



**TOWN OF WINCHESTER ZONING BOARD OF APPEALS**  
**Town OF Winchester Town Hall**  
**338 Main Street, 2<sup>nd</sup> Floor – P. Francis Hicks Room, Winsted**  
**September 27, 2022 – 7:00PM**  
**Regular Meeting Minutes**

**1. ROLL CALL:**

Chairman Paul Marino called the meeting to order at 7:00PM, noting that the following individuals were also present: Ron Dew, Aubrey English, John Pollack, and Alternate Ellie Gunn. "

Phillip Allen was absent excused. Thomas Sullivan was absent. Ms. Gunn was seated for Mr. Allen.

**2. Executive Session – Discussion of Pending Litigation with Town Attorney Kevin Nelligan.**

**MOTION:** Mr. English, Mr. Dew second, to enter into executive session for the purpose of discussing pending litigation in the matter of Steven Heffer et al v. ZBA and invited Pam Colombie and Attorney Nelligan to join the board in executive session; unanimously approved.

The board entered executive session at 7:02PM and exited executive session at 7:30PM.

**3. EXPLANATION OF PROCEDURE:**

Mr. Marino explained that approvals from this Board require four affirmative votes from five seated members. Mr. Marino outlined the process of the meeting including the opportunity for the applicant to present their proposal, a chance for the Board to ask questions followed by the same opportunity for any member of the public that might be present wishing to do so.

**3. PUBLIC HEARINGS – VARIANCE APPLICATIONS & DECISIONS; APPEALS.**

**A. ZBA #22-5306 – Variance Location: 212 West Wakefield Boulevard Applicant/Owner: Steve Heffer and Henna Sultan Proposal: Demolish/Reconstruct Residence.**

Attorney Phil Pires, accompanied by Land Surveyor Jim McTigue, appeared before the board regarding this application. Attorney Pires reported having received an approval from the Inland Wetlands and Watercourses Commission after they had revised their plans and reduced the original proposal. Attorney Pires noted the parcel was a preexisting nonconforming lot with unusual characteristics in both size, shape, and topography. These were reasons to approve the variance application, according to Attorney Pires. He reminded the board that the structure had been there since 1923 and that without the variance to rebuild, it would continue to degrade and collapse.

Mr. McTigue noted that there was a complete redesign of the foundation and the retaining wall. He reviewed the drawings, pointing out the locations of the column footings and stem wall on the high ground. Mr. McTigue also reviewed the location of the retaining walls on the site, pointing out that they were all less than 3' in height. He noted the planned stairs were the minimum size for egress under the Building Code. Mr. McTigue indicated the revised plans were for only 18' of a lake wall. He reminded the board of the existing conditions, including the riprap bank which does not allow for his clients to stand on it all. The proposal would allow for 300 square feet of yard and access to the lake from that area, according to Mr. McTigue.

Mr. Marino questioned the dimensions of the addition. Mr. McTigue noted the existing house was 5.8' from the wall and the proposed addition would be the same, noting that it would get no closer than what the lower level is now. He noted that the rest of the dwelling would be reconstructed the same as what

exists currently. Mr. McTigue noted that there will be trees installed and riprap reinstalled, as per the drawings approved by the Inland Wetlands and Watercourses Commission and reviewed and approved by the Town's consulting engineer.

Mr. Marino questioned whether the riprap was considered as impervious. He explained how the zoning regulations consider crushed stone as impervious. Attorney Pires noted that the whole site would be considered impervious. Mr. Marino concurred. It was noted that the addition of the yard would then reduce the nonconformity. Mr. McTigue indicated that they had not included it.

Mr. McTigue reviewed the iterations of the planned work at this site, noting that the side walls at the lake front had since been removed along with sections of the wall at the lake. Mr. Marino questioned the topography from the road to the lake wall. Mr. McTigue noted the wall being constructed near the road, which will be flush with the road, and the plateau that will be created with the lake wall. Mr. Marino questioned the height of that 18' of new lake wall. Mr. McTigue noted it goes from 3' to 18". Mr. Marino questioned if that was the height from the lakebed. Mr. McTigue confirmed that there was essentially no water where a part of the wall begins. Mr. Marino questioned whether there would be fill installed to create the 300 square feet of yard. Mr. McTigue confirmed, noting that it would take roughly 30 cubic yards.

Referring to one of the photographs included in the application, Mr. Pollack questioned whether it was removed. Mr. McTigue noted that it was all still there but indicated the house had been added on to and modified over the years. He reminded the board that in 2009, a second floor had been permitted, added, and received a Certificate of Occupancy. Mr. McTigue noted that no variances had been granted at that time. He pointed to the footings that existed for this. Mr. McTigue noted the concrete piers will be removed and noted the foundation drawings that were prepared by the structural engineer.

Mr. McTigue reviewed how the construction will be achieved through utilizing a coffer dam, specially from a company, Portadam, out of Maine. He noted that it was the industry standard to set braces in the lake by divers and then install a membrane around that. Once a seal is established, the water is pumped out to create a dry work area, according to Mr. McTigue. He noted that the Town does not allow machinery on the lakebed and that it is written on the plans and in the construction sequence. The residence will be wrapped in scaffolding and netting for the demolition, he explained. Mr. McTigue reported that the debris would be put in dumpsters and hauled away. He explained that the three piers and foundation would be removed by hand and an environmental scientist will be brought in to complete a report on the lakebed which will include recommendations on the restoration of the lakebed. Those recommendations will be carried out prior to the removal of the coffer dam, according to Mr. McTigue.

Mr. Marino questioned whether the coffer dam were dug into the lakebed. Mr. McTigue explained that they were not, noting the braces for the membrane are just laid on the lakebed. He indicated that a turbidity curtain would also be installed, too.

Mr. Pollack questioned the hardship for this application. Mr. McTigue explained that the hardship was that the foundation is decrepit and need to be replaced. As a result of that, the entire residence needed to be replaced, according to Mr. McTigue.

Attorney Pires reminded the board of the case he had cited against Stamford that had gone all the way to the State's supreme court. In that case, the ZBA had granted a variance to rebuild the sea cottage which was going to fall into the ocean as per the structural report. Attorney Pires opined that this property shared a similar risk and that his clients had a valid, established legal nonconforming use.

Mr. Marino noted the storage on the roadside. Mr. McTigue acknowledged that it was an expansion of a non-conforming structure but that it was not going horizontal.

The hearing was open to the public. No comment was received. The hearing was closed.

**MOTION:** Mr. Marino, Mr. Dew second, to grant a Variance for Application #22-5306 from Section II.G.b.ii of the Zoning Regulations: a 44.2' front yard setback variance, a 26.7' left sideyard setback variance, a 31.4' right sideyard setback variance, and a 25.7' rearyard setback variance for the dwelling, and from Section II.G.4.a.a., a 9' sideyard setback variance for the deck and from Section II.G.4.b. a 20' rear yard variance for the deck, from Section II.G.d.ii., for an impervious surface variance of 14.9%, and from Section III.D.5.c. for site development on slopes of 25% or greater as per the drawings submitted, for the property located at 212 West Wakefield Boulevard;

*Motion passed with Mr. Dew, Mr. English, Ms. Gunn, and Mr. Marino voting in favor while Mr. Pollack was opposed.*

Prior to the vote but following the motion, the board discussed the application. Mr. Pollack opined that the Board was granting too much by way of variances and that he did not see much of a hardship.

**B. ZBA #22-5309 – Variance Location: 954 Main Street Applicant/Owner: SAN, LLC Proposal: Impervious Surface and Front Yard Setback Variance for Expanded Canopy for Fuel Pumps and Rear Yard Setback for Bathroom Addition to Existing Convenience Store.**

Professional Engineer Robert Colabella appeared before the Board regarding this application. Mr. Colabella reviewed the plans for the proposed expansion to the canopy and the addition of a new public restroom to the building. He noted that his client was seeking to expand the canopy out in front because there have been slips and falls, explaining that he is seeking to keep customers out of the elements. Additionally, the 12'x9' bathroom on the back of the building will require a variance, according to Mr. Collabella.

Mr. Collabella explained that his client allows his customers to use the bathroom at his store, but explained that in order to access it, the customer must walk through the door between two coolers and pass through his client's inventory, tools, and cleaning supplies. He noted that there would be no increase in impervious surface through the bathroom addition.

Mr. Dew questioned whether the state highway running in front of this site has any impact on the front canopy variance request. Mr. Colabella noted the location for the end of the state road and that the edge of the pavement and sight line is greater than 10'.

The hearing was open to the public. No comment was received.

**MOTION:** Mr. Marino, Mr. English second, to grant a variance from the zoning regulations for Application #22-5309, from Section II.B.b.ii. for a 22' frontyard setback variance, a 20.9' rearyard setback variance, and a 47.3% maximum impervious coverage variance, as per the drawings submitted, for the property located at 954 Main Street; *unanimously approved.*

Prior to the vote but following the motion, the board discussed the application. Mr. English noted his own personal experience with using the bathroom at this location, opining that there was a real hardship.

**C. ZBA #22-5310 Motor Vehicle License Application Location: 154 Torrington Road Applicant: The Shift Master, LLC Owner: New Endeavors of Wolcott, LLC.**

Raif Fejzo appeared before the Board regarding this application. Mr. Fejzo distributed copies of an updated site plan for the property. He noted that he has been operating his repair shop in Canton but had outgrown that location. Mr. Fejzo noted that they do not do general repairs but instead focus on their niche market of repairing Mitsubishis only. He indicated that his company did not do any body work. Mr. Fejzo noted that this building, the former location of an emissions testing site prior to its current King of Covers, had the proper ventilation system for their dynamometer.

Mr. Marino questioned how many cars would likely be stored at a given time. Mr. Fejzo noted that the building should be able to hold about fifteen cars and that he did not want to have more than that at one time. He explained that he did not want to keep anything outside overnight. He indicated that the building would have five lifts. He noted that most cars come in for a couple of months at a time. Mr. Fejzo explained that his service shop did not do brake jobs, exhaust jobs, nor general repair. He noted that they do not do quick oil/lube jobs. He explained that he caters to a high-end market.

Mr. Pollack questioned what work Mr. Fejzo did perform on the cars he took in. Mr. Fejzo explained that Mitsubishi had stopped making the type of cars he works on and that he may rebuild the whole motor on a car that comes into his shop. He noted that sometimes they need to do a transmission overhaul, transfer case, and electrical work.

Mr. Marino questioned whether the building currently had oil-water separators and all of the environmental requirements. Mr. Fejzo indicated that it did not because it had no floor drains as they were removed in 2002.

Mr. Marino questioned whether Mr. Fejzo was seeking just a repair license or a dealer's license, too. Mr. Fejzo explained that his business currently only held a repair license in Canton but that when that at the time they had applied for that license from the State Department of Motor Vehicles (DMV), they had been advised by the DMV that the only added requirement from them is the addition of two extra parking spaces. He explained that the only reason he wanted a dealer's license for this location is if a customer fails to pay, it will allow him to sell the car legally. Mr. Fejzo reported the selling of cars would only comprise 2% to 5% of his business.

Mr. Marino noted that there were no members of the public present. No comment was received.

**MOTION:** Mr. Marino, second, to approve application number 22-5210, for a site location approval for a Motor Vehicle Dealers License, and have the Chairman sign the site plan, for the property located at 154 Torrington Road; *unanimously approved.*

#### **4. APPROVAL OF MINUTES – July 26, 2022 and August 23, 2022.**

**MOTION:** Mr. English, Ms. Gunn second, to approve the July 26, 2022 Minutes; *unanimously approved.*

**MOTION:** Mr. English, Mr. Dew second, to approve the August 23, 2022 Minutes; *unanimously approved.*

#### **5. CORRESPONDENCE.**

Mr. Marino reported receipt of a communication from Mr. Allen that he apologized for not being available for this meeting and that he had communicated to the town manager that he does not intend to renew his appointment to this board.

Additionally, Mr. Marino noted receipt of a communication from Zoning Enforcement Officer Michael Stankov regarding modifications to site plans that have received either a Special Exception or a variance. Mr. Marino polled the board as to what level changes or modifications to approved site plans should be left to Mr. Stankov. The consensus of the board was that any type of changes to approved site plans should return to this board as they were not inclined to want to leave up for interpretation what should be considered as "small changes".

#### **6. ADJOURNMENT.**

**MOTION:** Mr. English, Mr. Dew second, to adjourn at 9:39PM; *unanimously approved.*

**Respectfully submitted,**  
**Pamela A. Colombie**  
**Recording Clerk**