



**TOWN OF WINCHESTER – CITY OF WINSTED**  
 Town Hall – 338 Main Street  
 WINSTED, CONNECTICUT 06098

*Minutes of Meeting*  
*Zoning Board of Appeals*  
 September 23, 2008

FILED  
 CLERK'S OFFICE  
 SEP 26 2008  
 SHEILA S. SEDLACK  
 TOWN CLERK OF WINCHESTER  
 WINSTED CONN.

The Zoning Board of Appeals met in the P. Francis Hicks Room. The meeting was called to order by Chairman Nalette at 7:06 p.m. The following members answered the roll call: Richard Nalette-Chairman, Ronald Dew, Michael DeClement, Ray Winn, John Massicotte and Zoning Enforcement Officer Marc Melanson. Susan Lange, Ernie Wolff and Alternate Michael Fox were not present.

Chairman Nalette seated M. DeClement for this evenings meeting.

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 CLERK'S OFFICE  
 SEP 29 2008  
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 WINSTED CONN.

**Item 3. Explanation of Variance Procedure**

Chairman Nalette explained the ZBA meeting procedure to the applicants and the audience members.

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

**#08-5052 Request for Variance from section 4a.2 lot coverage and 4a.2 side yard set back at 544 West Wakefield Blvd. for James & Carol Genthe.**

James & Carol Genthe were present this evening for their application. Chairman Nalette said that the Commission held this application over to this month because they were looking for more information. Mr. Genthe passed out an A-2 Survey per the Commission's request.

Mr. Genthe gave a brief overview of the application that they are here for a variance for coverage for a shed that was erected that they did not know they needed a variance for.

In doing the survey they found that their shed was on the neighbor's property so they are going to move the shed over and still try to preserve a view from the street and the yard. Chairman Nalette asked M. Melanson if the application reflects the change. M. Melanson said yes that they are asking for a 34 ½ foot variance on the side yard and a 2.4% lot coverage variance.

The shed is not now in the location that has been presented. It will be moved to this location. They thought that they had everything they needed when they received Wetland approval and had the shed dropped off and placed in this location.

M. DeClement asked whose property the shed was on and how high the shed is. Mr. Genthe said Ms. Mandell's and that the height is 10 feet to the ridgeline.

Chairman Nalette called for Public Comment.

There was none.

Chairman Nalette closed the Public Hearing.

***Motion made by R. Dew and seconded by M. DeClement to grant variance number 08-5052, for a variance from section 4a.2, for a North Sideyard setback variance of 34.5 feet, and lot coverage of an additional 2.4%, for the purpose of building a 10' x 16' shed, as per drawings submitted for the property located at 544 West Wakefield Blvd.***

R. Winn said he did not feel that 6 inches off the line is appropriate.

***In Favor: R. Nalette. Opposed: R. Dew, R. Winn, J. Massicotte and M. DeClement. Motion fails.***

***Reason: Unreasonable. Too close to the property Line.***

**#08-5054 Request for Variance from section 4a.2 front yard set back, 4a.2 side yard set back, 4a.2 rear yard set back and 4a.2 lot coverage at 240 Perch Rock Trail for Sandy Drive Three LLC.**

R. Dew recused himself for this application.

Attorney Mark Jones was present for the applicant and said that there are only 4 members sitting on the Commission this evening and that the applicant would prefer to have the hearing held over to the next meeting due to these circumstances.

Chairman Nalette explained to the audience the procedure when there are only 4 members hearing the application and that the application will be held over to next month.

***Motion made by J. Massicotte and seconded by R. Winn to carry over 240 Perch Rock Trail, Sandy Drive LLC to the next meeting.***

***All In Favor. Unanimous. Motion passes.***

**#08-5056 Request for Variance from section 4.2 front yard set back, at 129 Ridge Street for Warren & Cathy Sullivan Jr.**

Cathy Sullivan was present for her application this evening. Ms. Sullivan submitted her Certification of Notice to M. Melanson. Ms. Sullivan said that they would like to tear off their old cement porch and put on a wood porch which will be 2 feet wider than the current porch and they need a frontyard variance to do that.

Chairman Nalette called for Public Comment.

There was none.

Chairman Nalette closed the Public Hearing

*Motion made by M. DeClement and seconded by J. Massicotte to grant variance number 08-5056, from section 4.2, for a Frontyard setback variance of 4 feet, for the purpose of building an 8' x 30' covered porch, with stairs, as per drawings submitted, for the property located at 129 Ridge Street.*

*All in Favor. Unanimous. Motion Passes.*

*Reason: Reasonable Request.*

**#08-5057 Request for Variance from section 4a.2 front yard set back, 4a.2 side yard and 4a.2 lot coverage at 162 East Wakefield Blvd for Harry R. Clark.**

Attorney David Cusick, owner Harry Clark and Todd McIntyre, Architect were present this evening for the application. Attorney Cusick presented the Certification of Notice to M. Melanson.

Mr. Clark has a 1940's vintage cottage owned by his family for more than ten years. The property is part of 1920's Highland Lake Shore subdivision. The lot is approximately 45 feet across and has 35 foot side yards and you can't really do anything without a variance unless you use the footprint of the building and the footprint of the building 26 x 27 and is really too small to use. The current building is also not properly aligned with the sidelines and part of the proposal in building a new house would be to align it better with the sidelines.

They filed a variance application in 2006 and at that time it was for a 2 story house with 2 bedrooms, a two car attached garage and 2,154 square feet. There were concerns at that time by public and Commission for size of house and the fact that it would be two stories and the application was denied.

Mr. Cusick said the current application is for a one-story, one bedroom house with 1,043 square feet and a with a one car attached garage. He asked Mr. Clark to give more information.

Mr. Clark said that currently the house was built in 1941 and has gone through a number of owners since then and is crooked on the lot. There is also a garage on the property which is right on the road. They will be backing that up and attaching it to the house and bringing it away from the road.

Mr. Clark said that the reason that they want to do this is that right now it needs a lot of help. They have tried to put in a reasonable 1,043 square foot house and last time they were going up two stories and there was concerns with the neighbors of blocking the views. What he has done since, is address each one of the issues with the neighbors to the left, right and across the street. He said that before he came in with the application, he tried to find out how the neighbors felt about it.

Mr. Clark passed around pictures of how the property looks at this time with the house being crooked and the garage near the road. The house within the neighborhood is a thorn between two roses and he feels the pictures reflect that.

Attorney Cusick said that he has copies of the assessor cards for other houses in the neighborhood and he read to the Commission a comparison of sizes and square footage of those houses. Wetlands did approve the larger house in 2006 and Agent Eisenlohr suggested going before ZBA with the smaller house before going to Wetlands for approval.

M. Melanson gave the Commission two letters that were received in response to this Public Hearing. The letters were from Charles & Marlene Constable at 160 East Wakefield and Kristine Bruno at 164 East Wakefield and copies were given to Attorney Cusick and Mr. Clark.

Attorney Cusick said that in addressing the letter sent by Ms. Bruno, they did send her notification letter to the address in London that the Assessor and Tax Collector have which is the address he understands that the notification should have been sent to. He further stated that concerning the substance of the letter from Ms. Bruno that the house Mr. Clark is proposing is smaller based on the information on the assessor cards of the neighbors.

Attorney Cusick said that the reason that the stairs are on the side is because Mr. Clark wanted to get the stairs away from their present position which is closer to the Lake and also because the lot sort of slopes down and the number of stairs at the proposed location will be less stairs than the stairs that came up from the Lake side.

Chairman Nalette said that in calculating the size of the house they only included the floor plan of the first floor and the calculation does not include the area of what appears to be livable space on the second floor and the basement. Mr. Clark said that the top floor is just a loft.

R. Dew said that it is built as a 1 ½ story house with a full basement. Mr. Clark said that the house right now is 34 feet from the basement. He said the proposed house is actually 21.8 feet tall. The basement is basically underground.

R. Dew said that it is going to be built as full headroom, livable space in the basement. Mr. Clark said that it could be a rec room or something but not now. R. Dew further stated that the third floor is full headroom with that pitch on the roof. Mr. Clark said that the house as it exists right now is 18 feet tall now he is going to 21.8. There is a 3 foot increase in the peak of the roof.

R. Dew said that the application submitted is for a one-story house and that the plan is for a 1 ½ story house with full headroom so that it can be completed as a full two story house. There is full 7'6" headroom on the top floor which classifies it as a habitable space. Attorney Cusick said that if that is the case then he would like to point out that the houses next door appear to be two story houses and showed the Commission pictures of these. R. Dew said that the houses on either side do not have the steep roof pitch and nothing can be done up there. It is an attic storage space.

There was additional discussion on the size of the house, the comparison of neighbor houses and the measurements on the plan.

Chairman Nalette called for Public Comment.

Lisa Bruno on behalf of her mother, Kristine Bruno of 160 East Wakefield:

Ms. Bruno said that when they made changes to the property they were not allowed to alter their (inaudible). Ms. Bruno stated that because properties are within such close proximity they want to be very mindful of the lot coverage. Where the stairs come down there is going to be only 11'9" between them and the property line. Ms. Bruno said that she would like to know if there are plans to make this loft area into a livable area in front of other Commissions.

Charlie Constable, 164 East Wakefield:

Mr. Constable said that his major concern is the height of the house and if it is going to block their view of the Lake and how far out the new deck is going to go and if that will interfere with their view.

Mr. Clark addressed the roof line saying that changing the roof line definitely increased the view.

Gail Liefert: across the street:

The way the house is going to be set and with the roof line going up it will not block their view and the way the house is going in she wants to make sure that it would open up more for her view.

Attorney Cusick would simply suggest that this application be contrasted with the last one that was rejected by the Commission and a lot has changed in terms of downsizing of it. All of these lots are small and all of the buildings are close to one another. The size of Mr. Clark's lot is consistent with all of the other lots. He further said that even if the loft could be modified in the future it will not be any different than it is or the other houses in the neighborhood. Mr. Clark further stated that they did design it this time to increase the view and have made the house one bedroom and one bath.

Chairman Nalette said to M. Melanson that the question has been raised that if they get the variance and they build this house as is on the print could they conceivably go to Planning & Zoning and get the full 35 feet. M. Melanson said that unless someone catches that it was done by variance then yes. Chairman Nalette asked if they can phrase their motion to prevent that. M. Melanson said he doesn't see how.

Attorney Cusick said he is uncertain as to why if they were to approve the variance at the height shown on the plans submitted not be increased and would be recorded on the land records. If it's a condition of approval and is on the land records then no one can do more than that. M. Melanson said the approval is going to be for a two-story house because with the loft it is considered a two-story house.

J. Massicotte said that two concerns are the side stairs going to the back which the applicant said that he has no problem with. And if they took the 3'9" off the ridge then it would take it back down to a one story with an attic. He feels that these are the two key points that the Commission and the neighbors are concerned with.

Mr. Clark said that the only question he has is when it is considered a 2<sup>nd</sup> story. M. Melanson said that anything under 7'6" headroom would not be considered a habitable space. There was discussion on the height of the house and the difference of height from the existing house to the proposed house.

Chairman Nalette suggested that the applicant continue the Public Hearing to return next month with addition information to possibly address the concerns raised.

***Motion made by M. DeClement and seconded by J. Massicotte to continue public hearing to the next meeting .***

***All in favor. Unanimous. Motion passes.***

**#08-5058 Request for Variance from section 4a.2 lot coverage at 620 East Wakefield Blvd for James G. Biondi.**

James Biondi was present for his application and submitted his Certification of Notice to M. Melanson. Mr. Biondi said that they have demolished a cottage on their property and are putting up a new one on the same foot print and they would like to put a small roof over the entry way in order to protect the front entry from ice and rain, etc. He passed out sketches to show the Commission what this will look like.

He said that it would not change the sideyard variance and will not be any closer to the property line. It will also not be visible to the neighbors or from the street. It will not contribute to the living space. It will not increase the lot coverage percentage. It is similar to an awning that goes out to protect the house.

Chairman Nalette confirmed that he received approval from Planning & Zoning to build in the same footprint and go straight up. Chairman Nalette asked what the square footage of the old cottage. Mr. Biondi said a 20 x 40 with an 12 x 15 L-shaped piece about 980 square feet. It was two floors and is still 2 floors and the height is less than the requirements. The elevation is taller. Chairman Nalette confirmed that there is more living space.

Chairman Nalette called for Public Comment.

There was none.

Mr. Biondi said that he isn't sure how this roof can be considered lot coverage but if the Commission feels that it is increasing the lot coverage he has a plan showing that the hold cottage had a similar extended roof. After discussing the measurements he said that the new cottage would be smaller than the old one for consideration of lot coverage.

Chairman Nalette closed the Public Hearing.

***Motion made by R. Winn and seconded by R. Dew to grant variance number 08-5058, from section 4a.2, for a lot coverage variance of an additional .5%, for the purpose of building a 4' x 6' covered roof over the entryway, for the property located at 620 East Wakefield Blvd.***

***All in Favor. Unanimous. Motion passes.***

***Reason: Reasonable Request.***

**Item 5. Approval of Minutes of August 26th, 2008**

*Motion made by R. Dew and seconded by J. Massicotte to approve the minutes of August 26, 2008.*

*All in Favor. Abstain: R. Winn and M. DeClement. Motion passes.*

**Item 6. Old Business - Application Rates**

Chairman Nalette said that he understands that the BOS is going to raise the rates. M. Melanson said that the Town Attorney said that there is no Ordinance for this and so the Commission By-laws will have to be changed to increase the application rates.

*Motion R. Nalette and seconded by R. Dew to amend the By-laws to raise the application rate to \$350.*

Discussion: There was a brief discussion on the cost of the legal notices, etc. to process the applications and if the fee will cover this. Each legal notice runs approximately \$100 and it has to be run twice and then the notice for the decisions. Right now they are losing money because they are not covering the fees.

*All in Favor. Unanimous. Motion passes.*

*Motion made by R. Nalette and seconded by J. Massicotte that the fee for Zoning Official appeal rate be \$50.*

Discussion: Brief discussion that appeals should have a fee and not be free because people could use this to their advantage to not pay an application fee. Appeals do not have to be legal noticed.

*All in Favor. Abstain: R. Winn. Motion passes.*

The Commission discussed the fee for Motor Vehicle licensees. M. Melanson said that right now State Law does not require it to be legal noticed but cannot guarantee that this will not be the case in the future because the requirements for these things are constantly changing.

*R. Nalette and seconded by J. Massicotte that the fee for Motor Vehicle License be \$350.*

*All in Favor. Unanimous. Motion passes.*

**Item 7. New Business**

Chairman Nalette presented J. Massicotte with a special award from the Mayor for his service on the Commission.

**Item 8. Bills Presented**

*Motion made by R. Nalette and seconded by M. DeClement to pay the clerk's hours of 4 hours.*

*All in Favor. Unanimous. Motion passes.*

**Item 9. Correspondence**

None

**Item 10: Discussion w/ZEO, if any**

R. Dew asked how they can eliminate the problems with Section 10.6 and people getting around ZBA by going to P & Z for this. M. Melanson said that it would be a change in the zoning regulations. There was a brief discussion. M. Melanson said that they cannot limit the height because it's non-conforming and there is legal case on that. R. Nalette said that the Commission should put in an application to Planning & Zoning for a regulation change.

M. Melanson said that another thing that they are looking at removing is driveway coverage in the lot coverage. Part of the problem is that people in HLD are putting in gravel driveways to keep their lot coverage down and they are washing out and causing problems with washout and going into the Lake when it rains. This is the only zone that driveways and impervious surfaces are included. It could be suggested that they lower the lot coverage percentage for this.

**Item 11: Adjournment**

*Motion made by R. Winn and seconded by J. Massicotte to adjourn.*

*All in Favor. Unanimous. Motion passes.*

Respectfully Submitted,



Anna Lukasavage