

# November 15, 2012

**Present:** Polly Roberts, Todd Catlin, Peter Bowman, Rod Wyant

**Alternates:** Chip Wildman, Todd Peterson

**Absent:** Kathy Leab, Joan Kaplan

**Staff:** Shelley White, Mike Ajello

**Also Present:** Mr. Szymanski, P.E., Mr. & Mrs. Jennings, Ms. Lyman

Ms. Roberts, Chair, called the meeting to order at 7:33 pm.

Seated: Roberts, Leab, Bowman, Wyant, Peterson.

## **PUBLIC HEARING-Continued**

ZBA-0931 – Request of Keating, 67 West Shore Road for Variance, Zoning Regulation(s) 11.6(Setbacks), 12.1.2 (Wetlands Watercourse Setback), 17.3.a (Expansion of Non Conforming use), 17.4.a (Expansion of Non Conforming Structure), to add 59 sq. ft. to existing deck.

Mr. Szymanski, P.E. was present to represent the property owners for this application and gave a brief history of the proposed changes to the existing dock. The Commissioners and Mr. Szymanski looked at the map titled Proposed Site Development Plan, sheet SD.1, prepared for Herbert J. Keating III and Mary Jo Keating, by Arthur H. Howland & Assoc. P.C. with a revision date of 11-15-12. Mr. Szymanski stated that he has done some research since the last meeting and that previously they were showing the property line adjacent to the existing retaining wall and he found, based on the deed of the subject property, that the property line extends through the State highway to the opposite side of West Shore Road and the property is approximately 1550 sq. ft. Mr. Szymanski stated that this results in an increase of the setback to the Lake from 0 feet to 1.8 feet, the distance of the proposed dock has improved from the westerly boundary line which has changed from 0.3 feet to 9 feet, the existing structure is 7.4 feet from the property line and the portion that they are proposing an extension on is 9 feet away from the property line. He stated that the existing deck encroaches onto the Deitz's property and they will be removing this encroachment but not replacing the existing deck on the east side boundary line. Ms. Roberts stated that she remembers the discussion regarding removing a existing non conforming structure and whether it goes away permanently but she does not believe any final decisions were made. She stated that her understanding of the law is that as long as the structure is rebuilt immediately in the same footprint it does not indicate abandonment and is still grandfathered in its previous condition. Mr. Szymanski noted that at the easterly boundary line the existing structure is 0 feet away and the proposed structure is 11.9 feet away. He stated that the existing structure is 27.5 feet from the northerly property line and the proposed addition to the deck is 33.3 feet away from the northerly property line. Mr. Szymanski stated that the lot coverage for the proposed plan would be 62.8% and the 59 sq. ft. addition to the deck adds .3% to the existing lot coverage and the majority of the existing lot coverage 43.7% is do to the State highway running through the property.

Mr. Szymanski submitted and aerial photo of the subject property and surrounding properties and stated that this property is unique because it is at a minimum 8% less than the surrounding properties and the main house does not have frontage on the Lake. Commissioners and Mr. Szymanski looked at the aerial photo titled Keating, by Arthur H. Howland & Associates, P.C. Mr. Szymanski referred to Fuller's Land Use Law Book, Section 8.6.6.8.3 regarding public health,

safety and welfare, and noted that the this proposed plan assists in erosion control and the IWC has approved the plan. He stated that the deck would include a railing as per the request of the building official.

There were no further questions or comments.

Motion:

to close the Public Hearing for ZBA-0931-Request of Keating, 67 West Shore Road for Variance, Zoning Regulation(s) 11.6(Setbacks), 12.1.2 (Wetlands Watercourse Setback), 17.3.a (Expansion of Non Conforming use), 17.4.a (Expansion of Non Conforming Structure), to add 59 sq. ft. to existing deck,  
by Ms. Roberts, seconded by Mr. Wyant, passed by 5-0 vote.

## **MEETING**

Mr. Wyant stated that the increase in lot coverage is very modest and he would support this application. Mr. Bowman stated he supports this application and that this is the least invasive method of making such a small piece of property useful and it is a minimal increase in lot coverage. Mr. Wildman stated that he agrees with Mr. Bowman and noted that the property owners have decreased location of the structure to the property lines dramatically and he is in favor of this application. Mr. Peterson stated that he agrees with everyone and that the applicant has done a great amount of due diligence for such a small piece of property and the footprint is about as small as it can be while still be useful. Ms. Roberts stated that she supports this application and believes that the increase in lot coverage is very small and it allows the deck to be safer.

Motion:

to approve ZBA-0931-Request of Keating, 67 West Shore Road for Variance, Zoning Regulation(s) 11.6(Setbacks), 12.1.2 (Wetlands Watercourse Setback), 17.3.a (Expansion of Non Conforming use), 17.4.a (Expansion of Non Conforming Structure), to add 59 sq. ft. to existing deck, passed by 5-0 vote.

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

## **PUBLIC HEARING – Continued**

ZBA-0932 – Request of Lyman-Reigel, 29 Mallory Brook Road for Special Exception, Zoning Regulation(s) 12.14 (Noise Generating Equipment) to install a generator more than 25 ft. from building principally served.

Ms. Lyman, property owner, was present to present this application. The Commissioners and Ms. Lyman looked at the map titled Topography Map prepared for Elizabeth A. Lyman and Mr. William M. Riegel Jr. by T. Michael Alex, Lic. Land Surveyor. There was a brief discussion regarding the history of the property. Ms. Lyman stated that they selected this location for serving the main dwelling and the barn and still allow her to maneuver her large tractor around the property. She stated that their property is the last served by CL& P on the road and they have frequent outages and are usually the last to be served by CL&P. It was determined that the proposed location of the generator would be 35 ft. from the garage and 65 ft. from the house. Ms. Lyman stated that this type of generator is not allowed to be covered but they are planning on putting fencing around the unit that would have the same siding as the barn it is adjacent to. There was a brief discussion on whether all four sides need to be enclosed, venting and impact of neighbors. The Commissioners

concluded that the backside could remain open and that the property owner would fully enclose it if the neighbors express concern.

There were no further questions or comments.

Motion:

to close the Public Hearing for ZBA-0932-Request of Lyman-Reigel, 29 Mallory Brook Road for Special Exception, Zoning Regulation(s) 12.14 (Noise Generating Equipment) to install a generator more than 25 ft. from building principally served by Ms. Roberts, seconded by Mr. Wyant, passed by 5-0 vote.

## **MEETING**

Mr. Bowman stated that he has no objection to the proposed location of this generator and feels that there would be less of an impact on the neighbors at this location. Mr. Catlin agreed with Mr. Bowman and stated that the proposed location is good and it is safer to have away from the house. Mr. Roberts feels that this location is in the most sensible location. Mr. Wyant and Mr. Peterson agreed with the other Commissioners.

Motion:

to approve ZBA-0932-Request of Lyman-Reigel, 29 Mallory Brook Road for Special Exception, Zoning Regulation(s) 12.14 (Noise Generating Equipment) to install a generator more than 25 ft. from building principally served, passed by 5-0 vote.

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

## **PUBLIC HEARING**

ZBA-0936 – Request of Jennings Builders (Seligman-Harris), 133 West Shore Road, for Special Exception, Zoning Regulation(s) 17.5 (Increasing Non Conformity) to add 13'9" x 10'11" screened in porch on second story of existing home.

Mr. and Mrs. Jennings of Jennings Builders were present to present this application. There was a brief discussion regarding the Special Exception that was granted in 2009 to the Seligman-Harris's for a screened in porch on the second floor at the front of the house. The Commissioners looked at the photograph of the back of the dwelling (on file in the Land Use Office). Mr. Jennings stated that the house does not have air-conditioning and the property owners have been sleeping out on the screened in porches on hot nights and they would like to add another to the back of the house. He stated that the existing bedrooms are rather small. Mr. Jennings stated that the proposed roofline would match the existing roofline. The Commissioners looked at the drawing titled Second Floor Plan Drawing No. X02.00, Second Floor Plan/Part RCP Drawing No. X03.00 and Rear Lake Elevation Drawing No. X06.00 prepared for the Seligman House, by AENA Architects, dated 9-25-12. Mr. Catlin noted that on Drawing X02.00 there is a wet bar indicated in the drawing and in Drawing X03.00 there is a large ceiling fan indicated in the drawing and he is concerned that the porch would 'morph' into a bedroom. Mrs. Jennings stated that it is not the owner's intention to expand the occupancy of the house but to maximize the space that they do have. Mr. Bowman stated that Mr. Jennings markups were helpful but he found the architectural drawings difficult to decipher.

Mr. Catlin stated that as a Special Exception he does not feel that this application meets the

criteria. He stated that it does not promote housing choice, economic diversity in housing or the continuing use of a single-family dwelling. Mr. Catlin stated that the second condition that the proposed addition should meet is that it is reasonable in scope, location and appearance with special consideration given to the size, location and architectural style.

Mrs. Jennings feels the addition would look very nice architecturally and that it would balance the house. She stated that the property owners would like to make the best of the space they have and would like to make their whole family comfortable.

Mr. Catlin stated that it would be hard to argue that a third screened-in porch is a necessity.

Mrs. Jennings stated that it would be unfortunate for the property owners not to be able to enjoy the house the way they want. She read an email from Mr. Hackney, neighbor, that is in favor of the proposed addition. Mrs. Jennings stated that she spoke with another neighbor by the phone and they have expressed support for this proposed addition.

There was a lengthy discussion regarding whether this proposed addition should be applied for under a Special Exception or a Variance. The Commission felt that the house has been maxed out under the Special Exception conditions and that it would be hard to prove land-base hardship under a Variance.

Mr. and Mrs. Jennings submitted a letter of withdrawal for this application

## **OTHER BUSINESS**

Consideration of the Minutes:

The Commission considered the Minutes of the October 18, 2012 regular Meeting of the Zoning Board of Appeals.

Motion:

to approve the Zoning Board of Appeals Regular Meeting Minutes of October 18, 2012 and as submitted, by Mr. Wyant, seconded by Ms. Roberts, passed by 5-0 vote.

Ms. Roberts reminded the Commission that there would be a screening of the documentary film WINDFALL, followed by Q & A session Thursday, November 29th @ 6:00pm at the Gunn Memorial Library.

There was a brief discussion regarding Wind Turbines

## **Adjournment**

Motion:

to adjourn at 9:00 pm, by Mr. Catlin, seconded by Ms. Roberts, passed by 5-0 vote.

Ms. Roberts adjourned the meeting.

Submitted Subject to Approval,  
Shelley White, Land Use Clerk

