

TOWN OF WASHINGTON
Bryan Memorial Town Hall
Post Office Box 383
Washington Depot, Connecticut 06794
Zoning Board of Appeals Regular Meeting
MINUTES
October 15, 2020

7:30 PM- Virtual Meeting Via Zoom

Present: Chairman Bowman, Mr. Wildman, Mr. Wyant, Mr. Weber, Mr. Horan

Alternates Present: Ms. Rebillard, Mr. Sarjeant

Alternates Absent: Mr. Gunnip

Staff Present: Ms. Rill, Mr. Tsacoyannis

Public Present: Attorney Kelly, Ms. Tecklenberg, Mr. Tecklenberg, Mr. Gillen, Mr. Provey, Mr. Barnet, Ms. Branson, Mr. Neilson, Mr. Levande, Mr. Frisch, Mr. Achilles

Chairman Bowman called the meeting to order at 7:32pm.

He then called a for a Motion to be made to switch the order of the Public Hearings so that the Request of Aleksandrowicz, 263 New Milford Turnpike, could be heard prior to the Request of Ryder, 57 Flirtation Avenue.

MOTION: To hear ZBA-1102, Request of Aleksandrowicz, 263 New Milford Turnpike – for a Variance – 11.6.1 – Minimum Setback and Yard Dimensions – and 12.1.1 – Wetlands and Watercourses Setbacks – for a free-standing shed, prior to ZBA-1100 – Request of Ryder, 57 Flirtation Avenue, Special Exception – 17.5 – Special Exceptions for Non-Conforming Structures – to rebuild home on an existing footprint. Motion made by Mr. Wildman, seconded by Mr. Horan, passed 5-0 vote.

ZBA-1102, Request of Aleksandrowicz, 263 New Milford Turnpike – for a Variance – 11.6.1 – Minimum Setback and Yard Dimensions – and 12.1.1 – Wetlands and Watercourses Setbacks – for a free-standing shed:

Seated for this Public Hearing is Chairman Bowman, Mr. Wildman, Mr. Horan, Mr. Weber and Mr. Wyant.

Mr. and Mrs. Aleksandrowicz introduced themselves to the Board and explained that they would like to construct a freestanding shed located by the driveway for the storage of a plow and children's toys. Currently the plow is stored inside of their garage and their car is parked outside. They would like to remedy this situation before Winter.

Chairman Bowman asked Mr. Aleksandrowicz if their request had been seen by the Inland Wetlands Commission. He said no, it had not. Chairman Bowman explained that they would need approval from them before they could obtain approval from the Zoning Board of Appeals. Chairman Bowman stated

they would also need to determine the distance of the shed from the center of the river – where their property line is located. They will also need the measurement from the corner closest to the neighboring property. Chairman Bowman explained that the Board really could not approve the request without that information.

MOTION: To continue ZBA-1102, Request of Aleksandrowicz, 263 New Milford Turnpike – for a Variance – 11.6.1 – Minimum Setback and Yard Dimensions – and 12.1.1 – Wetlands and Watercourses Setbacks – for a free-standing shed to the November 19, 2020 Washington Zoning Board of Appeals Meeting, 7:30pm, via Zoom Virtual Conference. Motion made by Mr. Horan, seconded by Mr. Wildman, passed 5-0 vote.

ZBA-1100 – Request of Ryder, 57 Flirtation Avenue, Special Exception – 17.5 – Special Exceptions for Non-Conforming Structures – to rebuild home on an existing footprint (10 min. 56sec.):

Seated for this Public Hearing will be Chairman Bowman, Mr. Wildman, Mr. Wyant, Mr. Weber and Ms. Rebillard.

Attorney Kelly, representing the Ryder family, stated that he had listened to the September hearing recording as well as spoke to the Ryders about the situation. He explained that the Ryders were in full belief that because they obtained a demolition and building permit, that they were okay to begin the process of construction. Attorney Kelly stated that he explained to the Ryders that this was not the case, however, as they move forward it is important to do everything they can to conform to the rules and regulations of Washington. However, Attorney Kelly expressed that his clients hoped that the Board would view this application just as they would any other application.

Chairman Bowman expressed that this was how he wished to handle the previous meeting as well as tonight's hearing. He reminded the Board as well as the Public that it is not the responsibility of the Board to enforce stop work orders, nor is it their responsibility to figure out where the communication lines were crossed. The Board was to focus on the Application and what Section they were applying for, which in this case is 17.5 – Special Exceptions for Nonconforming Structures. Chairman Bowman pointed out that there seemed to still be work being done on the property despite being told to stop. Attorney Kelly asked for clarification as to what work has been done. Chairman Bowman stated that siding and roofing were added since the last time he drove by in September. Attorney Kelly stated that the Ryders were informed that if they were to keep working on the structure it would be at their own risk, however felt that they needed to secure the structure as well as protect it against the elements. Mr. Tsacoyannis informed Attorney Kelly that he has been monitoring the site on a weekly basis since July 31, 2020, and the work has not stopped. Mr. Tsacoyannis went on to explain that the Ryders have faced fines due to their continuance of work - \$200.00/day from the day of discovery, and \$250.00/day after he was told to stop, in accordance with Connecticut General Statutes – 8-12.

Attorney Kelly explained to Mr. Tsacoyannis that he really did not want to get into this conversation as it did not pertain to their Application, and felt that Mr. Tsacoyannis was infecting the mindset of the Zoning Board of Appeals. Attorney Kelly stated that he did not wish to point fingers and list everything that had been done wrong during this process and for this reason felt that this should be considered a new Application. Chairman Bowman agreed that this should be considered a new Application and wished to move on.

Mr. Tsacoyannis stated that he wished to make it clear that Mr. Ryder was a developer in the Town of Westport. Chairman Bowman interrupted Mr. Tsacoyannis, stating that this information had nothing to do with the current Application, and he wanted to move on.

Chairman Bowman explained to Attorney Kelly that at the September 17, 2020 meeting, he had asked the Ryders to read and go over Zoning Regulation Section(s): 17.1 – which is the Intent of Section 17 – Nonconforming Lots, Land, Structures and Uses, as well as Section 17.5 – Special Exceptions for Nonconforming Structures.

Attorney Kelly explained that the original house and cottage were considered nonconforming because they were built prior to the establishment of Zoning Regulations in Washington in December of 1939. He went on to explain that Section 17.4 – Nonconforming Structures, laid out the basis for describing such. In doing so, it states that:

17. 4 - Nonconforming Structures. The Town of Washington was incorporated 160 years before the adoption of its Zoning Regulations. It therefore contains many structures that predate these Regulations or amendments to them. Many of these structures would not be permitted if proposed today, and are thus considered nonconforming. These nonconforming structures include some of the oldest and most historic structures in Town, and it is the intention of the Regulations to allow them to continue to be used. Where a lawful structure exists at the effective date of adoption or amendment of these Regulations that could not be built under the terms of this regulation by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions: A. No such nonconforming structure may be enlarged, extended, or otherwise altered in such a way as to increase the area, volume, or percentage of the structure that is nonconforming or to create, increase, enlarge, or extend any other nonconformity as to the structure or the lot. This prohibition includes, but is not limited to, any horizontal or vertical extension or expansion of a structure within a required setback area. Any structure or portion thereof may be altered to decrease the nonconforming area or volume of the structure. B. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved."

Attorney Kelly explained that Section 17.4 allows the owner to make modifications in order to maintain their viability under modern conditions.

Chairman Bowman informed Attorney Kelly that The Ryders applied under Section 17.5, and it was the Boards responsibility to make decisions based on the Section and its requirements.

Attorney Kelly then addressed Section 17.5 of the Zoning Regulations.

Attorney Kelly presented an updated survey completed by Mr. Alex. This survey included the stone wall and stone steps along the road, but does not exceed the lot coverage. He stated that this home would be considered a continued use of a single family dwelling, which is also in accordance with the Town of Washington's Plan of Conservation and Development.

Attorney Kelly presented the plans to the Board that showed the existing building as well as the original footprint of the home. Attorney Kelly explained that the drawings showed that if the home was not in the setback, 12.5 five feet to the right, the structure would be considered conforming. Chairman Bowman pointed out that there was also an issue with removing a pre-existing, non-conforming building, which could have fallen under Section 17.9. However, because the proper steps were not taken and construction already began, the option was no longer an option.

Chairman Bowman explained that another option could have been to apply for a Variance under 17.9, to build the non-conforming portions of the home. By right, the Ryders have replacement of the existing volume, then could have asked for a Variance to extend the volume in the setbacks.

Attorney Kelly stated that he felt Chairman Bowman was looking at the house as new construction, which it was not. He explained that it was an extensive renovation.

Mr. Achilles, an architect that Mr. Ryder had consulted, explained to the Board that he had met Mr. Ryder prior to any work being done. He stated that he had taken measurements of the pre-existing home from the outside.

He then super-imposed the current structure onto those drawings so that the Board could see the building as it exists currently. The current square footage of the home is 4,186 square feet. The building height regulation in Washington is a 35-foot minimum and a 40-foot maximum. The current house is 31 to 35 feet.

Mr. Provey of Sandstrom Road explained that a few years ago, he had gone through a similar process as the Ryders while building his home. He stated that they had followed the proper procedure and had been seen a number of times by the Zoning Board of Appeals. Mr. Provey stated that he does not believe that Mr. Ryder did not know that he needed to obtain certain permits before constructing his home. He explained that there is a lot of activity going on at the property, and despite being asked to stop work, has continued to do so. Mr. Provey stated that he felt insulted by this, considering he had to follow the rules and regulations and Mr. Ryder has not done so.

Chairman Bowman asked Mr. Tsacoyannis if he had heard of any new inspections taking place on the property. Mr. Tsacoyannis explained that he had not, that the Building Department does this.

Mr. Frisch, a Kent resident who formerly lived in Washington, shared with the Board that he used to drive by the Flirtation Avenue property frequently and would marvel at the design of the home. He stated that he was excited to hear that someone had purchased the property, and even more thrilled to see that they did not tear the structure down.

Mr. Barnet, a Washington resident, questioned if whether or not the Board would be closing the Public Hearing, because the Public has not had a chance to view the new set of plans submitted by the Ryders. Chairman Bowman stated that he was unsure at the moment, but felt that the new plans were irrelevant.

Mr. Tecklenburg of East Shore Road stated that he supports the Ryders and their plans. He said the home renovations have been beautiful and that he was very pleased to know that three young children would be moving to the area. He went on to say that there has been a lot of construction going on around Lake Waramaug with much less acreage than the Ryders have.

Attorney Kelly stated that the only setback issue was located to the West side of the property, and that all neighbors were located to the East. He pointed out that the owners could have moved the structure over - closer to the neighbors and made it larger, but chose not to.

Chairman Bowman asked Attorney Kelly how he felt about moving forward with a decision at tonight's meeting. Attorney Kelly stated that he would like to move forward so that his clients can decide how to move forward.

Chairman Bowman asked for a Motion to close the Public Hearing.

MOTION: To close the Public Hearing in the matter of ZBA-1100 – Request of Ryder, 57 Flirtation Avenue, Special Exception – 17.5 – Special Exceptions for Non-Conforming Structures – to rebuild home on an existing footprint. Motion made by Mr. Wyant, seconded by Mr. Wildman, passed 5-0 vote.

Chairman Bowman asked the Board members for their thoughts on the matter.

Mr. Wildman stated that he was undecided at the moment.

Chairman Bowman stated that he felt that Section 17.9 was a more appropriate route than Section 17.5. He also explained that he is concerned about the increase in volume.

Mr. Weber felt that this was an incredibly complicated application, but felt that 17.5 could be an acceptable Section, however he wanted to hear the other Board member's opinions.

Ms. Rebillard stated that she is concerned with the increase in volume.

Mr. Wyant stated that he didn't feel as though 17.5 was adequate for the application, felt that they probably should apply for a Variance and would more than likely vote against it.

Mr. Wildman agreed with Mr. Wyant.

Mr. Weber stated that he was still conflicted.

Mr. Sarjeant stated that he felt that 17.5 was the appropriate Section for this application. He stated that the volume increase doesn't bother him, that the house has always been on the bigger size, and that he felt that there should be a little compromise when making the final decision.

MOTION: To consider ZBA-1100 – Request of Ryder, 57 Flirtation Avenue, Special Exception – 17.5 – Special Exceptions for Non-Conforming Structures – to rebuild home on an existing footprint, for the following reasons: numerous concerns regarding the increase of volume and size of structure, Regulation Section 17.9 would have been more appropriate had the applicants followed Washington Zoning Regulations procedure. Motion made by Mr. Wyant, seconded by Mr. Wildman, request denied 1-4-0 vote.

CONSIDERATION OF THE MINUTES

MOTION: To approve the September 17, 2020 Washington Zoning Board of Appeals Meeting Minutes as submitted, by Mr. Sarjeant, seconded by Ms. Rebillard, passed 5-0 vote.

MOTION: To adjourn the October 15, 2020 Washington Zoning Board of Appeals meeting at 9:59pm, by Mr. Wyant, seconded by Mr. Wildman, passed 5-0 vote.

Respectfully Submitted,

Tammy Rill
Land Use Clerk
October 21, 2020

*All documents on file in the Land Use Office

**Minutes subject to approval

***A recording of this meeting is available upon request