foot basis. He stated the entire property is 630 sq. ft. Ms. Roberts stated that the regulations state that a deck is not permitted as a primary use and a stand-alone deck is not listed as a permitted accessory use in Section 6.3 and yet the property owners are asking that it be considered as a separate stand-alone structure. Mr. Szymanski stated that the deck is pre existing non-conforming and they are proposing to add on to the existing deck. Mr. Catlin stated that while it is not a rule, the ZBA does prefer that the applicant seek approval from the Inland Wetlands Commission before seeking variances. Mr. Szymanski stated that they would like feedback and guidance from the Commission.

Mr. Catlin asked if there is a land-based hardship. Mr. Szymanski stated that the narrower portion of the existing deck leads to the dock and it is difficult for someone to pass a person safely that may be sitting on the deck. He stated that the topography is extremely steep at the waters edge.

There was a brief discussion as to when the deck was constructed.

Ms. Roberts stated that they are very careful on anything that would be added to the Lake. The Commissioners agreed that they could appreciate the need for the squaring off of the deck and that there was a modest safety issue but they do not see a hardship for the 8 x 7.5 sq. ft. addition. Mr. Catlin stated that 67% is a high lot coverage and he would like to hear what the IWC would say about the impact of proposed deck.

Ms. Roberts read a letter from adjoining property owners, Nicholas and Helen Deitz, dated July 19, 2012 (on file in the Land Use Office).

The Deitz's stated, in their letter, that they would not favor any part of the deck and its structures over the property line and they found out after the current deck was erected that a portion of the supports and deck were over the property line, which was not done with their permission. Mr.

Szymanski stated that he would contact the Keatings and see what could be done to address the situation.

Mr. Szymanski stated that he would forward a letter withdrawing this application via email to Ms. White tomorrow July 20, 2012.

PUBLIC HEARING Seated: Polly Roberts, Todd Catlin, Rod Wyant, Kathy Leab, Todd Peterson, Alt.

ZBA-0924 – Request of Seitz, 104 Blackville Road for Variance, Zoning Regulation(s) 11.6.4(Fence Setback), 17.4(Increasing Nonconformity), for 6' privacy fence. Mr. Milburn and Ms. Seitz, property owners, were present to discuss this application. Mr. Milburn submitted letters of support from property owners. Ms. Roberts stated that there is a shed that is being applied for as well but was not noticed. Ms. White stated that she included the section of the zoning regulation related to the shed in the legal notice but did not add the shed in the description and that the proposed shed is a decrease in footprint, further from the wetlands but with a 2 foot height increase for a peaked roof. She stated that all neighbors were notified and the Land Use Office has received all green return receipt cards. Ms. White read letters of support from Mr. Tiernan, dated 7-19-12, Mr. T. Farmen, dated July 18, 2012, Mr. N Sunshine and Mr. A. Shayne, dated 7-12-12, Ms. C. Brissett, dated 7-19-12 (all letters on file in the Land Use Office). The Commission looked at photos of the existing fence and the fence across the street at the Tiernan property. Ms. Seitz stated that they are proposing to replace only the existing 5-foot high picket fence panels with the new 6-foot high privacy style panels. Ms. Roberts asked if the panels would step down in sections. Ms. Seitz stated that she would like it to be level throughout the length of the fence but it may slope down. Mr. Milburn stated that the proposed fence would be 2 feet behind the property line and he stated that debris has hit the house when there have been accidents at the bridge corner. Mr. Ajello, ZEO, read section 11.6.4. The Commission discussed the slope along the front property line and agreed that an 8-foot tall fence panel would be required at the lowest point of the slope if the top of the fence were to be straight across and not follow the slope. Ms. Roberts stated that she would not be in favor of 8 ft. tall fence sections. Ms. Leab stated that she could see the need for a higher fence for safety reasons. Mr. Catlin suggested that the Commission could consider approving a six-foot high fence with the condition that no section of the fence exceeds 7 feet tall.

Mr. Rook stated that he passes Ms. Seitz property daily and feels that she has immensely improved the property since she purchased it. He stated that the traffic can be hazardous and he is in favor of the proposed improvements.

Atty. Kelly stated that he travels along Blackville Road frequently and has noticed the improvements on this property. He stated that people travel much too fast on this road and it is reasonable to request a high fence in this area of the Town.

Mr. Tiernan stated that his is in favor of the both the proposed fence and the proposed shed and believes that they will be done in a tasteful manner.

Ms. Roberts asked that the applicants to address the proposed shed. The Commission looked at a photo of the existing house. Mr. Milburn stated that the house is small and does not have a

basement or an attic and the shed is needed for storage. He stated that after the storms in the past fall they needed to do some excavating and decided that the shed would need to be replaced. Mr. Milburn stated that they would like to replace the barn type 8' x 10' shed with an 8' x 8' peaked roof shed that would be further away from the river and tie in with the style of the house but would be 2' higher than the barn type shed. The Commissioners, Mr. Milburn and Ms. Seitz looked at the specification sheet drawings titled Typical Shed Information: Cape Style Storage Building, fabricated by The Barn Yard, sealed by Everett Skinner IV, P.E, side elevation, Front Elevation, Cross Section and Foundation Beam Construction. & Old Shed Information: Drawing Mini-Barn Style Storage Building 8x10 for the 'existing' shed (on file in the Land Use Office).

There were no further questions or comments.

Motion:

to close ZBA-0924 – Request of Seitz, 104 Blackville Road for Variance, Zoning Regulation(s) 11.6.4(Fence Setback), 17.4(Increasing Nonconformity), for 6' privacy fence and replace existing shed with 8' x 8', 10 ft. high shed,
by Ms. Leab, seconded by Mr. Wyant, passed by 5-0 vote.

MEETING

Ms. Leab stated that she feels the fence is needed for safety and the volumetric increase in the proposed shed is minimal, the footprint is smaller and the neighbors have been made aware of these proposed changes. Mr. Peterson stated that he agreed with Ms. Leab and he is in favor of the proposed location of the new shed with the small peak and believes that the fence is needed for this property. Mr. Catlin stated that the proposed shed is a modest change in height and it would be further from the brook. He stated that he also has no issues with the proposed fence and agrees that a 7' limit should be required as part of an approval. Ms. Roberts agreed with the other Commissioners. Mr. Wyant stated that he agrees that the fence is necessary for safety reasons and the proposed shed would be in a better location.

Motion:

to approve ZBA-0924 – Request of Seitz, 104 Blackville Road for Variance, Zoning Regulation(s) 11.6.4(Fence Setback), 17.4(Increasing Nonconformity), for 6' privacy fence that will not exceed 7 feet at any point and replace existing shed with 8'x 8' – 10ft. high peaked roof shed, passed by 5-0 vote.

PUBLIC HEARING

Seated: Polly Roberts, Todd Catlin, Rod Wyant, Kathy Leab, Chip Wildman, Alt.

ZBA-0925 - Request of Ingrassia, 143 East Shore Road for Variance, Zoning Regulation(s) 11.5.1(Increase in Lot Coverage), 17.4(Increasing Nonconformity), 11.6.1(Minimum Setback), 12.1.1& 12.1.3(Wetlands & Watercourse Setback), to extend stone wall, overhang of main structure, add stone pavers, modify 2nd floor to add balcony, modify footprint of stone steps, add steps to screened porch.

Ms. Dana from Platt Dana Architects, Mr. Andrasen, Atty. Kelly and Mr. Neff, Engineer were present to represent the property owners and discuss this application. Atty. Kelly stated that they withdrew ZBA-0922 and sent a letter to the Land Use Office. Ms. White confirmed that it is on file.

Ms. Dana stated that this proposed plan does not include a fireplace or a deck. She stated that they are proposing stone pavers between the two structures and added a few steps up to the screened in porch and they have reduced the lot coverage to 25.12%. Mr. Catlin stated that the original approval was at 21% lot coverage.

The Commissioners looked at the drawing titled Ingrassia Lake House, Proposed Lot Coverage, by PlattDana Architects, sheet A-101.00 with a revision date of 6-28-2012. Ms. Dana stated that the roof has been slightly extended. The existing lot coverage is 28.10%, proposed lot coverage is 25.12% and the lot is .163 acres.

Atty. Kelly submitted a map titled Property Survey prepared for Timothy J. and Stephanie Ingrassia, 143 East Shore Road, By Charles C. Farnsworth L.L.S. dated April 8, 2011, Landscape renderings, electronic neighbor notification records from USPS, IWC Approval dated 7-16-2012, letter from Brian E. Neff, P.E. to Washington IWC re: request for Permit IW-12-01 Modification, Soil Erosion & Sediment Control Plan, House Reconstruction, 143 East Shore Road, by B.E. Neff, with revision date 6-27-12, sheet 1 of 1., Letter from Brian Neff, P.E. to James G. Kelly, date June 21, 2012 re: Ingrassia Lake House with minutes of 2-8-12 minutes of the IWC attached.

Mr. Catlin asked if the main building could be decreased in size. Ms. Dana stated that the rooms are small and the roof was extended for sun exposure. Mr. Neff stated that there are dry wells on either side of the main building for run off. He stated there would be a grass surface between the screened in porch and the main house and the Inland Wetlands Commission approved of this revision to the originally approved plan.

There were no further comments or questions.

Motion:

to close ZBA-0925 - Request of Ingrassia, 143 East Shore Road for Variance, Zoning regulation(s) 11.5.1(Increase in Lot Coverage), 17.4(Increasing Nonconformity), 11.6.1(Minimum Setback), 12.1.1& 12.1.3(Wetlands & Watercourse Setback), to extend stone wall, overhang of main structure, add stone pavers, modify 2nd floor to add balcony, modify footprint of stone steps, add steps to screened porch,
by Ms. Roberts, seconded by Mr. Wyant, passed by 5-0 vote.

MEETING

Mr. Catlin stated that he understands the need to adjust plans as other issues come up but he would have liked for the ZBA to review it all at once. He stated that any additions to properties on the Lake should be done in a sensitive manner and he believes that this is small lot and the plans have been thought out conscientiously. Ms. Leab agreed with Mr. Catlin's comments and stated that she feels this plan makes more sense and is glad that the IWC approved the revisions before coming to the ZBA. Mr. Wyant stated that this proposed plan is well thought out and designed. Mr. Wildman stated that he is pleased with the revised plans and feels that they were well thought out. Ms. Roberts stated that she was glad that the property owners compromised and revised the plan. She stated that the ZBA is sensitive to coverage issues on properties surrounding the Lake.

Motion:

to approve ZBA-0925 - Request of Ingrassia, 143 East Shore Road for Variance, Zoning Regulation(s) 11.5.1(Increase in Lot Coverage), 17.4(Increasing Nonconformity), 11.6.1(Minimum Setback), 12.1.1& 12.1.3(Wetlands & Watercourse Setback), to extend stone wall, overhang of

main structure, add stone pavers, modify 2nd floor to add balcony, modify footprint of stone steps, add steps to screened porch, passed by 5-0 vote.

PUBLIC HEARING

Seated: Polly Roberts, Todd Catlin, Rod Wyant, Kathy Leab, Todd Peterson, Alt.

ZBA-0926 – Request of Lautier, 56 June Road, for Appeal, Zoning Regulation(s) 11.6.4(Fence Setback), for retaining wall along driveway.

Mr. Clark, P.E., Oakwood Environmental Associates Consulting Engineers, was present to represent the Lautiers, property owners, for this application. The Commission and Mr. Clark looked at the drawing titled Site Plan for Tim Lautier, Proposed Garage and Accessory Apartment, revision date 5/20/12 sheet 1 of 1 by Oakwood Environmental Associates Consulting Engineers and drawing titled Sections and Details for Tim Lautier, Proposed Garage and Accessory Apartment, dated revised 6/12/12 sheet 2 of 2 by Oakwood Environmental Associates Consulting Engineers. Mr. Clark stated that the applicant is requesting clarification of the term 'fence' and whether a retaining wall is in fact a 'fence' in the Zoning Regulations. He stated that the Lautiers are proposing to reconstruct, fortify and extend the retaining wall along the bottom half of the driveway. He stated that Mr. Lautier received a letter from Ms. Hill, Land Use Administrator, to Mr. & Mrs. Lautier, dated June 25, 2012 stating a variance is required. Mr. Clark and the Commission looked at photos of the existing driveway and retaining wall.

Mr. Ajello explained his interpretation of Section 11.6.4 – Fence Setback in the Zoning Regulations and stated that he contacted town counsel regarding this appeal. Ms. Roberts read a portion of the response email from Atty. Olson dated July 19, 2012 (on file in the Land Use Office). Mr. Ajello stated that the applicant could have gone to the Zoning Commission for clarification of the Zoning Regulations.

Mr. Catlin stated that he did not feel that there has been any decision that can be appealed.

Ms. Roberts stated that the applicant has a valid issue that needs clarification but no actual decision has been made that is worthy of an appeal. Mr. Clark stated that the letter from Ms. Hill was a decision. Ms. Roberts read the letter from Ms. Hill, Land Use Administrator to Mr. & Mrs. Lautier, dated June 25, 2012.

Mr. Ajello stated that Ms. Hill sent the letter to the Lautiers on his behalf.

The Commission agreed that the property owner have a right to have a clarification of the Zoning Regulation but that there has not been a decision made worthy of an appeal.

Mr. Clark submitted a letter of withdraw for this application.

PUBLIC HEARING

ZBA-0927 – Request of Lautier, 56 June Road, for Variance, Zoning Regulation(s) 11.6.4(Fence Front & Side Yard Setback), to repair and extend retaining wall along driveway.

Mr. Clark, P.E. was present to represent the property owners for this application. Ms. Roberts read

the letter of explanation from Mr. Clark to Ms. Roberts, Chair ZBA dated June 28, 2012, re: Appeal of ZEO Decision concerning Fence, Lautier, 56 June Road, New Preston. She stated that she visited the site and feels that an increase in the height of the retaining wall is necessary. Mr. Clark and the Commissioners looked at the drawing titled Site Plan for Tim Lautier, Proposed Garage and Accessory Apartment, revision date 5/20/12 sheet 1 of 1 by Oakwood Environmental Associates Consulting Engineers and drawing titled Sections and Details for Tim Lautier, Proposed Garage and Accessory Apartment, dated revised 6/12/12 sheet 2 of 2 by Oakwood Environmental Associates Consulting Engineers. Mr. Clark stated that the new wall would be closer to June Road and stated that the hardship is that the existing wall needs to be replaced and repaired and the height of the wall dictates the slope. He stated that there are no lot coverage issues and the Inland Wetland Commission has approved the proposed plan.

Mr. Kleinberg, was present on behalf of the Lake Waramaug Association asked Mr. Clark to explain why this retaining wall needs to be repaired. Mr. Clark and Mr. Kleinberg looked at sheet 2 of 2 at the cross section of the proposed wall. Mr. Clark explained how the wall would be pitched to stabilize it and the driveway. Mr. Kleinberg stated that residents of the Lake have expressed concern at the amount of rock that would be removed for this proposed retaining wall and accessory apartment/garage. He does not see a hardship and urged the Commission to consider if there is a real hardship. Ms. Roberts asked Mr. Kelinberg how he thinks the existing driveway should be supported. Mr. Kleinberg stated that this seems to him that "this is being brought up in the context of a huge amount of blasting, probably the largest disturbance of the natural terrain that we've ever seen proposed near the Lake." He stated, "If it were in the context of repairing a driveway and it were the minimum required just to make that safe...I don't think that's what we're looking at here." He stated that he does not see a hardship but does see a potential for an example being set for everybody on the Lake. Mr. Catlin stated that he understands Mr. Kleinberg's concerns and the Commission views this as a repair to the existing retaining wall and has no jurisdiction regarding the proposed garage.

Mr. Ajello stated that this is a repair and an extension of the existing retaining wall. He stated that the existing wall does need to be repaired but he questions the hardship for the extension of the wall. Mr. Clark stated that the extra space at that turn in the driveway would allow access for large trucks and emergency vehicles and the extension of the wall would support this area. He stated that the wall would be raised about 2 feet above the existing pavement. There was a brief discussion of the grade of the proposed retaining wall.

Ms. Roberts stated that when she visited the site she noticed that the existing retaining wall and driveway is in need to be repaired and the erosion will continue if the wall is not repaired. She stated that she also sees the need for the extension of the retaining wall around the curve to support the extra space at the curve.

Mr. Wilson, registered engineer, representing the Birenboim's looked at the plans. Mr. Clark stated that the pavement would not be extended the extension of the retaining wall and that would be a grass area and the driveway to the edge to the top of the new wall. Mr. Clark measured approximately 20 ft. at the furthest point. He stated that the extra area at the curve would be grass and not pavement.

There were no further questions or comments.

Motion:

to close ZBA-0927 – Request of Lautier, 56 June Road, for Variance, Zoning Regulation(s) 11.6.4(Fence Front & Side Yard Setback), to repair and extend retaining wall along driveway by Mr. Catlin, seconded by Ms. Leab passed by 5-0 vote.

MEETING

Ms. Leab stated that she feels the proposed plan is reasonable and she understands the concerns of the residents around the Lake. She stated that she feels that the driveway needs help and feels that the design was carefully thought out to allow emergency vehicles. Mr. Catlin stated that he agrees with Ms. Leab and feels that the topography is the land-based hardship. He stated that he does not feel that this is an opportunistic or convenience issue but a safety concern and he is in favor of the proposed plan. Mr. Wyant stated that it is good that the property owners are addressing this issue. Mr. Peterson stated that property is challenging and feels that this is a necessity. Ms. Roberts stated that the hardship is the steepness of the lot and the driveway needs have a retaining wall for support and needs to be done for safety.

Motion:

to approve ZBA-0927 – Request of Lautier, 56 June Road, for Variance, Zoning Regulation(s) 11.6.4(Fence Front & Side Yard Setback), to repair and extend retaining wall along driveway, passed by 5-0 vote.

Consideration of the Minutes:

The Commission considered the Minutes of the May 10, 2012 and June 21, 2012 regular meetings of the Zoning Board of Appeals.

Motion:

to approve the Zoning Board of Appeals Regular Meeting Minutes of May 10, 2012 and June 21, 2012 as submitted, by Mr. Wyant, seconded by Ms. Leab

Adjournment

Motion: to adjourn at 9:50 pm, by Ms. Roberts, seconded by Ms. Leab.

Ms. Roberts adjourned the meeting.

Submitted Subject to Approval,
Shelley White, Land Use Clerk