



**TOWN OF WINCHESTER  
CITY OF WINSTED  
ZONING BOARD OF APPEALS**

Town Hall, 338 Main Street  
WINSTED, CONNECTICUT 06098

**Minutes  
FOR NOVEMBER 22nd, 2011  
P. FRANCIS HICKS ROOM, SECOND FLOOR, 7:00 P.M.  
TOWN HALL, 338 MAIN STREET**

FILED  
CLERK'S OFFICE

DEC - 1 2011

SHEILA S. SEDLACK  
TOWN CLERK OF WINCHESTER  
WINSTED, CONN.

The meeting was called to order by Chairman Richard Nalette at 7:06 p.m. The following members answered roll call: Richard Nalette – Chairman, John Massicotte, Michael DeClement, Ronald Dew and Zoning Enforcement Officer Marc Melanson. Ray Winn marked absent.

Item 3. Explanation of Procedure

Item 4. 7:00 P.M. Public Hearings – Variance Applications & Decisions

**Held over from last meeting**

**#11-5103** Request for Variance from section 10.4.1 Non- conforming Structures and 4a.2.2 percent of Lot Coverage, for the property located at 539 Wheelers Point, for Anthony & Mary Luciano.

**Public Hearing Opened: 7:15 pm**

- Anthony & Mary Luciano present. Requesting variance to provide for a roof which would connect house and garage. This would provide protection from inclement weather especially during the winter months when walking to house to garage. We connected the two with a roof only. Before we did this we asked our neighbors if they had any opposition and they said no. Since it didn't involve any ground coverage we went ahead and did the work without a permit. We didn't think we needed a permit for the roof because there was no ground coverage. You should have pictures in front of you; it just involves a little canopy between the garage and the house. There would be less risk in slipping during the winter and hurting ourselves. We are not altering the coverage any of our ground coverage.
- R. Dew- so you came in to get the permits and so forth for the roof.
- A. Luciano-no we did not as I mentioned earlier, we thought because it did not involve any ground coverage we could put a covering between the two buildings. M. Melanson had come to us stating that there was a complaint about this addition and that we needed to apply for a permit. I would like to remind the board that sometime ago we were told that we had too much ground coverage and to comply with this we removed the tar covering the driveway which involved a significant amount of area.
- R. Dew-was based on your last variance and was the stairway part of?
- A. Luciano-yes it was part of that variance.
- J. Massicotte-what is the overall width of this canopy?
- M. Melanson- 10.5 feet
- M. Melanson-that was with the driveway paved. So it is down to what it was granted before, like 26%. It is back down to what it originally was with the variance.
- R. Nalette-is that a surveyor's figure?

- M. Melanson-no because the surveyor's figure was before they did that driveway, after that the driveway was removed, which was what brought it up so high. The original survey didn't show the asphalt when they did the house, so when they added it that is why they ended up with so much lot coverage.
- J. Massicotte-is the patio being removed? So the 26% lot coverage includes the patio.
- M. Melanson-original figure included patio. That is why they are going for another 43 sf of lot coverage.
- J. Massicotte-is there any electrical or anything in the ceiling of this coverage?
- A. Luciano-no

**Public Hearing Closed-7:25 pm**  
**No Public Comment**

**Motion:** Motion by R. Dew to grant variance application number 11-5103, from section 10.4.1, non-conforming structure, and from section 4a.2, for a lot coverage variance of an additional 43.5 square feet, for the purpose of building a 14.5'x 10.5' roof only between the house and garage, per the drawings submitted, for the property located at 539 Wheelers Point.

Second by R. Nalette, **Vote:** Opposed R. Nalette, J. Massicotte, R. Dew, M. DeClement-*Motion denied.*

Reason: No hardship.

**Discussion:**

- M. DeClement-the Luciano's first application in June of 2007, was for the same request. In April 2008 another application was denied because the documentation didn't match what was presented, so both of those applications were denied which both involved a breezeway. A variance should be based on the condition of the land and not the owner.
- A. Luciano-the motion that was denied several years ago was not for this so that is inaccurate and what we applied for was an enclosure which included ground coverage. What we are asking for now is not the same thing. If your denial is on that basis of that, I don't think that is correct and it is not justified.

**New Applications**

**#11-5104** Request for Variance from section 4a.2 side yard setbacks, 4a.2 front yard setback, for the property located at 535 West Wakefield Blvd. for George Cotter.

**Public Hearing opened: 7:30 pm**

- Applicant Sherwood Dawson represented by Engineer George Cutter. Three letters were given for the record from neighbors stating they had no opposition. I also have a Wetlands Agent Determination approval with normal conditions. This is a lot that predates zoning it was subdivided in 1909, 537 W. Wakefield is immediately to our South which is a lot the commission granted three variances on to build a similar single family home. This is in the HLD zone where building lots require 40,000 sf and frontage more than 50 feet. We are proposing a single family residence, the hardship is that the lot predate zoning and is a non-conforming lot, the other hardship on the lot is the topography, the front of the property is at road grade, if we set the house back it would mean a lot of blasting, the steepness of the back grade would make it very difficult to build a house there. The neighbor across the street does not have any objection; the road in front of this property favors the other side of the street so we have 36 feet from the edge of the pavement to the structure itself.

- The basement will be backed filled from the rear and two sides matching the grade. The development of this lot should not have any impact on neighboring lots. This size of the foot print is the same size of the one you approved previously. It meets the minimal requirement of 675 sf so we do not have a non-conformity in the size of the house.
- R. Dew-how far of a setback are you asking for?
- G. Cotter-45.7 feet for the structure and 41.1 for the balcony.

### Public Comment

- My name is John Boglarski-I am from the adjoining lot 537 W. Wakefield Blvd and I am for getting this approved.
- Mark Schrader-660 E. Wakefield Blvd-I don't see how you could possibly approve this. First of all this is a 24 wide house on a 50 wide lot and it would not have the normal setbacks either on the sides or on the front. Secondly it is in the HLD which requires a much larger lot for construction of any size house.
- M. Melanson-that would be for a new building lot. These are preexisting lots, they are legal and nonconforming lots because they were done before the zoning regulations.
- Mark Schrader-660 E. Wakefield blvd-that is not my interpretation at all.
- M. Melanson-explained he was the zoning officer and he is the one that enforces it, so his statement is correct.
- M. Schrader-the setbacks are all in violation, that alone would be a reason why it shouldn't be approved. The only thing state statute allows for from what I understand is a hardship.
- Mr. Schrader- Mr. Nalette you made the comment that your job here is to say no and the only reason why you would say yes was that there was either an error made or there is a genuine hardship. I think you need to look at the regulations and make the right decisions. The state statute that empowers you does not allow you to waive town regulations. There are other issues about squeezing these houses in on little lots, you don't improve or maintain the neighborhood by allowing these small cottages; the lake is pretty much over built now. The POCD has really discouraged trying to build on these steep slopes because all the problems that are entailed. There is one next door to this property that had been approved some years ago and it is being excavated now, it looks like it could be a 15 to 20 foot cut, it seems like that would create a lot of erosion over a period of time which always ends up in the lake.
- G. Cutter-this is a legal lot and its purpose is to be a residence. This lot was created prior to zoning, so that is one hardship on the lot so we cannot make the width requirements, the other hardship is a level area in front of the lot to carry the grade, the topography dictates that if you are going to build on it you need to build on the very front of the lot.

### Public Hearing closed-7:50 pm

**Motion:** by J. Massicotte to grant variance application number 11-5104, from section 4a.2, for a Front yard setback variance of 45.7 feet, a North side yard setback variance of 29.25 feet, and a South side yard setback variance of 19.75 feet, for the purpose of building a 24' x 28'1 1/2" 2 story house with a walkout basement and a 6' x 6' deck on the front and a 4' x 6' landing on the North side with stairs towards the front of the house, per the drawings submitted, for the property located at 535 West Wakefield Blvd. Second by M. DeClement. **Vote:** R. Nalette, J. Massicotte, R. Dew in favor, opposed M. DeClement-**Motion denied.** Reason: No hardship

## Discussion:

- R. Nalette-is there an existing structure on this lot?
- M. Melanson-according to the assessors map there isn't.
- R. Nalette-it says proposed existing structure.
- C. Cutter-is there a 10 x 14 structure?
- S. Dawson-there is a large shed and a small one 5x9.
- M. DeClement-I wasn't here in September, when you approved the variance at 537 W. Wakefield, I pulled the file to look to see if there was an existing structure and I believe the site plan went back to 2002. I wasn't here so did I miss something I guess is my question.
- M. Melanson-537 W. Wakefield Blvd was the one they had a demolition permit, the variance for 537 W. Wakefield Blvd was granted a while ago.
- M. DeClement-they brought it back in September.
- M. Melanson-that was for modification for the roof line.
- M. DeClement-I want to throw out that the hardship according to state statutes must be unique and different and kind in generally affecting property. Because the lot is 50 x 20 and goes up hill, I don't read it as a hardship. I don't think you can get a variance on topography.

**#11-5105**

Request for Variance from section 5.2 side yard setback, for the property located at 225 South Rd., for Aldo V. Godenzi.

### Public Hearing Opened-8:00 pm

- Applicant Aldo Godenzi present. Seeking variance for two structures 14 x 30 garages and my hardship is my main door to come into the house is at the back of my house and the sidewalk is set about a foot and half below grade. So I had two drains put in and I have a pipe running out and into the backyard for the water to go. There is also nine trees that would have to be dropped in order to put it at my driveway. I would have no where to turn around and backing out of my driveway is difficult. The area where I wanted to put these my neighbor had an issue with. One of my branches came down ripping the wire out of his house, so I took four willow trees out and that space is all open so that is where I was planning on putting these two structures. I also have a swale that draws water away from my house. I had a builder up there and the structures are on my map where he said the best location would be. I did talk to my neighbors only one of them had an issue with it, he figured if I ran them a different way I would be 19 feet away from his property line which he had no problem with and I explained to him the way I was doing it I would be 20 to 25 feet away from his property. I am also hoping to put in a patio which would make it difficult to put the garage at the end of my driveway also putting it at the end of the driveway I would have to relocate the drainage. These structures will be placed on a bed of crushed stone and six inches of rock and ¾ inch stone, so there will be no problem with drainage or water running into my neighbor's yard.
- M. Melanson-passed out a letter from Thomas Boutin, neighbor at 225 South Rd.
- R. Nalette-your map doesn't show your driveway and is it asphalt?
- A. Godenzi-showed R. Nalette the area of the driveway on the plan and no driveway is dirt. The garages would be just about touching the border of my driveway.

I was originally going to put up a 30 x 30 garage but because of Mr. Boutin's concerns and the way the economy is I could put these up for half the price.

- J. Massicotte-would you have a problem putting on gutters and tying them into your drainage.
- A. Godenzi-I would have no problem putting on gutters, I told him I would put up rain barrels. They are going to be on stone so they won't leach away and there is also a swale right in front of my driveway that these will run off into.
- M. DeClement-how far is your house to your neighbor's property line.
- A. Godenzi-it is about 75 feet.
- M. DeClement-willows like water, so that must be a wet spot, which I can see Mr. Boutin's concerns with the increase runoff. Is there any other possibility you can put these somewhere else?
- A. Godenzi-explain his map and said the only other place would be was near the driveway and his drains would have to be relocated.
- R. Dew-so your drains, drain from the sidewalk and driveway to the drains outback.
- A. Godenzi- yes and it drains to the back 200 feet.
- R. Nalette-if these are set on stone it will drain well even if you put it over your pipe.
- A. Godenzi-if I put them over the driveway yes, if I put them over where I want to then no. It is a good 30 feet away from my house where they are going.
- M. DeClement-no offense but I am concerned about other people's homes as well as yours, I think you should take the hit, they are your garages and I don't see why the neighbor should be inconvenienced.

**Public Hearing closed-8:20 pm**  
**No public comment**

**Motion:** by R. Nalette to grant variance application number 11-5105, from section 5.2, for a South side yard setback variance of 30 feet, for the purpose of building 2 14'x30' Garages, per the drawings submitted, for the property located at 225 South Rd. Second by R. Dew. Vote: In favor R. Nalette, Opposed J. Massicotte, R. Dew, and M. DeClement. *Motion denied.* Reason: No hardship.

**Discussion:**

- R. Dew-would these structures need footings and some form of frost protection.
- M. Melanson- yes they would need to have a footing, he would have to put on piers, he wouldn't need a foundation but some sort of frost protection would be required. Anything over 400 sf.
- R. Dew-I am unhappy with the location, there is a two acre zoning up there for a reason.

Item 5. Approval of Minutes for September 27, 2011.

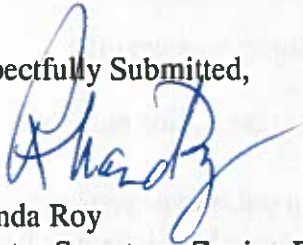
**Motion:** by J. Massicotte to approve the Minutes of September 27, 2011 meeting. Second by R. Dew, M. DeClement abstained. **Vote:** all in favor – *motion carries.*

- Item 6. Old Business -None
- Item 7. New Business-None
- Item 8. Bills Presented-None
- Item 9. Correspondence- M. Melanson provided the 2012 Meeting calendar.
- Item 10. Discussion w/ZEO, if any-None
- Item 11. Adjournment

**Motion:** by R. Nalette to adjourn at 8:30 p.m. Second by J. Massicotte.

**Vote:** all in favor - *motion carried unanimously.*

Respectfully Submitted,



Rhonda Roy  
Minutes Secretary, Zoning Board of Appeals

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