



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

*Minutes of Meeting  
Zoning Board of Appeals  
June 24, 2008*

FILED  
CLERK'S OFFICE

JUL 11 2008

SHEILA S. SEDIACK  
TOWN CLERK OF WINCHESTER

The Zoning Board of Appeals met in the P. Francis Hicks Room. The meeting was called to order by Chairman Nalette at 7:09 p.m. The following members answered the roll call: Richard Nalette - Chairman, Ronald Dew, John Massicotte, Ray Winn, alternate Michael DeClement and Zoning Enforcement Officer Marc Melanson. Susan Lange, Ernie Wolff and Alternate Michael Fox were not present.

**Item 3. Explanation of Variance Procedure**

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

Chairman Nalette seated M. DeClement for this evening's meeting.

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

#08-5041 Request for a Variance from section 4a.2 front yard setback, 4a.2 rear yard setback, and 4a.2 lot coverage at 240 Perch Rock Trail, for Sandy Drive Three.

Chairman Nalette said that a letter was received from Attorney Mark Jones saying that they would like to withdraw their application. This was presented at the office at 3 p.m. this afternoon.

*Motion made by J. Massicotte and seconded by R. Winn to allow the applicant to withdraw.*

*Unanimous. Motion passes.*

#08-5042 Request for a Variance from section 4.2 side yard set back at 146 Spencer Hill Rd. for Michael & Rhonda Roy.

M. Melanson said that the Roys have asked that the application be postponed until next month. Chairman Nalette asked the reason and M. Melanson said because they were not ready for this evening.

*Motion made by R. Dew and seconded by R. Winn to table Application #08-5042 to the next meeting.*

*Unanimous. Motion passes.*

#08-5043 Request for a Variance from section 4a.2 front yard set back and 4a.2 lot coverage at 171 West Wakefield Blvd., for Theodore G. Hanson.

Theodore Hanson presented his application and submitted his Certification of Notice to M. Melanson.

Mr. Hanson said he was here at the last meeting with a substantially larger plan and has resubmitted with another plan. Chairman Nalette said that Mr. Hanson was here within the last six months with a similar application and they first need to determine if it is a significant difference in the plan

*Motion made by R. Dew and seconded by J. Massicotte that it is significantly different than the application made last month.*

*All in favor. Unanimous. Motion passes.*

Mr. Hanson said that the application is to build a deck addition onto his house. He has a new site map prepared showing the new addition and is asking to extend his variance on the front yard to 32 feet and 18 feet from the side line with this new deck which is 2 feet more than exists today. The deck is on an angle to the front yard and along the front he gets farther and farther away from the front line. So the back corner is probably farther back than the deck that is there now. This is an increase in coverage of 132 square feet by calculation of Mr. DiCara he is asking for 1/10 increase in lot coverage.

Mr. Hanson said that the deck is shown in the first drawing in the package and is designed to be two steps down from the current deck and they lowered the rail to enhance the view of the Lake. Along with this as discussed at the last meeting there are some things that he wanted to do above the top of the deck and this is the appropriate place to discuss it. He stated that he wants a pergola. He probably didn't bring enough information at the last meeting and has included some information for the Commission. It is nothing particularly unique as to the design or how they are used.

Mr. Hanson said that the pergola is intended to offer shade from the sun at different times of the day. He said that it will be constructed of 2 x 8's and as the sun rises it does not allow direct rays of sun to go down onto the deck and all during the day you have stripes of shaded area across the deck. The deck remains open as opposed to a covered roof. Mr. Hanson said that questions were raised about the future possibility of a permanent roof and maybe at some point siding and it becomes an enclosed space. It is not his intent ever to put a roof on this. He does not want an enclosed space just the shade that he can get from it.

Mr. Hanson said that he also wants to extend roof line over the top of the grill because he uses the grill all year round and wants to use it in inclement weather and also because the smoke goes back into the house. He said he has tried other methods of covering the grill. He does not want it to ever be a closed in area. Only wants something over the grill.

He said the final aspect of the plan is to put a pad over the pergola so that he can put a small deck off the bedroom upstairs. It is on the plans and consists of a 6x8 space which will probably hold two Adirondack chairs. He is also trying to get as much open air space as possible through the house.

Mr. Hanson said that the variance concerns the new deck and the coverage. The remainder of this will all be built on the existing footprint of the house. He doesn't believe that he is changing the non-conformity of the house.

Mr. Hanson said at the last meeting he was asked what his hardship was. He said that on the front there is an A-2 survey from 1947 and is referred to on the map that John DiCara prepared. It shows that there was a structure on the property in 1947 and it is in the same relative position as is the house today. In 1947 there wasn't question of non-conformity. Zoning made his house non-conforming. He said that he has no choice but to come to the Commission to make changes because of the size of the lot and location of the house. Mr. Hanson said that he has only owned the house for seven years.

He further stated that at the last meeting he was asked if the deck below was going to be removed and it is. He asked John DiCara to indicate that on the A-2 Survey that the deck is going to be removed. It doesn't reduce the coverage or anything else but he will be removing it.

J. Massicotte asked if there is already a variance on this lot coverage so that they are going to increase it by 5.7%. M. Melanson yes. J. Massicotte asked about the deck that exists and the sideyard setback. It is only 5 feet now and do they have to include that in this variance. M. Melanson said that

he added a sideyard setback for the new part of the deck that he is doing. He didn't go to the 5 feet so he added sideyard setback for the 10 feet the rest is still legal non-conforming.

J. Massicotte asked if the entire upper deck is going to be covered by the pergola on the left hand side of the chimney. Mr. Hanson said yes. He showed the Commission on the drawings. J. Massicotte asked if there was a stairway to the upper deck. Mr. Hanson said no, he has a stairway at the end of the deck that he was given a permit for 5 or 7 years ago because there wasn't access to the deck. He showed the Commission the drawings.

M. DeClement confirmed that Mr. Hanson is going to take the lower deck out.

J. Massicotte said that he would like to see the motion. M. Melanson said that there is nothing on the motion about covering over the grill because that was not on the application. Everything else was on there but the covering of the grill. Mr. Hanson apologized for that because he was in a rush because he was trying to get the comments from the last meeting in the minutes because he couldn't hear them at the meeting and he was leaving the state and was trying to get it done to get it in on time. The package is the same as he submitted minus the garage and the room on the back porch. Chairman Nalette clarified that it is shown on the prints so if they add the correct words on the motion they can do that.

J. Massicotte said that if they do add the roof over the grill then they need to change the sideyard variance of 30 feet. M. Melanson said yes because now they are going to the shortest distance and changes the sideyard. They will add to the motion a west sideyard variance to 30 feet for the purpose of building 32 x 12 and after deck also add a roof over the grill area as shown on the prints.

Chairman Nalette called for Public Comment. There was none.

Mr. Hanson said that he understands the restrictions placed on the variance if approved tonight and he wants what was presented and nothing more and nothing less.

Chairman Nalette closed the Public Hearing.

*Motion made by Chairman Nalette and seconded by R. Dew to grant variance number 08-5043, from section 4a.2, for a North frontyard setback variance of 32 feet, a West sideyard setback variance of 30 feet, and lot coverage variance of 5.7%, for the purpose of building a 23' x 12' deck, with a 6' x 8' upper deck and a pergola built over the remaining deck and add roof over grill area as shown on print, as per drawings submitted, for the property located at 171 West Wakefield Blvd.*

*All In Favor. Unanimous. Motion passes.*

*Reason: Reasonable request based on the fact that Mr. Hanson came in last month with a substantially larger request and he took it into consideration and changed the plan.*

**#08-5044 Request for a Modification of Variance #06-4982 at 361 North Main St., for Cardello Builders LLC.**

Michael Cardello, Cardello Builders, LLC was present this evening and submitted his Certification of Notice to M. Melanson.

Mr. Cardello said that the reason they are here for the modification is due to because of construction costs the client has requested a reduction in the size of the building. He said that front of the building would have been 40 feet x 25.6 on the last variance and the back is 22 x 62. As they can see in the new drawing, they shrunk the front down to 38 feet and the back only goes out 20 feet x 27 feet. He said that also by doing this, it does not encroach on the embankment so they will not have to put in a ZBA

large retaining wall. It now does not encroach on the neighbors and it keeps it more condensed to its original size.

J. Massicotte said that the lot coverage was 11% and asked what it will now be. Mr. Cardello said he does not have that but it is reduced. J. Massicotte asked M. Melanson if they are reducing that at all. M. Melanson said he is not changing the numbers only the size of the building. He said that the motion says "reduce size of building to a 45.6 x 38 foot as per drawings submitted".

Chairman Nalette said that in the future if he wants to come back then he already has a variance. M. Melanson said no this modifies that variance to what it will be now.

Chairman Nalette called for Public Comment. There was none.

Chairman Nalette closed the public hearing.

***Motion made by R. Dew and seconded by J. Massicotte to grant variance number 08-5044, for a modification of variance #06-4982, to reduce the size of the building to a 45'6" x 38', as per drawings submitted, for the property located at 361 North Main St.***

Discussion: none

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

***Reason: Reasonable request.***

**#08-5045 Request for a Modification of Variance #08-5028 at 410 East Wakefield Blvd. for Mark & Merrill Mandell.**

Lindsay Karl, architect was present for the Mandell's and submitted the Certification of Notice to M. Melanson.

Ms. Karl is here to make a request of the elevations that were presented to the Commission on the variance that was approved in January. There was a change made to a location of a stair on the north side and they moved it to the east side. She showed this change on the map board to the Commission. The overall footprint of the building did not change but the elevations and the look of the building has changed and that is the request for modification.

M. DeClement confirmed that the lot coverage variance of 3.2 stays. Ms. Karl said yes. R. Nalette said that they took away some roof. Ms. Karl said yes but put a roof over another location and showed this on the map.

Chairman Nalette called for public comment. There was none.

Ms. Karl said that she feels that it is a reasonable request.

Chairman Nalette closed the public hearing.

***Motion made by R. Winn and seconded by M. DeClement to grant variance number 08-5045, for a modification of variance #08-5028 to Change the exterior appearance of the building, as per drawings submitted, for the property located at 410 East Wakefield Blvd.***

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

***Reason: Reasonable request.***

**#08-5046 Request for a Variance from section 4a.2 side yard set back and 4a.2 rear yard set back at 538 Wheeler Point for James & Karisa Seaver.**

James Seaver was present for his application and submitted his Certification of Notice to M. Melanson.

Chairman Nalette said that before Mr. Seaver begins he wants to make sure he is aware that because they recently had an application from his neighbor, who had a survey done of his shed it shows that his shed is on his neighbor's property. He showed this print to Mr. Seaver. Mr. Seaver said that it is the overhang. Chairman Nalette asked if he is saying that the shed overhang is over his property. Mr. Seaver said that the overhang has been cut off. Chairman Nalette said that there are two dotted lines on the print-one is the property line and one is the overhang being over. Mr. Seaver said the key word is overhang and he brought in pictures for the Commission. M. DeClement asked if he just cut off the overhang. Mr. Seaver said that he cut it off and will take care of it to be waterproof. There is now no encroachment to the property line.

Mr. Seaver said that he is here because he has been reported for a non-conforming shed. M. Melanson said that when the Luciano's came in he realized that Mr. Seaver put up a shed without a permit and the shed is non-conforming to any of the setbacks or anything else.

Mr. Seaver said that he put up the shed about 7 years ago because Vision Appraisal has it. He said that he is looking at the State Statute 8-13a, the grandfather clause.

Chairman Nalette said that if it was built without permits over the 3 year year mark why is here in front of the Commission. Mr. Seaver said that he was told that he first has to go through ZBA for a decision and then he can go get his permits as long as he built it properly. Chairman Nalette said the Statute says that if they are over 3 years old for setbacks then there is nothing to do. M. Melanson said that their regulations do not say that so he has him here. M. Melanson said that in order for Mr. Seaver to get a building permit he needs to be signed off by Zoning and that means he has to get a variance.

R. Nalette said that he saw the Town Attorney at a meeting last night and asked him about this and he seemed to indicate that they shouldn't give him variance because he doesn't need one. However, because it was at the Town meeting he Town Attorney wasn't able to review it and Chairman Nalette was unable to get a letter of opinion. Chairman Nalette said that he would like to table this and get an opinion from the Town Attorney.

*Motion made by R. Winn and seconded by R. Dew to table the application to next month.*

*All in favor. Unanimous. Motion passes.*

**Item 5. Approval of Minutes of May 20th, 2008**

*Motion made by J. Massicotte and seconded by R. Dew to accept the minutes as presented.*

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

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

None

**Item 7. New Business –**

None

**Item 8. Bills Presented**

*Motion made by R. Winn and seconded by R. Dew to pay clerk's hours of 5 hours.*

*Unanimous. Motion Passes.*

**Item 9. Correspondence**

None

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

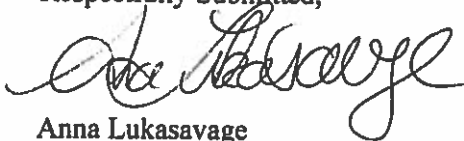
None

**Item 11. Adjournment**

*Motion made by R. Winn and seconded by R. Dew to adjourn at 8:09 p.m.*

*Unanimous. Motion passes.*

Respectfully Submitted,



Anna Lukasavage