



TOWN OF WINCHESTER ZONING BOARD OF APPEALS
Town of Winchester Town Hall, 338 Main Street
2nd Floor – P. Francis Hicks Room
May 28, 2019 – 7:00PM
Regular Meeting Minutes

Chairman Phillip Allen called the meeting to order at 7:00PM.

1. ROLL CALL:

Mr. Allen noted that the following individuals were present in addition to himself: Neil Hunt, John Massicotte, John Pollack, and Alternate Paul Marino.

Hal Wilkes and Alternate Aubrey English were absent excused. Mr. Marino was seated for Mr. Wilkes.

Also, present for this meeting was Zoning Enforcement Officer/Building Official Marc Melanson.

2. EXPLANATION OF PROCEDURE:

Mr. Allen explained that an approval from this Board requires four affirmative votes. Accordingly, Mr. Allen also explained that the applicants were entitled to a vote before five seated members. He noted that applicants usually receive a disposition on the application the same evening of the meeting. Mr. Allen explained that the proceedings include the applicant's opportunity to provide information regarding the application, a chance for the Board to question the applicant and/or representative as well as closing comments by the applicant.

3. PUBLIC HEARINGS – VARIANCE APPLICATIONS & DECISIONS:

A. ZBA#19-5212 Variance Location: 344 East Wakefield Boulevard Applicant/Owner: Margaret Ziolkowski Proposal: Deck, Permit Stone Landscaping.

Margaret Ziolkowski, accompanied by her professional engineer Mike Sherman of Laurel Engineering, appeared before the Commission regarding this application. Ms. Ziolkowski explained that the application was submitted in order to provide handicap access to the rear yard and the lake. Mr. Sherman reviewed and made reference to 24"x36" drawings of the existing site that included the existing house and existing shed, the proposed permeable paver patio, the areas of the site to remain grassy lawn and the location of the proposed deck. He also noted the location of the asphalt driveway and the area in front covered with crushed stone.

Ms. Ziolkowski explained that she is unable to walk on the lawn if the ground is uneven. She explained that her father has trouble walking, too. She noted the location of the proposed handicap ramp. Mr. Marino questioned the distance of the deck from the water. Mr. Sherman indicated that the house is 50' from the water and noted that the deck will be 37.9' from the water and the ramp will be 32.2' from the water. He detailed the configuration of the deck, explaining that it will not go straight out off the deck but will instead have a small landing and return. In response to a question from Mr. Pollack, Mr. Sherman noted that the deck will have railings along the ramp and noted that it will have pervious pavers underneath it.

Mr. Allen questioned whether there was any increase in pervious coverage, noting that the submitted plans indicated that there was not. Mr. Sherman confirmed.

Mr. Melanson questioned whether the crushed stone installed in the front of the home was considered pervious or impervious. Mr. Sherman indicated that it was pervious because it was 2½ to 3 inches deep.

The hearing was open to the public.

Jay Champagne of 342 East Wakefield Boulevard spoke in support of the application, noting the landscape hedge that functions to block what the applicants are proposing to build.

As the applicant was provided the opportunity to conclude her presentation, Ms. Ziolkowski reiterated her hopes to have access to use the back of her property and to access the lake. Mr. Sherman addressed hardship, noting the he believed that with the proximity of the water on two sides of his client's property, it was not possible to meet the necessary 20' setback to the water's edge.

MOTION: Mr. Hunt, Mr. Massicotte second, to approve Application #19-5212 for a Variance from Section II.g.i.b.a. deck being not closer than nine feet from property line, for a variance of three feet and from Section II.g.i.b. for decks not being closer than twenty feet from the lake, for a Variance of fourteen feet, for the purpose of building a 19.3'x12' deck with jobs, landings, and a ramp per drawings submitted to the property located at 334 East Wakefield Boulevard; Motion passed with Mr. Allen, Mr. Hunt, Mr. Marino, and Mr. Massicotte voting aye while Mr. Pollack abstained.

It was noted that the variance was granted as it was deemed a reasonable request based upon the land hardship as explained.

B. ZBA #19-5213 Variance Location: 151 East Lake Street Applicant/Owner: Cheryl Kelly Proposal: New 25'x25' Garage.

Jim and Cheryl Kelly appeared before the Board regarding this application. Mr. Kelly reported that they are the new owners of the property and are proposing a new garage, noting that the existing garage doesn't work in its current shape and size. He explained that the proposal included giving back approximately 1000 feet to permeable soil by means of taking some of the pavement out and installing a live roof on the new garage.

Mr. Allen questioned whether the existing shed is what has been functioning as a garage. Mr. Kelly noted that there is somewhat of a two-car garage already attached to the house. He noted that what is not evident from outside, are the inside steps that jut out from the home and into one of the bays, rendering it completely unusable.

Mr. Kelly described "green roofs", noting that he is a roofing contractor. Mr. Marino questioned whether the one drawing submitted with the application was the only drawing the applicants had of what they were proposing. Mr. Kelly confirmed that it was the basic premise of what was being proposed. Mr. Pollack questioned what would be done with the current two-car garage. Mr. Kelly indicated that they would like to turn the space into a master bedroom. He noted that the house had been marketed as a three-bedroom dwelling but that the room in the basement was not really a bedroom. Mr. Marino questioned whether the property had a shared driveway. Mr. Kelly confirmed. Mr. Pollack questioned whether the shed would be demolished. Mr. Kelly confirmed.

Mr. Kelly explained that the green roof is a containment system that comes in plastic cup sections, with the cups being similar to the ones purchased at a nursery. He noted that there is a sediment base layer underneath the plants that hold the water that the plants use which eventually evaporates. Mr. Kelly explained that they are 2'x3' cells that interlock so if one plant dies, it can be pulled out and replaced. He explained that the plants are a low-growing scrub, growing four to six inches. It was noted that the plant sections sit on a flat rubber roof. He noted that this was a good option to both keep the building at a lower height which will prevent views from obstruction and to contain the water as much as possible.

Mr. Pollack questioned how the roof is impacted during the winter months through either an ice storm or a 2' snowstorm. He noted that 16" joists are utilized for construction to handle the added weight.

The hearing was open to the public.

Jerry Gemetro of 160 East Lake Street spoke in opposition of the application, noting that the construction of the garage will obstruct the view of four neighbors. He noted that the applicants already have a two-car garage and indicated that he was opposed to an additional one.

Mr. Allen read aloud an email from Sandy Guillette of 159 East Lake Street, requesting that the application be continued until more information could be gathered regarding the location of the garage and whether the green roof might result in added mosquitos in the area.

Mr. Pollack questioned whether the applicants might increase the size of their present garage without obstructing the view of the neighbors.

Robert G. Morin of 153 East Lake Street, spoke in opposition of the application, sharing his concerns with the trees growing around the boundary lines between the two properties.

Geoff Platt of 157 East Lake Street, spoke in opposition of the application, sharing view concerns. He noted that he agrees with the suggestion of Mr. Pollack to expand the current garage for the extra needed space.

Leah Muller of 139 East Lake Street, spoke in opposition of the application, sharing her concerns with her view being obstructed. She opined that the lot was too small and shared her concerns with what the use of the property may be converted to such as a Bed and Breakfast.

The hearing was closed to the public.

Discussion ensued among the Board regarding this application. Members discussed their concerns with the proposed building obstructing neighbors' views. They also struggled with recognizing a hardship, noting that the dwelling currently already has a garage.

MOTION: Mr. Hunt, Mr. Marino second, to approve Application #19-5213 for a variance from Section I.g.b.2 for a front yard setback variance of 35 feet, a north yard setback variance of 71.6' and a maximum impervious surface area of 14.1% for the purpose of building a 25'x25' by 15' tall garage with a live roof system as per the drawings submitted for the property located at 151 East Lake Street; Motion failed with Mr. Allen, Mr. Hunt, Mr. Marino, Mr. Massicotte, and Mr. Pollack opposing.

It was noted that the application was denied due to a lack of hardship.

C. ZBA #19-5214 Variance Location: 17 Union Street Applicant/Owner: 180 Rowley St, LLC Proposal: Convert Mixed Use Building to Two Family Dwelling.

Rob Colabella, P.E., of Laurel Engineering appeared before the Board regarding this application. Mr. Colabella explained that his client was seeking a use variance. He explained that should the Board fail to find a hardship for this variance request for use, one could be granted due to a finding of “reasonable use”. He noted that the property is currently a mixed-use property but was used as a two-family residence for decades prior to Northwest Dental Associates/Dr. Mark Stefanov occupying the space. Mr. Colabella indicated that his client purchased the property in October, 2018 and was unaware that the Zoning Regulations had been changed. He noted that there is a lag between the time that regulations change and the time that realtors become aware of the changes. However, upon purchasing the property, the applicant unwittingly listed the property with a realtor for commercial use but had no success in finding a tenant, according to Mr. Colabella. He noted that the previous owner had also reportedly listed the property with a commercial realtor for a long period of time.

Mr. Colabella reported that his client had subsequently leased the first-floor commercial space to an 86-year old couple in May, 2019. He noted that the property is no longer being used as a mixed-use and instead being used as a two-family residence. Mr. Colabella opined that strict adherence to the town’s Zoning Regulations would require relocation of the current elderly residents of this property and as moving is always stressful, it might be argued as a hardship to these individuals.

Mr. Colabella reported that there are other two-family units on this street. He noted that the realtors were at the meeting to attest to how long the property had been marketed for commercial use by the applicant. (No testimony was received from realtors.)

Mr. Allen questioned whether it was known if the dwelling was originally constructed as a two-family or whether it had been constructed as a single-family subsequently converted to a two-family. Mr. Colabella opined that 75-80% of the houses in Winchester were constructed as “one-family” and then converted to a two-family. He noted that he was not sure although the deeds had been tracked back. Bill Berlinski, Principal of 180 Rowley Street, LLC, noted that he had found a deed at the Library from 1945 indicating a tax bill from the up-stairs resident and down-stairs resident.

Mr. Massicotte questioned Mr. Melanson as to the form an approval would take. Mr. Melanson suggested that as mixed-use and multi-family dwelling units were allowed uses in the Town Center zone as part of a Special Permit by the Planning and Zoning Commission, this proposal should go before that group by the same process should a variance be granted. Mr. Massicotte questioned whether a variance could be granted and tied to the currently elderly residents. Mr. Melanson noted that variances remain with the property indefinitely. Mr. Hunt noted that currently there are ten empty storefronts on Main Street and that it took him five years to rent his store on Main Street.

Discussion ensued regarding Town Center and Town Center Residential. The Board was reminded that the subject property is located in the Town Center zone. Mr. Melanson noted that Town Center doesn’t allow multi-family housing at all.

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

As part of his closing remarks, Mr. Colabella disagreed with the need to have to go before the Planning and Zoning Commission for a Special Permit after having come to this board for a variance.

MOTION: Mr. Hunt, Mr. Pollack second, to approve Application #19-5214 for a variance from Section i.c.a.i for a variance to allow a two-family residence as a permitted use, converting a mixed-use building to a two-family residence, for the property located at 17 Union Street; unanimously approved.

4. OLD BUSINESS:

None.

5. APPROVAL OF MINUTES – APRIL 23, 2019:

MOTION: Mr. Hunt, Mr. Marino second, to approve the April 23, 2019 Minutes; unanimously approved.

5. BILLS PRESENTED:

None.

6. CORRESPONDENCE:

None.

7. OTHER BUSINESS:

None.

8. DISCUSSION WITH ZONING ENFORCEMENT OFFICER:

None.

9. ADJOURNMENT:

MOTION: Mr. Hunt, Mr. Marino second, to adjourn at 8:21PM; unanimously approved.

Respectfully submitted,

Pamela A. Colombie
Recording Clerk