



**TOWN OF WINCHESTER ZONING BOARD OF APPEALS**  
**Town OF Winchester Town Hall**  
**338 Main Street, 2<sup>nd</sup> Floor – Lee Ann LaClaire Room, Winsted**  
**June 28, 2022 – 7:00PM**  
**Regular Meeting Minutes**

**1. ROLL CALL:**

Chairman Paul Marino called the meeting to order, noting that the following individuals were present in addition to himself: Ron Dew, John Pollack, and Alternate Ellie Gunn. Phillip Allen was absent excused. Aubrey English was absent. Ms. Gunn was seated for Mr. Allen.

**2. EXPLANATION OF PROCEDURE:**

Mr. Marino explained that approvals from this Board require four affirmative votes. Noting that there were only four seated members, he explained that an approval would require a unanimous vote. Mr. Marino noted that a request for a continuance to the July regular meeting would be honored for any applicants who were to request one. 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 #22-5296 – Variance Location: 954 Main Street Applicant: Ansim Ansari Owner: SAN, LLC Proposal: Front Yard Setback for Expanded Canopy Over Gas Pumps.**

Neither the applicant nor a designated representative appeared before the commission regarding this application.

**MOTION:** Mr. Dew, Mr. Pollack second, to deny Application 22-5296 for a variance at 954 Main Street; unanimously approved.

**B. ZBA #22-5299 – Variance Location: 212 West Wakefield Boulevard Applicant/Owner: Steven Heffer and Heena Sultan Proposal: Demolish and Reconstruct Existing Residence.**

Attorney Philip Pires from Cohen & Wolf, accompanied by Land Surveyor Jim McTigue of Arthur Howland & Associates, appeared before the board regarding this application. Mr. Marino questioned whether they would like to proceed at this meeting with four seated members or request a continuance. Attorney Pires confirmed that they wanted to proceed at this meeting.

Mr. McTigue reviewed the application, noting the property was a small parcel containing 2250 square feet. He indicated that his clients also owned the property across the street that is the location of the main dwelling. He explained that each parcel was autonomous from the other. Mr. McTigue noted that both dwellings were constructed in the 1920s. He distributed an updated zoning table.

Mr. McTigue reported that his clients were seeking to demolish the current structure and reconstruct at the same height in the same footprint with a minor addition on the street side of the house. He explained how the home had evolved over time, noting the Assessor's field card reflected a build date of 1923. Mr. McTigue referenced copies of building permits from a remodeling beginning in 2004 and continuing in 2009 with a second floor. He noted that all of that work was completed without a variance. A Certificate of Occupancy had been granted in 2011, according to Mr. McTigue.

Mr. McTigue stressed the importance of the foundation of the lower level, sitting on the shore, noting that it extends out beyond the upper level. He explained that the addition was being proposed over the existing footprint that is already there, noting that it will only come out one story. Mr. McTigue reported that a structural engineer had been retained to analyze the structure who had determined that the whole thing needed to be replaced as it was not strong enough to handle the new addition that is proposed and that it would not meet today's code. He noted that the steel beams are rotted and in need of replacement. He explained that his clients were unaware of this fact prior to their purchase.

Mr. McTigue then reviewed the existing and proposed floor plans along with the proposed elevation drawings.

Regarding the variance request for exceeding the steep slope maximum, Mr. McTigue reported the regulation as new, noting that it was only added in 2016, and that there was little discussion on it from that time when it was added. He reviewed the retaining walls that were part of the plan, noting that they were below 3', and were included so that his clients might better enjoy the property.

Mr. McTigue reviewed the location of the generator and the area where the underground propane tank will be located. Mr. Marino questioned whether approval had been received from the Inland Wetlands and Watercourses Commission yet. Mr. McTigue confirmed that they were currently before the IWWC. The plans were currently being reviewed by the Town's independent engineer and had not yet been received, according to Mr. McTigue.

Mr. Marino questioned what was currently in place in the area of the proposed retaining walls. Mr. McTigue indicated that it currently had very large, 6", riprap, explaining that the area was completely unusable. Mr. McTigue noted that the riprap provides erosion control, but people cannot walk on it or stand on it. It does not have any vegetation on it nor provide any type of habitat, according to Mr. McTigue. He noted that with the proposed plan is going to provide stormwater management in this area and will improve the conditions by slowing the water and cooling the roof water. Mr. McTigue then reviewed how a coffer dam will be utilized during the construction phase.

Mr. Pollack questioned why the contractor who completed the 2004-2009 improvements did not use some other type of material. Mr. McTigue was not sure why. Mr. Marino questioned whether the applicant would still need to go before the Planning and Zoning Commission. Mr. McTigue confirmed. Mr. Pollack questioned how many buildings were on this property. Mr. McTigue indicated that there was just one. Mr. Marino clarified that the subject property was a different property than the one across the street.

Mr. Marino questioned whether the variance sought was for the streetside addition where the shed was located. Mr. McTigue indicated that it was not, noting that the addition was being constructed over the existing foundation. He noted that the variance is more for the additional coverage from the wall and the walls themselves.

Attorney Pires reviewed the legal standard for the variance and submitted receipts for Certified Mail and the Certificates of Mail, providing evidence that notice of the public hearing for the application had been provided to the abutting property owners. With respect to hardship, Attorney Pires explained that the lot was irregular in shape and size. He noted that it was unusual because the building was over the water and unusual because of the topography of the site which necessitated the walls. He also noted that the property was currently in structural disrepair, explaining that it is failing because of its age.

Mr. Dew questioned whether the applicants would object to a condition that the structures be plotted prior to demolition and be plotted after, too. Mr. McTigue indicated that there would be no objection whatsoever to that condition.

The hearing was open to the public.

Candy Perez of 605 West Wakefield Boulevard questioned whether the new building would be reconstructed on piers. Mr. McTigue noted that the three piers would be replaced with two 8' walls. Ms. Perez shared her concerns with the ultimate location of the proposed retaining walls. She noted that the current owners bought this property with these existing conditions. Mr. Marino and Mr. Dew noted that an as-built was discussed.

Jen Perga of 378 East Wakefield Boulevard spoke in favor of reconstructing the house and the proposed stormwater improvements. She noted that she may have to address the retaining walls with the IWWC, explaining how the waves of the lake will bounce back off a wall rather than how they are handled currently with the riprap.

Mr. Marino questioned the linear footage of the proposed retaining wall. Mr. McTigue noted it to be 109.25'.

The public hearing was closed.

**MOTION:** Mr. Marino, Mr. Dew to grant a Variance from Section II.G.b.ii of the Zoning Regulations for Application #22-5299 for

- for the residence: a 44.2' front yard setback variance, a 29.2' sideyard setback variance, and a 26.7' rear yard variance,
  - from Section II.G.d.ii of the Zoning Regulations for an impervious surface variance of 23.1%, 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, subject to the following conditions:

1. As-built to be provided by a licensed land surveyor showing the locations of the new walls and building that match the proposal;

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

Prior to the vote there was discussion of the application. Mr. Marino noted that people have a right to repair and replace what was built. Mr. Dew confirmed that a condition should indeed be included with the approval to require an as-built. Mr. Pollack shared that he had driven by this property in his boat and that most of the development was over the water. He suggested that the zoning regulations describe what a lot is and defines it as the total area within the boundary of the land that is not covered by water.

**C. ZBA #22-5300 – Variance Location: 205 Perch Rock Trail Applicant/Owner: Ingrid A. Pierce Proposal: Modify Variance for Dormer; Variance for Fence.**

Mr. Marino reported a request for a continuance had been received from the applicant.

**MOTION:** Mr. Dew, Ms. Gunn second, to continue Application ZBA #22-5300 to the July regular meeting; unanimously approved.

**D. ZBA #22-5301 – Variance Location: 104 Shore Drive Applicant/Owner: Richard Josefek Proposal: Modify Approved Variance for 18'x23.9' Addition: Add Retaining Wall Between Driveway and House.**

Richard Josefek appeared before the board regarding this application. He explained that he was seeking to modify the variance that was approved in September of 2021 in order to construct a retaining wall between the house and the driveway and to extend the deck on the side of the house. Mr. Marino questioned what the September variance had been. Mr. Josefek explained that it was for the addition to the house. Mr. Josefek showed where the retaining wall was depicted on the plans. He shared

photographs of the neighboring properties revealing similar retaining walls for driveways. Mr. Marino questioned whether construction on the addition had begun yet. Mr. Josefek indicated that it had not.

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

**MOTION:** Mr. Marino, Ms. Gunn second, to grant a Variance from Section II.B.d.ii of the Zoning Regulations for Application #22-5301, modifying Variance #21-5277, for a frontyard setback variance of 22.3', a north sideyard setback variance of 24.5', a south sideyard setback variance of 21' and from Section II.G.d.iv.b. to allow for expanded deck on westerly side of home and to expand walkway in that area, for the purposes of building a 24' x18', 2 story addition, with a 1' overhang, and not to allow the structure to exceed the 30' height requirement, as per the drawings submitted, for the property located at 104 Shore Drive; unanimously approved.

**E. ZBA #22-5302 – Variance Location: 11 Brook Street Applicant/Owner: Kimberly Gilbert and Carole Osborn Proposal: Carport.**

Kimberly Gilbert and Carole Osborn appeared before the board regarding this application. Ms. Gilbert read aloud from a prepared statement. She noted that with the age of the house, the home did not meet setbacks. Additionally, she explained that they were two middle-aged women living in a home wherein they have to shovel the driveway which had become not possible any longer.

Ms. Gilbert submitted a letter communicating no objections from Bill Lamoin, owner of Swells Car Wash at 345 North Main Street.

Mr. Dew questioned whether the car port would be opened on three sides. Ms. Gilbert confirmed. Mr. Dew questioned whether the applicants would be returning in six months or a year with a request to enclose it. Ms. Gilbert indicated that they would not be. Mr. Marino questioned whether there would be decking or a walkway between the home and the carport. Ms. Gilbert explained that there was a strip of earth between the house and the asphalt driveway, and that the carport would cover that dirt in between.

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

**MOTION:** Mr. Marino, Mr. Pollack second, Motion to grant a Variance from Section II.A.b of the Zoning Regulations for Application #22-5302, modifying Variance #19-5224, for a frontyard setback variance of 15' and a rear yard setback variance of 9.8', for the purposes of building a 25' x 20' carport, as per the drawings submitted, for the property located at 11 Brook Street; unanimously approved.

**F. ZBA #22-5303 – Special Permit Location: 636 East Wakefield Boulevard Applicant/Owner: Frank Bares Proposal: Pervious Sidewalk from Drive to House.**

Frank Bares appeared before the board regarding this application. He explained that as was he was seeking a Certificate of Occupancy, it was noted that the sidewalk on the plans had not been included on the previously approved drawings. Mr. Marino questioned whether the sidewalk was already installed. Mr. Bares confirmed.

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

**MOTION:** Mr. Marino, Mr. Dew second, to grant a Special Permit, pursuant to Section II.G.d. of the Zoning Regulations for Application #22-5303, modifying previous approvals to add engineered pervious sidewalk to the south of the garage, as per the drawings submitted, for the property located at 636 East Wakefield Boulevard; unanimously approved.

**4. APPROVAL OF MINUTES.**

**A. May 24, 2022 Regular Meeting.**

No business was discussed.

**5. CORRESPONDENCE.**

No business was discussed.

**6. ADJOURNMENT.**

**MOTION:** Mr. Dew, Mr. Pollack second, to adjourn at 8:14PM; unanimously approved.

**Respectfully submitted,**

**Pamela A. Colombie  
Recording Clerk**