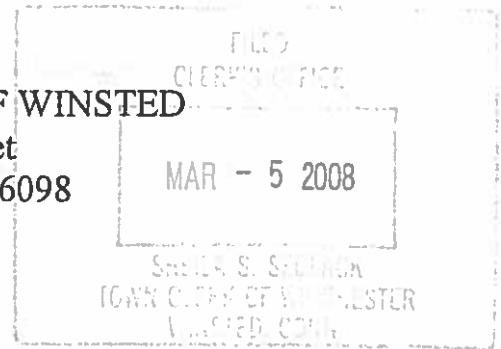




TOWN OF WINCHESTER – CITY OF WINSTED
Town Hall – 338 Main Street
WINSTED, CONNECTICUT 06098

*Minutes of Meeting
Zoning Board of Appeals
February 26, 2008*



The Zoning Board of Appeals met in the P. Francis Hicks Room. The meeting was called to order by Chairman Nalette at 7:0 p.m. The following members answered the roll call: Richard Nalette-Chairman, Ronald Dew, Susan Lange, Ray Winn, John Massicotte, alternate Michael DeClement and Zoning Enforcement Officer Marc Melanson. Alternates Michael Fox and Ernie Wolff were not present.

Chairman Nalette seated Michael DeClement for this meeting in the absence of Ray Winn.

Item 3 Public Hearings – Variance Applications & Decisions

#08-5029 Request for a Variance for section 4.2 front yard set back at 168 Maple Street, for Frank O'Dowd.

Frank O'Dowd presented his application before the Commission. Mr. O'Dowd submitted his Certification of Notice to M. Melanson.

Mr. O'Dowd said that he is applying for a variance for a front yard set back because when he designed the house he intended to put stairs on the left of the porch. During construction, the excavator ran all lines and pipes on the left side of the porch and now it is difficult to dig down and put the footings in. Also when he drew the plans, he did not know what the final elevation would be and the stairs would have protruded 5 to 6 feet into the front setback. The only other way to do it is to run parallel to the house and that would protrude approximately 3.5 feet into the front set back. Either way he does it, it will protrude into the front setback. J. Massicotte clarified the position of the stairs on the drawings.

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 # 08-5029, from section 4.2, for a Front yard setback variance of 9 feet, for the purpose of putting the front stairs of the porch, as per drawings submitted, for the property located at 168 Maple street.

J. Massicotte asked M. Melanson why it says 16 foot variance on the motion while it is only a 9.5 foot variance. M. Melanson said that it was an error and the variance is only for 9 feet because he already has the .5 feet.

Unanimous. Motion passes. Reason: Reasonable Request.

#08-5030 Request for site approval for car dealership for motor vehicle licenses at 760 Main Street for Robert F. Zablocki.

Robert Zablocki presented his application. Mr. Zablocki said that he is licensed as general repair and wants to change it back to used car dealer. For the last 30 years that he has known about the property it has been a used car dealer for 28 plus of those years. He was across the street at West End Mobil with a general repair license and come up for renewal every two years. When the people left 760 Main

Street, it was about the time he sold West End Mobil and moved his license for general repair across the street. His license is up for renewal at the end of March and wants to revert it back to a used car dealer.

Chairman Nalette asked if it is a used car dealer can he repair autos. Mr. Zablocki said yes but as a general repair license he cannot sell cars under the dealership.

M. DeClement asked if there are any changes in the physical plan itself. Mr. Zablocki said no.

Chairman Nalette said that this is not technically a public hearing application. This is a sign off for a motor vehicle license that has to be signed off on by Zoning Board of Appeals per the CT law that keeps switching the sign off between ZBA and Planning & Zoning Commission.

Motion made by J. Massicotte and seconded by S. Lange to approve application #08-5030, for a Used Car Dealership License site location approval, and have the Chairman sign the site plan, for the property located at 760 Main Street.

Unanimous. Motion passes.

Chairman Nalette signed the renewal application and the Site Plan.

#08-5031 Request for a Variance for section 4a.2 front yard set back, 4a.2 side yard set back, 4a.2 rear yard set back and 4a.2 lot coverage for lots on St. Catherine Street.

Don Truskauskas, builder, presented the application. He submitted a picture rendering of the plan and his Certification of Notice.

Mr. Truskauskas said that they are proposing to build a single family cape home similar to the picture that he passed out to the Commission. He is under the understanding that he needs variances even though this was an existing lot that has been with the same owners since the 50's. The original intention was to use it as an existing lot and follow that regulation but were told that they could not go that route and needed a variance.

Mr. Truskauskas said that he is just the builder for someone who is purchasing the property. S. Lange asked about the proposed deck on the plan. Mr. Truskauskas said that it may be smaller than that depending on the layout. They are hoping to put one across the front as shown in the plan but it gets tight on the setbacks so they thought they would put it off to the side. There will be some type of deck. He spoke with M. Melanson today and they adjusted the setbacks. The only thing that they ask for that is not on the plan is on the side of the deck instead of going for the 15 foot side yard they went with 18.5 on that side and 19.5 on the other side so that they could have a set of stairs so that they didn't have to come back for another variance. These same setbacks are the same as another zone in Town so it is not out of the realm of setbacks in another zone that the Town has.

Chairman Nalette called for Public Comment.

Alice Richard, Catherine Street said that she is the neighbor and that there are only three houses on the street. This is a dirt road. The only selling point to her home is its seclusion and complete privacy she has a huge concern if this house goes up that she is not going to be able to sell her house. She has an 800 square foot home and she is self-employed and single and feels like she's been on Survivor this winter and she really needs to sell it. She offers her .60 acres and her house if the builder would like to buy the rest of the road. When she bought the property, she was assured that her lots landlocked everything and there was no way anyone was going to build around her. She asks that they let her get out from under and sell her place and then do whatever they want. She needs to get out of it before she loses it altogether. She doesn't understand the process but as she understands it this is a 75 x 100' lot and wasn't zoned for this house.

Chairman Nalette said that this is why the application was submitted because this zone has more requirements than you can get on a 75 x 100' lot. Mr. Truskauskas said that it was their contention that if this was an approved lot back when it was purchased then they have to go by the zoning when the lot was approved.

Ms. Richard said that the other big issue is the road. She had to bring in diesel fuel the past week and now the oil company won't deliver up there. The road is collapsing and some of the construction going on for golf course and condos has affected Debbie's well. She said that she doesn't know how it can take construction and that it is private and in the front there are underground springs. Mr. Truskauskas said that this doesn't have much bearing on this application. Ms. Richard said that all she wants an opportunity to sell her property. There was a brief discussion on the land between the two properties and surrounding properties per the map provided.

Pat Perenthi owner of the property asked to speak. He said that he has owned the property and paid taxes on it for 30 years. He said that 15 years ago he couldn't build because there was no sewer and was told that in the future the sewer would be going through and now it's there and he would like to pursue this with the variances. There are two houses on the street and there is enough room between those and it is all wooded in between. Mr. Perenthi said that across the street has been clear cut and he doesn't know who did it.

Ms. Richard said that the lot was clear cut is Brian Layton and she doesn't have visibility of where it's clear but if this house is built; she will lose visibility of the lake and also her privacy. Mr. Truskauskas said that based on the positioning, the house would not obstruct her view of the lake at all.

Chairman called for further public comment.

Mr. Truskauskas stated that his feeling is that this gives Ms. Richard 100 feet of privacy and there is nothing preventing Mr. Perenthi from clearing the land to sell the timber off and there are many other things that would diminish Ms. Richard's privacy and it may be a consideration, but it is a minor one. He further stated that as per the rendering given, the house is nice and would fit right in the neighborhood and would add to the value of it.

Ms. Richard reiterated her position and asks that she wants an opportunity to sell it over the next couple of months and just asks that she can get out from underneath this house before anything is considered.

M. DeClement asked what the square footage of the house is. Mr. Truskauskas said 1,200 to 1,500 square feet. It was stated that the dimensions on the print say 1,248. Chairman Nalette asked that the house that they are proposing does not have a walk out basement like the picture shows. Mr. Truskauskas stated that they haven't decided yet.

M. Melanson was asked if he has enough of a print to say "as per drawings". M. Melanson said that the as per drawings are what is included tonight because he has nothing else. Whatever he submits would have to look like this. Ms. Richard asked if it was a modular or pre-fab that they are proposing. Mr. Truskauskas said that they are proposing a modular at this time but they modular factory may not offer that model in the future.

S. Lange said that they don't have enough to go by on the house size in order to make an adequate judgment. Mr. Truskauskas said that the dimensions will be on the footprint dimensions on the house and are proposing to get it approved with a walk out basement and garage and if they don't do that then the dimensions will be lower and shorter and he doesn't see that as a problem. Their intentions are to do this design but the factory told him today that they may stop doing single family because the market is so bad. He said that they would like to put the deck in the front but felt they were asking too much to do that.

Chairman Nalette closed the public hearing.

Motion made by S. Lange and seconded by J. Massicotte to grant variance #08-5031, from section 4a.2, for a Front yard setback variance of 30 feet, a North sideyard setback variance of 17 feet, a rear yard setback of 9 feet, a South Sideyard setback variance of 16 feet and lot coverage of 10%, for the purpose of building a 26' x

48', 2 story house with an 8' x 48' porch on the north side, as per drawings submitted, for the property located at St. Catherin Street Assessors map 33, block 105G, Lot 91.

Discussion: R. Dew said that he felt this is excessive. The house is just too big for the lot and that they don't have enough information based on just the picture rendering. J. Massicotte said that they need to add a variance for 9 feet in the rear yard.

All opposed. Motion fails. Reason: Too excessive for the size lot

#08-5032 Request for a variance for section 4a.2 front yard set back, 4a.2 side yard set back, 4a.2 lot coverage at 304 ROW 1 for Peter C. Kores.

And;

#08-5033 Request for a variance for section 4a.2 lot width, 4a.2 lot coverage, 4a.2 front yard set back and 4a.2 side yard set back at 302 ROW 1 for Peter C. Kores.

Peter Kores and Attorney Robert Cohen presented the application. The applications are being presented together before the Commission. M. Melanson was given Certification of Notice on both applications.

Attorney Cohen said that this is the application that was withdrawn previously. They have worked out the problems that existed before. The give and take on the lot sizes have been equalized so that the amount coming from one lot is going back to the other lot. It is a perfectly even swap on the amount of land.

The sizes of the houses have been reduced. Attorney Cohen said that the pad size on the house that is going on the bigger lot is 26 x 34 and Mr. Daigle's is 22 x 26 and is slightly smaller in terms of pad size of the house that is going to be demolished. He continued to say that there were concerns about taking parking spaces away from the end of the cul de sac and that is not going to happen and they have actually created more parking. There are proposed driveways that will be able to hold several cars and there is proposed parking under the houses. Everything is in conformity to the neighborhood. Mr. Daigle's existing house is somewhat problematic in the construction. There will be no obstruction in anyone's view. They feel that they have addressed all of the things that the Commission expressed concern about before.

Mr. Kores said that he has submitted plans and briefly walked the Commission through the plans. Mr. Daigle's house is a story and a half with a walk out basement with a deck on the back. The existing house is an old country lake cottage and the new house will be a viable structure as a tax base and will be on his own property. And they will increase his parking. The second house is 34 x 26 and fits nicely into the bank and has more than adequate parking and under house parking.

Chairman Nalette said that he has a question on second page of map. It shows existing house to be removed and on the lake side of that there is another structure. Mr. Kores said that is a deck permitted by the town in 1984 without the benefit of survey. Chairman Nalette asked if he is going to take it down. Mr. Kores said yes.

R. Dew asked if the proposed house is being built for speculation. Mr. Kores said correct. Chairman Nalette asked if the existing Daigle house is a cottage. Mr. Daigle said that it is not year round. Chairman Nalette asked if they are going to change it to be a year round house. M. Melanson said that they do not have enough square footage for a year round house and it will be the same as it is now—a cottage.

Chairman Nalette asked if the second house is going to be a year round house. M. Melanson said that if it's two stories, then yes it will. There was a brief discussion on square footage.

J. Massicotte said that there is no year yard on the house. M. Melanson said that because of the configuration, the lot has two front yards and two side yards because of the cul de sac. Two side yards and no rear yard.

Chairman Nalette called for public comments.

John Mosur said that he has questions on the variances. He wanted to know the total square footage of proposed house going up. M. Melanson said that the first floor is 884 square feet with a second floor. Mr. Mosur asked how the house is going to fit into the scheme of the houses on this cul de sac. The average house is 600 square feet on .12 acres of land. These are very small cottages. The proposed house is almost 3 times the size.

Bob Leach stated that he has a house right on the border of this property that Mr. Kores intends to build on. He stated that it's a hill right there and they went through this a few month's back. The Town lawyer said that the builder had to build by the Town codes. Mr. Leach said that this is an odd shaped cul de sac. Also he has moorings on the dock and when this lot is developed the new owner's boat is going to be on top of his mooring. He stated that when he looks out the window and he will be able see the house. His house is recessed into the hill. Where his driveway comes up, he will be looking at someone's wheels going up by him when they turn into the driveway. Putting the house between the two is tight. There is all ledge they will need to be blasting and that will create a nightmare for the neighborhood. He also feels that the owner's will use the top floor up there and the house will tower over his house. He said that once the person gets a C.O., they will put two bedrooms up there. This is a builder making money. It is not like it's the owner sitting here and he wants to make it better. The lawyer and the builder are just going to make money on this thing. This was here at the Commission before and keeps coming back. It is what it is right now with the Daigle house. He is worried about construction and water run off. The house is going to be right on top of him.

Mr. Mosur said that he has sat in a few of these hearings about over congestion at the lake. It's not that he can't build something but it has to fit in. He has to do it smart. It is a congested area. There are parking problems and people get along right now.

Attorney Cohen asked to respond to the comments. He stated that Mr. Kores has had a boat moored in that area all summer and has not had any complaints. Everyone gets along because everyone wants to get along and there is no problem with Mr. Leach's frontage. They feel the house is conforming. There will be no blasting. They haven't brought blasting in front of the Commission for this. They also feel that blasting in a neighborhood is not appropriate and therefore would use a hammer if needed. They have reduced the house from the last application and have planned the smallest year round house that can be built. They have planned for the minimum they can put on the lot and still have it a year round house. The lot is almost twice as big as Mr. Daigle's lot and that's why the house can be larger. They will also attempt to do the least bit of work in the summer so as not to interfere with people's enjoyment of the neighborhood.

Mr. Mosur said that he would like to address blasting. He said that there was a lot of blasting when sewers went in and they even had damages to their homes.

Mr. Leach said that he would like to address the mooring. He said that it was actually his mooring that Mr. Kores boat was tied up to and he was trying to be a good neighbor. Mr. Kores didn't tell him anything about his plans or why he bought the lot. He just got a certified letter even after he was nice enough to let him use his mooring.

M. DeClement asked regarding the note that the new property line is subject to agreement between Daigle and McCallum and he doesn't see that name anywhere else. Attorney Cohen said that McCallum is the predecessor of title and Edinberg now owns it. They will need a boundary line agreement between Edinberg and Daigle.

M. DeClement asked for clarification on what the contour lines represent. After a brief discussion, it was clarified that the contour lines are not representative of the actual elevation but there is a different basis these contour lines actually represent. It is not necessarily the elevation above sea level.

M. DeClement wanted to state that although he is not a geologist there is a lot of ledge there between the proposed house and Mr. Daigle's house. Also when they move Mr. Daigle's house to the new location, then his house which is now about 30 feet away from Mr. Masure's will now be 10 feet away. He further said that Mr. Leach's

house is a one story house and approximately 600 square feet. They are stating that the new house conforms to the neighborhood when in fact it is two stories and close to 1,600 square feet. He pointed out Zoning Regulation 4.a.1.12 Section E.

Mr. Kores said that he doesn't believe that Mr. Leach's house is limited to 600 square feet and there is a cottage with it and his property was built on his property line which brings it closer to theirs. This is three lots that are co joined and have been in the same ownership since the 20's and it might be true that the average lot size is about a tenth of an acre, they are 3 or 4 times that and there is a house at the top of the hill that does not show on this map that is probably about 3,000 square feet. And to the left of that, on the lake side going south there are a number of very large houses. He does not believe that anyone will go on the top floor and make rooms up there. That is all speculation on Mr. Leach's part.

M. DeClement asked if the proposed driveway has any dimensions and also up the right of way is there a proposed driveway. Mr. Kores said yes, a bituminous driveway apron to Town standards that gives access to the main living flooring and there is a square footage in the summary of the zoning requirements in the block on the left hand side. Mr. Kores said that Pat Hague (Public Works) preferred that the aprons be bituminous.

R. Dew said that he is looking at the contours of the paved driveway and there are no contours shown on Mr. Leach's driveway and it appears the proposed driveway is going to be 6 feet higher than the contour line into the stone wall on Mr. Leach's property two or three feet behind his house. Mr. Kores said that there is a proposed retaining wall at 4 foot high max. It is an upward sloping area as it is.

J. Massicotte noted that there are no stairs off the deck. Mr. Kores said that there are stairs.

Attorney Cohen wanted to add that the roof is a 6 pitch and it would be impossible to get a room up in that area upstairs area as Mr. Leach stated.

J. Massicotte asked if the driveways will be paved. Mr. Kores said that no, just the aprons will be paved.

R. Dew asked if there is a hardship. Attorney Cohen stated that they think there are several hardships. Mr. Daigle's house was built on the wrong lot and there is a land swap to be made to decrease the conformity. The other hardship is that without the variances there wouldn't be any houses built at all on these lots. Because of the number of lots and the size of it, it is larger than most of the lots in the neighborhood and the houses would be in conformity with the other houses in the neighborhood. They have attempted to minimize the non-conformity but without the variances there would be no house at all.

J. Massicotte asked about runoff to the lake on property. Mr. Kores stated that he doesn't think that they will increase the run off from the property. J. Massicotte asked about the runoff in terms of from the house. Mr. Kores said that when it is all landscaped, it will pick up more of the water that was running there before it gets to the lake and absorb more of that than was absorbed before.

J. Massicotte asked where the footing drains are going. He said in order to get up to the road they must pump it up. Mr. Kores stated that the footing drain will go into a pool of stone that is shown on the map.

Mr. Daigle said that he wanted to address the run off. Because there is a lot of rock and really not any penetrable earth he gets run off now and thinks that any kind of construction with drains will be a better situation than he has been enduring for the last 40 years.

Mr. Leach said that the driveway aprons are out of tar and there is no sense putting a tar apron down because it will be gone in one winter. Also, he states that he has a retaining wall about 100 years old with the retaining wall and driveway going above there is not way that it can support that. He further said that the wash out from that driveway is going to come right into his house. His lot is level and it may be a foot above the waterline and this may give them an idea of how big the hill is that Mr. Kores is building on.

Attorney Cohen said that he thinks all the elements are there to prove that without the variance this lot would be unbuildable and the house is conforming to the neighborhood and the safeguards are there to protect everyone else. And they will take any reasonable restrictions on the construction of this in order to move it ahead.

Chairman Nalette closed the public hearing.

Motion made by M. DeClement and seconded by S. Lange to grant variance #08-5032, from section 4a.2, for a front yard setback variance of 21 feet, a north sideyard setback variance of 28 feet, a south sideyard setback variance of 28 feet and lot coverage of 15.7%, for the purpose of building a 22' x 26', 2 story house with a 12' x 14' deck on the rear, as per drawings submitted, for the property located at 204 ROW 1, East Wakefield Blvd.

Discussion: Chairman Nalette stated that Mr. Daigle's problem could be solved another way and he feels this overly contributes to the congestion of this area around the lake. R. Dew agrees and a side yard of 6.5 feet and roof overhang of a foot, there is nothing there. M. DeClement said that he is worried about increasing the coverage by 100%. You are going from the 15% allotted to 30% on Mr. Daigle's house. It's a big increase.

All opposed. Motion fails. Reason: Self-imposed hardship.

#08-5033 Request for a variance for section 4a.2 lot width, 4a.2 lot coverage, 4a.2 front yard set back and 4a.2 side yard set back at 302 ROW 1 for Peter C. Kores.

Motion made by M. DeClement and seconded by S. Lange to grant variance #08-5033, from section 4a.2, for a northwest front yard setback variance of 20 feet, a southwest frontyard setback variance of 20 feet, a southeast sideyard setback variance of 20 feet, a north sideyard setback variance of 18 feet, and lot coverage variance of 10.1%, for the purpose of building a 26' x 34', 2 story house with a 5' x 8' front porch and a 12' x 24' deck on the rear, as per drawings submitted, for the property located at 302 ROW 1, East Wakefield Blvd.

Discussion: Chairman Nalette stated that he has the same comments and same discussion as #08-5032.

All opposed. Motion fails. Reason: Self-imposed hardship.

Item 4. Approval of Minutes of January 22, 2008

M. Melanson said that there are two corrections to the January 22, 2008 minutes. The location of the meeting was the blue (Lee Ann LeClaire) room and the clerk's hours were incorrect. The hours should read 5 hours and not 10 hours.

Motion made by R. Dew and seconded by M. DeClement to accept the minutes as amended. All in favor. Abstain: S. Lange. Motion passes.

5. Old business:

None.

6. New Business:

None.

8. Bills Presented:

Motion made by R. Dew and seconded by J. Massicotte to approve 3 hours for the clerk.
Unanimous. Motion passes.

9. *Correspondence.*

None.

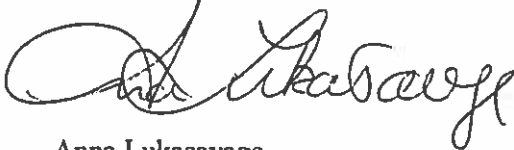
10. *Discussion with ZEO*

None.

J. Massicotte asked if they are going to increase the application rates. M. Melanson said that they are waiting for the Chairman to send out a letter.

Motion made by S. Lange and seconded by R. Dew to adjourn at 8:46 p.m. Unanimous.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Anna Lukasavage', written in dark ink.

Anna Lukasavage