



TOWN OF WINCHESTER ZONING BOARD OF APPEALS
Town OF Winchester Town Hall
Held Remotely Via Zoom
January 25, 2022 – 7:00PM
Regular Meeting Minutes

1. ROLL CALL:

Chairman Phillip Allen called the meeting to order, noting that the following individuals were present in addition to himself: Aubrey English, Paul Marino, John Pollack, Alternates David Carter, and Ron Dew. Mr. Dew was seated for the duration of the meeting. While Mr. Carter was present for the entire meeting, he was only seated at the point that Mr. English needed to depart the meeting, as the Board's discussion began on the final two applications.

2. EXPLANATION OF PROCEDURE:

Mr. Allen explained that approvals from this Board require four affirmative votes from five seated members. Mr. Allen 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#21-5284 – Variance Location: 205 Perch Rock Trail Applicant/Owner: Ingrid A. Pierce Proposal: Rear Yard Setback and Side Yard Setback Variance and Impervious Surface Variance for Deck and Addition to Back of Dwelling; Front Yard Setback and Side Yard Setback Variance and Impervious Surface Variance for Addition to Front of Dwelling.

Ingrid Pierce, accompanied by Professional Engineer Dennis McMorrow, Architect Dawn Lee, and Contractor Brett Stone, appeared before the board regarding this application. Reading from a prepared statement, Ms. Pierce noted that she had owned the property for three years and resided with her son, grandson, and mother at that location. She explained that she wanted to replace her driveway with a pervious surface, to modify her backyard despite the sloping topography, and to modify the home to accommodate her own disabilities and those of her mother. She explained the plan was to bump out the front of the house over the driveway and for a portion to go up in elevation, too. Ms. Pierce explained the need for the back deck and noted that no trees would be touched, pursuant to a request made by a neighbor.

Ms. Lee addressed the design of the proposed improvements, noting that the size of the existing bathroom is very small and that the house has a stairwell in the middle of the house, making navigation very difficult with a walker or a wheelchair. Mr. McMorrow reviewed the driveway, noting that it was a good candidate for a pervious system as the topography of it was very flat, with only a 2% grade going out to the road. Ms. Pierce indicated that while the plan reflects the driveway as 26' wide, the request was being modified to request it be 27' wide so that it could fit three cars wide. Ms. Pierce noted that a neighbor had shared concerns about parking on the road. A driveway this wide would eliminate the need for anyone to park on the road, according to Ms. Pierce. Mr. Allen questioned whether the driveway would shift onto the walkway on the western side of the property. Mr. McMorrow indicated the extra foot of driveway would be gained on the other side, the eastern side of the property. Mr. Marino questioned the absence of the zoning table on the revised plan that Mr. McMorrow had submitted on the afternoon of this meeting. Mr. McMorrow noted that the coverage was reflected in the zoning table included on the survey prepared by Land Surveyor John DiCara. Mr. McMorrow explained that his plan was limited to the driveway based off the survey prepared by Mr. DiCara, a copy of which had been included as part of

the original application. Mr. Allen noted that the impervious surface coverage was being reduced despite the proposed additions through the planned pervious driveway design.

Mr. Allen questioned whether the shed was being removed. Ms. Pierce confirmed.

Mr. Pollack questioned whether there would be another set of doors on the front of the house. Ms. Lee indicated the additional doors were for the back of the house. Mr. Pollack questioned why the design included an additional set of doors on the back. Ms. Lee explained that it was mostly for aesthetic reasons, with the kitchen set being widened and an additional set being added for a bedroom. Mr. Pollack questioned the square footage of the deck on the back of the house. Ms. Lee indicated it was planned for 10'x42.5'. Mr. Pollack noted that the deck size exceeded 400 square feet and as such would require a Special Permit application. Ms. Lee suggested narrowing the deck so that it would not be the full width of the house. Mr. Pollack questioned the type of foundation planned. Ms. Lee indicated that the expectation was a full foundation but that there has been no excavation to confirm that can be completed.

Mr. Pollack questioned the distance between the deck coming off the addition off the back and East Wakefield Boulevard. Discussion ensued about a fence. Ms. Pierce explained that she had been advised of the regulations relative to fences but described how she preferred to locate a fence 1' off the boundary line rather than the necessary 2'. It was noted that a request for a variance for a fence had not been included as part of this application. Addressing Mr. Pollack's inquiry, Mr. Marino explained that there was another house between the applicant's and East Wakefield Boulevard.

Mr. Carter questioned whether the Planning Department had received any negative communications from any of the abutting property owners regarding this application. Staff did not characterize the inquiries but confirmed that there were several received.

The hearing was open to the public.

Mr. Allen read aloud an email from a neighbor at 206 Perch Rock Trail, sharing concerns about cars of the applicant being parked on the street.

The hearing was closed.

MOTION: Mr. Allen, Mr. Marino second, to grant a Variance from Section II.G.b.ii of the Zoning Regulations for Application #21-5284 for a 27.7' front yard setback variance and a 21.4' easterly side yard variance for a 16'x8' addition to the northerly side of the dwelling; a 4' rear yard setback variance and a 17.9' westerly side yard variance for a 44.2'x12' addition to the southerly side of the dwelling; and from Section II.G.d.ii of the Zoning Regulations for an impervious surface variance of 18.6%, as per the drawings submitted, for the property located at 205 Perch Rock Trail, with the stipulation that the proposed deck must be reduced in width to bring the size to below 400 square feet or the applicant must return for a Special Permit for the excess;

Motion approved with Mr. Allen, Mr. Dew, Mr. English, and Mr. Marino voting in favor while Mr. Pollack abstained.

B. ZBA#21-5290 – Variance Location: 169 West Wakefield Boulevard Applicant/Owner: Jeff Olson and Kathi Olson Proposal: Deck – Size Variance and Front Yard Setback Variance.

Jeff Olson and Kathi Olson appeared before the Board regarding this application. Mr. Olson explained that the home has a sunroom in the front with a sliding glass door leading to nowhere. He noted that the home had only one door for egress out the back and had no means of egress out the front door.

Mr. Allen recalled that there had been a recent variance application for this property for a garage. He noted the “existing shed” depicted on the site plan. It was noted that the shed will remain but that an approval had been received for this property for a garage. It was noted that no variance was required for this deck as it is considered pervious.

Mr. Olson shared photographs of the site. Mr. Marino questioned what the plan was for the walkway leading from the basement under the proposed deck. Mr. Olson indicated that there were no plans to make any changes to that and it would remain exactly as it is. Mr. Pollack questioned whether there were any photographs of the area from the road, questioning whether it was 4’ from the road. Mr. Olson explained that it was 4’ from the boundary line and estimated it to be 15’ to 20’ from the road. Mr. Marino reported having looked at the property, describing his observations of plantings between the deck area and the road.

Mr. Pollack questioned whether the applicant had recently purchased the house. Mr. Olson confirmed. Mr. Pollack noted that the lack of a front egress existed at the time of purchase. Mr. Olson explained that the was unsure when the door leading to nowhere was installed and what the Code might have been at the time. He noted that most of his neighbors have similar front decks.

The hearing was open to the public.

Mr. Olson read aloud from a letter of support from his neighbor at 171 West Wakefield Boulevard. The letter had not been submitted to the Planning Department, but the board agreed to hear it and directed the applicant to email it to staff as soon as possible.

Jay Case of 167 West Wakefield Boulevard spoke in support of the application.

Walter Rissmeyer of West Wakefield Boulevard offered to share his screen to allow the board an opportunity to view the front of the dwelling utilizing Google Maps Street view. The board accepted the offer and viewed Mr. Rissmeyer’s screen, viewing an image of the area from October, 2021.

MOTION: Mr. Allen, Mr. English second, to grant a Variance from Section II.G.b.ii of the Zoning Regulations for Application #21-5290 for a 45.8’ front yard setback variance, a 21.1’ westerly side yard variance, and a 11.5’ easterly side yard variance for a 10’ x 29.3’ x 20.5’ x 5’ deck with northerly steps as per the drawings submitted, for the property located at 169 West Wakefield Boulevard;
unanimously approved.

C. ZBA #21-5291 – Variance Location: 86 Birdsall Street Applicant: Alan Zakrzewski Owner: A-Z Home Improvement, LLC Proposal: Rear Yard Setback Variance for New Single-Family Residence.

Alan Zakrzewski appeared before the board regarding this application. He explained that he had purchased both 88 Birdsall Street, a former blighted home, and 86 Birdsall Street, an undeveloped lot, recently. He reported a renovation has occurred at 88 Birdsall Street and that he currently had plans to build a home at 86 Birdsall Street.

Mr. Zakrsewski spoke about the topography at the site, noting that a driveway along Birdsall Street would not meet the Driveway Ordinance. He noted that an easement will be granted over 88 Birdsall Street so as to gain access off of Cherry Street. Mr. Zakrsewski explained that he was seeking to move the new house further back into the lot so as to avoid the slope. He referred the board to photographs that were included in the application, noting they reflect the steep topography of the site.

Mr. Marino questioned whether the driveway could be angled on Birdsall Street so that the new structure could be contained within the building envelope thereby not needing a variance. Mr. Zakrsewski noted

the bank running along Birdsall Street. Mr. Allen questioned whether Mr. Zakrsewski had considered merging the properties. Mr. Zakrsewski indicated that he did not intend to do that.

The hearing was open to the public.

Linda Groppo of 18 Cherry Street questioned whether the size of the house was too large for the lot. It was noted that the zone of this property, Town Single Family (TSF) has very liberal setback requirements. If the applicant was not seeking a rear yard variance and was to construct within the building envelope, a steep slope variance would be necessary, according to staff. Ms. Groppo questioned whether the embankment on 72 Birdsall Street was likely to be disturbed through the construction of this dwelling. Mr. Zakrsewski note that there would not be. Ms. Groppo questioned the net impervious surface coverage following the construction of the new home and how it would effect stormwater runoff on Cherry Street and Finn Street.

The hearing was closed.

MOTION: Mr. Allen, Mr. Dew second, to grant a Variance from Section II.A.b.i of the Zoning Regulations for Application #21-5291 for a 13' rear yard setback variance for a new single-family residence at 86 Birdsall Street; unanimously approved.

D. ZBA #22-5292 – Special Exception Location: 402 East Wakefield Boulevard Applicant: Jeffrey H. Lippincott Owner: Jeffrey H. Lippincott and Anne L. Lippincott Proposal: Deck Exceeding 400 Square Feet.

Jeffrey Lippincott appeared before the Board regarding this application. He explained that he had purchased the house in 2015 and that it had been constructed in 2004. He noted that the deck had been constructed with first-generation of composite material and that parts of it are sagging. Mr. Lippincott explained that as it now needs to be replaced, there were areas of wasted space and accordingly, he was seeking to reconfigure the steps.

Mr. Marino questioned the square footage of the proposed new deck. Mr. Lippincott noted that it will be 504 square feet. Mr. Pollack questioned the square footage of the existing deck. Mr. Lippincott noted that it was 480 square feet currently.

Mr. Lippincott reported having already received approval from the Inland Wetlands and Watercourses Commission for the proposed deck. However, he noted that the proposed deck size has since shrunk from what was approved by that commission.

The hearing was open to the public. No comment was received. Staff reported having field one call from a neighbor who after reviewing the size, shape, and location of the deck had no further questions. The hearing was closed.

MOTION: Mr. Allen, Mr. Marino second, to approve a Special Exception per Section II.G.d.iv.f. of the Zoning Regulations for Application #21-5292 for a deck exceeding 400 square feet, as per the plans submitted, at 402 East Wakefield Boulevard; unanimously approved.

E. ZBA #22-5293 – Variance Location: 203 West Wakefield Boulevard Applicant/Owner: Lee Tenney Proposal: Variance for Covered Porch; Setback Variance for Deck.

The Board considered both the variance application and the special exception application at the same time.

Lee Tenney appeared before the Board regarding this application. Mr. Tenney reported having purchased the house with his wife and parents in 2011. He explained that they had gutted the house

without changing or altering the footprint. Mr. Tenney noted that he had worked closely with the Building Official through that process and indicated that one of the projects undertaken at the time was to add a deck onto the front of the house. At the time, an A2 survey was not required but was instead steered toward approaching the neighbors on either side and to receive letters from them indicating no objection. Mr. Tenney reported having received a permit for a 31'x15' with a double wide staircase coming off of the middle of the deck. Mr. Tenney noted the age of his parents and children and the incline of the hill. He explained that the staircase had landed on a third platform at the bottom of it, leading to a second set of stairs that he estimated had been there since 1904.

Mr. Tenney reviewed a second, new deck which had replaced the staircase and changed the location and direction of a new staircase.

Mr. Tenney explained that he was unaware of a maximum for square footage of the deck, noting that his first approved deck has already exceeded that amount. He explained that he had not sought to increase the size of the deck but had instead wanted to maximize the utilization of the sloping hill so that his parents and children wouldn't fall down the staircase.

Mr. Dew questioned the new covered porch. Mr. Tenney explained that when he purchased the house, there had been "decking" in the area consisting of 2"x4" and rectangles placed into the ground on top of some gravel. He explained that the area would often turn to mud and at the time, he had two elderly parents. Mr. Tenney noted that his driveway and parking is above the house and that access is gained through a set of stairs on the side of house. Mr. Tenney indicated the decking that was laying on the ground was raised up and the area was merely covered with a tin roof. Mr. Marino questioned whether the width of that area was expanded to the current 6'. Mr. Tenney indicated the decking was only raised but that it had always been there. Mr. Marino questioned how high it had been raised. Mr. Tenney estimated it to have risen 1/2" closest to the driveway and the height of 3 steps down on the lake end.

Mr. Dew questioned whether the new deck extension had been permitted. Mr. Tenney indicated that it had not.

The hearing was open to the public.

Carla Rissmeyer of 201 West Wakefield Boulevard spoke in opposition of the application, noting that their cottage had been in their home for 100 years. She noted that the applicant's lawn had previously been different terraces and as there had been erosion issues, the family had lent their support by writing a letter for the first deck. She noted that the covered porch was a surprise to her family and that it was extremely close to their property line. Ms. Rissmeyer explained how the covering of that area creates what she characterized as an outside room. She reported that a contractor installed some pipe and stone which now takes a previous water problem of the applicant and diverts it to the Rissmeyer property. The added deck has altered the peaceful enjoyment of her family's home, according to Ms. Rissmeyer.

Walter Rissmeyer of 201 West Wakefield Boulevard spoke in opposition of the application, sharing photographs of the subject property over the years. Mr. Rissmeyer explained how close the improvements are to the boundary line and relayed how voices carry.

Mr. Dew questioned whether the remodeling was done by the applicant or had been completed prior to their purchase. Mr. Tenney indicated the updates were done by his family. Mr. Dew questioned whether there were permits for that work. Mr. Tenney confirmed.

The hearing was closed to the public.

After the following motion but preceding the discussion, Mr. Carter was seated for Mr. Dew.

The Board recessed at 9:46PM and reconvened at 9:51PM.

MOTION: Mr. Allen, Mr. Marino second, to approve a Special Exception per Section II.G.d.iv.f. of the Zoning Regulations for Application #21-5294 for a deck exceeding 400 square feet, as per the plans submitted, at 203 West Wakefield Boulevard; Motion failed with Mr. Allen, Mr. Carter, Mr. Dew, Mr. Marino, and Mr. Pollack being opposed.

**F. ZBA #22-5294 – Special Exception Location: 203 West Wakefield Boulevard
Applicant/Owner: Lee Tenney Proposal: Deck Exceeding 400 Square Feet.**

Lee Tenney, having appeared before the board regarding this application, reminded the Board that the original approved deck had exceeded 400 square feet.

The hearing being open to the public, Walter Rissmeyer of 201 West Wakefield Boulevard, was again opposed to the application and requested that all of his testimony be considered as part of the consideration of this application.

The hearing was closed to the public.

MOTION: Mr. Allen, Mr. Dew second, to grant a Variance from Section II.G.b.ii of the Zoning Regulations for Application #21-5294 for a 28.4' easterly side yard setback variance, a 8.8% impervious surface coverage variance, for a 46.6' x 6' covered porch; and a 29.4' westerly side yard variance for a 18.6' x 13' x 4.5' x 5.5' x 4.5' x 18.7' x 18.5' deck with a 3.8' x 13.3' set of steps as per the drawings submitted, for the property located at 203 West Wakefield Boulevard; Motion failed with Mr. Allen, Mr. Carter, Mr. Dew, Mr. Marino, and Mr. Pollack being opposed.

**G. ZBA #22-5295 – Variance Location: 248 Perch Rock Trail Applicant: Michael Cardillo
Owner: Jeffrey M. Muller and Mellissa M. Muller Proposal: Demolish Existing Dwelling and
Reconstruct New Single-Family Residence.**

MOTION: Mr. Allen, Mr. Marino second, to continue Application #22-5295 to the February 22, 2022 regular meeting; unanimously approved.

4. OLD BUSINESS:

None.

5. APPROVAL OF MINUTES:

A. December 28, 2021 Regular Meeting.

MOTION: Mr. Dew, Mr. Allen second, to approve the December 28, 2021 Minutes; unanimously approved.

6. CORRESPONDENCE:

No business discussed.

7. OTHER BUSINESS:

No business discussed.

8. DISCUSSION WITH ZONING ENFORCEMENT OFFICER (IF ANY):

No business discussed.

The agenda was amended to add Election of Officers.

9. ELECTION OF OFFICERS.

MOTION: Mr. Pollack, Mr. Dew second, to elect Paul Marino as chairman; unanimously approved.

MOTION: Mr. Marino, Mr. Carter second, to elect John Pollack as secretary; unanimously approved.

MOTION: Mr. Marino, Mr. Dew second, to elect Phillip Allen as vice chairman; unanimously approved.

10. ADJOURNMENT.

MOTION: Mr. Carter, Mr. Dew second, to adjourn at 10:08PM; unanimously approved.

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