TOWN OF WINCHESTER – CITY OF WINSTED

Town Hall – 338 Main Street

WINSTED, CONNECTICUT 06098

Minutes of Meeting
Zoning Board of Appeals
August 28, 2007

The Zoning Board of Appeals met in the P. Francis Hicks Room. The meeting was called to order by Chairman Richard Nalette at 7:05 p.m. The following members answered the roll call: Richard Nalette – Chairman, Ronald Dew, Susan Lange, John Massicotte, Ray Winn, Alternates Michael Fox and Michael DeClement and Zoning Enforcement Officer Marc Melanson. Alternate Ernie Wolff was absent excused. Also present was Town Attorney Kevin Nelligan.

Item 3 **Executive Session: Pending Litigation – Valigorsky vs. ZBA**
Motion by R. Winn **to go into executive session at 7:07 p.m.** Second by S. Lange. Vote: all in favor – **motion carried unanimous.**

Motion by Chairman Nalette **to come out of executive session at 7:25 p.m.** Second by R. Dew. Vote: all in favor – **motion carried unanimous.**

No action taken on executive session.

Item 4 **Public Hearings – Variance Applications & Decisions**

#07-5005 Request for a Variance from Section 4a.2 East front yard set back, 4a.2 South front yard set back, 4a.2 Side yard set back and 4a.2 Lot coverage at 111 Shore Drive for Anthony R. Zacchio & Carol B. Zacchio *(postponed from the July Zoning Board of Appeals meeting)*. Attorney Mark Jones, representing the applicant (also present), noted the lot location. Chairman Nalette asked when the last application for this property was turned down. Mrs. Zacchio said 11/28/06. Attorney Jones explained the lot is 52' X 118' deep, is at the intersection of Wilcox and Shore Drive, vacant and never built on; public water & sewer is available; current owners have made significant improvements to the landscape; applicant currently owns 114 Shore Drive, directly across from this lot, and had a single family house on it; the applicant plans to move the house to 111 Shore Drive as a way to save the house and build a new one as a variance was permitted months ago; the house will be consistent with others in the neighborhood and due to location of the lot at the intersection of 2 streets, neighbors will not be impacted in terms of views to the Lake; there's large outcroppings of rock on the property which would be almost impossible to move them so the house was moved somewhat closer to the street; the lot has 2 front yards; seeking a variance to the north of 22.5', a front yard setback on Shore Drive of 27.5', a front yard setback on Wilcox Avenue of 37.5' and a 1% lot coverage variance; the house covers 14.7% but the required blacktop driveway apron may just exceed 15% so asking for 1%; the Board has dealt with similar situations (gave examples of the Carnevelini, Stetson, Synott and Cusson properties); this is a reasonable request and in keeping with what the Board has granted in the past; the resulting structure will have no impact on the neighbors and is in character with the neighborhood; submitted a letter of support from Mr. & Mrs. Wonder in addition to the list of 10 or 12 people in support in the file. R. Winn asked where the property is located and who the neighbors are on both side. Attorney Jones explained this is on the Lake side and there are no neighbors on the Wilcox side. Mrs. Zacchio said there's no house directly in back and a house on the north side behind the bushes. Chairman Nalette verified Joey Barber, III

owns the lot next to this. M. Melanson distributed a copy of a letter from Mr. Barber. Mrs. Zacchio showed pictures of the abutting property and neighbors; explained the property is unique due to front yard setbacks but those are also an asset. M. Fox noted Mr. Barber's letter brings up an issue regarding the posting of the sign. Mrs. Zacchio noted the sign was up and is in some of the pictures. Chairman Nalette pointed out a note at the bottom of Mr. Barber's letter indicates to disregard that issue. M. Fox complimented Attorney Jones' presentation and asked what the hardship is regarding lot coverage percentage. Attorney Jones said except for the size of the lot, denying the variance on the basis of that alone effectively takes property away from them; calculations of the footprint of the house vs. the lot size comes out to 14.7% and might be able to prove don't even need that; felt a 1% variance was insignificant. M. Fox asked where the rock outcroppings/problems are. Mrs. Zacchio noted their location in the photos. M. Fox said to that extent, how did those effect the placement of the house with respect to the setbacks. Attorney Jones said the proposed house is as centered as possible but we pushed it toward the street. M. Fox verified there will be a full basement; asked if the rock is larger underneath the earth. Mrs. Zacchio explained the lot was very rocky, asked the telephone company to move the wire which was into the rock; noted one rock was straight down and another could not be budged by the contractor; by moving the house forward, gives the Barber property more space. Discussion regarding locating the rocks on the plans. R. Dew asked about the use of the house; verified the house on the waterfront will be moved across the street rather than tear it down so will be living in the new house being built on the waterfront that variances were granted a couple of months ago; what are the intentions with the house being moved across the street if not going to live in it. Mrs. Zacchio said intend to live in it while the new house is being built and then more than likely will sell the house to help pay for the new house.

Public comment by John Holman, Julia Nightingale-Borne, Brian Hales, Peter Cisco and Jennifer Speziale. No further public comment – public hearing closed.

Decision: **Motion** by R. Winn **to grant variance #07-5005 from Section 4a.2 for an east front yard setback variance of 27'5", a south front yard setback variance of 37'6", a north side yard variance of 22'6" and lot coverage variance of 1% for the purpose of building a 24'7" X 30', 2-story house with a garage under and an 8' X 10' front porch with stairs as per the drawings submitted for the property located at 111 Shore Drive for Anthony R. Zacchio & Carol B. Zacchio.** Second by R. Dew. *Discussion:* Chairman Nalette said he has listened to the attorney comments but disagrees; no one would allow this to exist in the beginning and should not be perpetuated to add to the density with no real hardship. Vote: all opposed – **motion denied.** Reason: no hardship presented.

#07-5006 Request for a Modification of Variance #2442 at 182 Shore Drive for Steven Guarino *(postponed from the July Zoning Board of Appeals meeting).* **Motion** by R. Nalette **to withdraw variance #07-5006 for the property located at 182 Shore Drive for Steven Guarino.** Second by R. Winn. Vote: all in favor – **motion granted.**

#07-5007 Request for a Variance from Section 5.2 south side yard set back at 367 Platt Hill Road for Peter Gigliotti. Scott Bayne, representing the applicant, explained they are requesting a side yard setback variance due to an engineering mistake regarding the fireplace which is encroaching on the 35' side yard setback by 1.5 feet; the hardship is it can't be picked up and moved; the house was originally set 37.1' off the side yard and the 2' mistake was discovered when the as built was submitted. R. Winn verified the fireplace is already built. Mr. Bayne explained construction stakes were located on the property and a 2' mistake was made. Chairman Nalette verified the same engineer was used.

No public comment. M. Fox verified the only intent is to bring the house within a variance compliance. Public hearing closed.

Decision: **Motion** by R. Dew **to grant variance #07-5007 from Section 6.2 for a south side yard setback variance of 2' for the purpose of building a 2-story masonry fireplace for the property located at 367 Platt Hill Road for Peter Gigliotti.** Second by S. Lange. Vote: all in favor – **motion granted.** Reason: reasonable request.

#07-5008 Request for a Modification of Variance #06-4970 at 355 West Lake Street for Sarah & John Munley. Mr. Munley said on 8/28/06 they received an approval by the ZBA to construct a new house; upon final plan evaluation, it was discovered the architect made a slight mistake on the deck and was 8' short in order to square off the house; the other thing is, as an EnergyStar house, it was pointed out the hip roof would preclude us from 150 s.f. of solar panels which are being put on the side toward the Lake and would impact the clean energy part of it so are requesting a gable roof; a third thing is requesting to switch a deck and screened porch which are occupying the same space, just switching sides. Chairman Nalette noted the south elevation shows the relocation of the sunroom. Mr. Munley explained that was the switch – no impact on the footprint. R. Winn asked if the house is built yet. Mr. Munley said they are about to build it; just finalizing the plans. M. Fox said it looks like the deck will fit within that portion of the house; doesn't look like it requires a modification at all. Mr. Munley said it is a change and was told when the approval was granted that if there are any changes, must come back. Chairman Nalette explained every variance is granted with a set of prints. S. Lange asked if the height of the roofline on the Lakeside is changing. Mr. Munley said no. M. Fox verified just adding surface area for the solar panels.

Public comment by Susan Beckwith. R. Winn asked how far that will extend. Mr. Munley said just to square off the house – 7½' at the most. M. Fox verified at the very end of the house. No further public comment - public hearing closed.

Decision: **Motion** by J. Massicotte **to grant variance #07-5008 to modify variance #06-4970 to extend the rear deck by 8' to relocate the sunroom and to change the roof from a hip roof to a gable roof as per drawings submitted for the property located at 355 West Lake Street for Sarah & John Munley.** Second by R. Winn. *Discussion:* M. Fox said he didn't see any real modifications. Vote: all in favor – **motion granted.** Reason: reasonable request; following the scope for the original variance granted.

#07-5009 Request for a Modification of Variance #05-4913 at 123 East Lake Street for Ken & Georgeanne Farrar. Richard Crane of Kemper Associates, representing the applicant, explained the property was bought with an existing variance and plans for an 87' X 48', 1-story house inclusive of a 7' X 36' deck, walkout basement and attached 24' X 36' 1-story, 3-car garage; proposing to reduce the size of the footprint, eliminate the walk-out basement and move the house down, create a 1½ story house with full basement, an inclusive 2-car garage instead of 3-car; drop the roofline down relative to the neighbors to impinge less on the neighbors views; as a separate matter, asking to build a 20' X 40' accessory outbuilding and asking for a variance to get additional garage doors, total allowed per lot is 3 and we're asking for 5. Chairman Nalette explained to attendees the HLD district allows only 3 garage doors. M. Melanson asked if this is a garage or a barn. Mr. Crane said it's not going to be a garage; it's a storage building they can put boats and maintenance equipment in. M. Melanson noted the regulations allow only a 3-car garage and a barn does not fall into that; the type of door doesn't matter; don't need a

variance for how many garage doors they have. J. Massicotte noted the A2 survey is calling it a garage. M. Melanson explained the A2 survey is what was granted before. J. Massicotte verified it will now be a barn and not a garage. M. Melanson said he reviewed the minutes and tapes from that meeting and it was brought up about the 3-car garage and the guy said they would remove 1 door and use it as a storage/barn. J. Massicotte said put 1 door in that barn. M. Melanson said still use it as a barn not a garage; they can build the barn without a variance. J. Massicotte said right, with 1 door. M. Melanson said no, as many doors as they want; they are not here at all for that barn because it meets all the regulations as long as they don't use it to store cars. J. Massicotte said the A2 survey says it's a garage. R. Winn agreed. M. Melanson said that's the old survey; it shows the house in different areas, shows a bigger house; that's the survey that was approved for the original variance, only supplied it with this paperwork. J. Massicotte said don't believe there was a 3-car garage on the original one. M. Melanson distributed copies of the original variance that was granted. Chairman Nalette verified the applicant is here to move a smaller house to a different location on the lot. M. Fox verified the smaller house is showing 2 bays on the garage where the original was showing 3 bays. Chairman Nalette verified there is a site plan that shows the new house, new location. Discussion regarding the need for a clear site plan. M. Fox asked about the distance from the terrace to the Lake. Chairman Nalette offered to table the application for 30 days to get proper maps and label the barn a barn.

Public comment by Joanne Tierney. Discussion regarding the next meeting of the Zoning Board of Appeals.

Decision: **Motion** by R. Nalette **to *table* variance #07-5009 to modify variance #06-4913 to move the house to 52' from the rear lot line and to change the house to a 65' X 48' 2-story structure with 1,115 s.f. on the 1st floor and 1,267 s.f. on the 2nd floor and inclusive of a 21' X 24' garage, a 6'8" X 15' front porch, an 8' X 21'6" screened porch, a 8' X 21'6" rear deck and a 4' X 21'6" upper balcony on the rear as per drawings submitted for the property located at 123 East Lake Street for Ken & Georgeanne Farrar**. Second by R. Winn. Vote: all in favor – **motion granted.**

#07-5010 Request for a Variance from Section 4a.2 front yard set back, 4a.2 side yard set back at 711 West Wakefield Boulevard for Marlyn Cohen. Peter Kores and Robert Cohen representing the applicant. Mr. Cohen explained the ownership; seeking a hardship variance/area variance to adjust the mal-adjustments and inequality that may exist between lots; the practical necessity is the existing house is obsolete (i.e. – electrical, plumbing, dirt basement and native stone/concrete foundation is crumbling - the prior owner put haybales around the sides to stabilize the foundation); the situation is substantial, serious and compelling; poorly constructed, ugly; the proposed house will be in harmony with the neighborhood, not contrary to the public good; the water is from a well located 148' from the house; sanitary sewer is available; not seeking the highest and best use, but any other use would be non-conforming due to Highland Lake District; this is a residential use for a residential neighborhood; lot is .58 acres which is bigger than many lots in the Highland Lake District; the physical characteristics of the lot may limit the location of the house including large outcroppings of ledge; seeking to put the house back where the existing house is; no congestion or traffic hazard; replacing a 1-unit house with a 1-house unit, reasonable use with minimal effect on neighbors; there will be no view effected because neither neighbor has a view through the existing house; seeking minimal variance, no impact on neighbors and the hardship is the existing house is obsolete.

Mr. Kores explained they intend to tear down the existing house, build new house and add a few inches to length and width of the footprint; asked for more of a variance than really need; hold the side line to the north at 19.8' and 65' of side yard to the south on which we would increase the width of the existing building by 1' and hold the front line where the original and existing structure and go back less than 1' so it's 48' +/- to the rear; will be a 2-story house within the 30' maximum for the height. R. Winn asked if the existing shed will be removed and the 14' X 14' deck is to be built into the footprint; where is that. Mr. Kores explained the existing shed has a perimeter deck; would like to leave the shed. Chairman Nalette said if the plans say you're going to move it, you're going to move it. M. Fox added to the extent that it doesn't increase the variance. Mr. Kores said will leave it as it says on the print. R. Winn asked if it's connected to the house. Mr. Kores explained there's a little wooden walkway that connects to concrete stairs. R. Winn verified that will be removed. M. Fox noted the proposed deck toward West Wakefield Boulevard seems to be a non-increase in the variance, just fill in the existing footprint with the exception of the deck. Mr. Cohen said it overhangs about a 1' or so. M. Fox asked how many stories. Mr. Kores said 1½ stories. M. Fox verified Cape Cod style. Chairman Nalette asked if the foundation and house are falling down, why can't the house be moved to where it is in conformance as the building envelope is large enough. R. Winn verified everything will be gone. Mr. Kores explained they were hoping to scrap out the old and put the new in its place; noted it is in ledge and on ledge. S. Lange said the hardship is moving the house to conform to the zoning regulations. M. Fox asked what the hardship is to increase the footprint by a foot. Mr. Cohen noted virtually inches; when you form up a house, usually it's in increments of 2 or 4; virtual inches is not a big deal. M. Fox said it is a big deal, can it be decreased. Mr. Cohen said the problem with that is meeting the minimum size of the regulations. M. Fox said there is plenty of minimum size. Chairman Nalette asked if there is a compelling reason not to put it back there. Mr. Cohen said other than ledge, I guess not. R. Dew noted the floor plans show the decks one size and say another size; says 8' X 20' but shows 30' wide on the front and rear. Mr. Cohen said the back deck is 12' X 30'; the front is not a 30' deck. Mr. Kores said will stick with the site plans of 12' X 24' and 8' X 24'. Discussion regarding the discrepancy, marking the print to match the site plans and consistency of matching the motion with the plans. M. Fox asked which is the back and which is the front yard. R. Winn noted the side facing West Wakefield is the front; verified the sizes of 12' X 30' & 8' X 24'. J. Massicotte verified the requested front yard, side yard, etc. Brief discussion regarding the requested variances. M. Melanson explained he got a ruling from Planning & Zoning Commission which issued a ruling that decks and anything unroofed is not considered part of the setbacks. M. Fox said that is incorrect. M. Melanson said regardless, that is the interpretation the Board got of the regulations from the Planning & Zoning Commission. M. Fox said the Board is not bound strictly by Planning & Zoning. M. Melanson said but as far as setbacks, they interpret the regulations they write and they say it's not required. M. Fox said he doesn't agree they are the final arbiter of what something means to the extent that other officials have interpreted things which I'm not in agreement with either. Chairman Nalette said Marc has to go by what Planning and Zoning says for the time-being. J. Massicotte asked about the existing shed. M. Melanson explained the shed will be removed and be an unroofed deck. Chairman Nalette verified the shed/deck was not included in the variance because of Planning & Zoning. Brief discussion regarding the inclusion of decks in the variance and going to Planning & Zoning. J. Massicotte asked about the 3-stories. M. Melanson explained the basement and 2 stories. J. Massicotte verified the height will be 24' to the middle of the roof line from the average grade. J. Massicotte asked where the chimney is. Mr. Kores explained the shed/deck side. M. Melanson noted that is not considered by Planning & Zoning as in the setback. M. Fox expressed concern that the fireplace may intrude on where the walkway is. Discussion of the chimney location and

variances needed. M. Melanson distributed copies of the letter from the Planning & Zoning Commission. Extensive discussion followed regarding the letter.

Public comment by Chester Zuchowski. No further public comment - public hearing closed.

Decision: **Motion** by S. Lange **to grant variance #07-5010 from Section 4a.2 for a north side yard setback variance of 15.2' and an east front yard setback variance of 38.1' for the purpose of building a 30' X 36' 3-story residence with a 12' X 30' deck in the west front yard and an east front yard 8' X 24' deck and an 8' masonry fireplace on the south as per drawings submitted for the property located at 711 West Wakefield Boulevard for Peter Kores.** Second by J. Massicotte. *Discussion:* M. Fox said an increase in non-conformity is not a real hardship with respect to the decks; building within the footprint is a good idea. Vote: all in favor except R. Nalette (opposed) – **motion granted.** Reason: reasonable request.

Break called at 9:17 p.m. • Meeting reconvened at 9:27 p.m.

#07-5011 Request for a Variance from Section 4a.2 lot size, 4a.2 front yard set back and 4a.2 lot coverage at 302 ROW 1 for Edinburg LLC. Peter Kores and Robert Cohen representing the applicant. Mr. Cohen explained the ownership situation; noted the abutting property (next on the agenda) will be talked about as well; lots 311 & 312 are owned by Harris Daigle (also present) and lots 308, 309 & 310 are owned by the LLC; years ago an attorney from Burlington bought lots 308, 309 & 310 at a tax sale; when researching the lots, discovered the house owned by Mr. Daigle was over the line; when the properties were being sold after his death to Edinburg Properties, a discussion was had with Mr. Daigle and his attorney and though no resolution was reached as to where the house was or why the house was there, but a resolution was reached as to how to solve the problem; agreed to tear down Mr. Daigle's house, which is in worse condition than the house previously discussed, and the best way to solve the problem was to build him a new house on his lots with a slight transfer of land on the cul-de-sac and land on the water; the reason for that was there was no area for parked cars in the cul-de-sac; we would undertake the expenses of bringing this through the variance and build the house for him and of course build the house on 308-310; both have frontage on the Lake; the information on the previous application is applicable to this; the sizes of the house, 20' X 26' with a 12' X 14' deck for Mr. Daigle and a 30' X 36' with a deck for lots 308-310; houses are consistent with the houses in the area; the hardship is that these are odd-shaped lots; told this is the Jean Lord Cove, the road to access it is ROW 1; there is a house at the corner being renovated by Mr. Leach; the characteristics are in conformity with the neighborhood, not interfering with anybody's views, the use is consistent with the neighborhood, the lots are unique in the size, shape, contour, slope; there are outcroppings of rocks where houses need to be built and can understand why Mr. Daigle's house was built where it is; residential use and seeking for residential use; no impact on the neighborhood and reasonable use of the lots; sanitary sewer is available for both houses; Mr. Daigle is using water from the Lake with a ultraviolet system to kill bacteria but a well will be drilled for the house on lots 308-310 which will improve Mr. Daigle's water; not seeking highest and best use but seeking any use in this particular neighborhood because of the size of the lots; effect on the neighbors is absolutely minimal and seeking reasonable use of the property.

Mr. Kores displayed a map of the properties indicating the perimeters of the lots owned by Mr. Daigle and Edinburg; the house was built on both lots prior to Mr. Daigle purchasing it; would like to transfer approximately 20' of frontage so Mr. Daigle has

easier access and parking from the cul-de-sac by giving him about 24 & 20 from our abundant frontage on the cul-de-sac and he's transferring approximately 9' & 8' of his abundant frontage on the water; the building and driveway coverage of 21% includes the unpaved driveway so it's actually about 12% in coverage of the actual lot sizes; the building heights will be under the 30' maximum. M. DeClement asked for a street address. Mr. Cohen explained the location; noted there is a very large concrete retaining wall on the Lake side. Brief discussion followed. M. Fox asked why a bituminous apron is needed off a gravel right-of-way. Mr. Cohen explained you don't; the bituminous is off ROW 1 coming off East Wakefield. Mr. Kores explained there is a bituminous apron at East Wakefield that ends and then starts again somewhere on the right-of-way. M. Fox noted it says existing. Chairman Nalette asked who owns the cul-de-sac. Mr. Cohen said it is not us; unknown who owns it. J. Massicotte asked what the hardship; you bought the lot knowing it was a non-building lot. Mr. Cohen said when they bought the lot we had no idea there was an encroachment by the neighbor. J. Massicotte said not talking about the neighbor; noted the lot is not big enough to put a house on. Mr. Cohen explained it was a pre-existing lot; aware of a state statute pertaining to pre-existing lots and a regulation in Town in regards to non-conforming, un-built lots and on the basis of that, thought it was a reasonable use of the lot to put a house on. M. Fox verified these are uncut lots and they pre-existed zoning regulations; asked how long had Mr. Daigle's house existed on the lot. Mr. Cohen said that is unknown; the solution is simpler than litigation; hardship is the odd-shape of the lots and existing encroachment. Chairman Nalette said none of the problems were created by Zoning. Mr. Cohen said the inability to build a house on the existing lot is a hardship created by Zoning. J. Massicotte asked if the applicant would have a problem changing the size of the house to match Mr. Daigle's. Mr. Cohen said his house is out of conformity with the houses in the neighborhood and we are seeking to build houses in conformity with the neighborhood.

Public comment by John Mosier, Mike Mosier and Bob Leach. Mr. Cohen commented off-street parking has been addressed; Mr. Daigle has 4 off-street parking spaces and the Edinburg lots should have at least 6 off-street parking spots; the frontage is 30' and will change to 40.10 on the lake and the existing dock will be back in front of inland wetlands although not perceiving to change the dock; the size of the house is consistent with the neighborhood and is 2,300 including the basement. Discussion regarding the footage on the plans, property encroachments, parking. No further public comment - public hearing closed.

Decision: **Motion** by R. Nalette **to grant variance #07-5011 from Section 4a.2 for a north side yard setback variance of 12.6', a southeast side yard setback variance of 17.3', a southwest front yard setback variance of 32.3', a northwest front yard setback variance of 29.9' and lot coverage of 12.9% for the purpose of building a 30' X 36' 2-story residence with a walkout basement and an 8' X 30' deck in the rear as per the drawings submitted for the property located at 302 ROW 1 for Peter Kores.** Second by R. Winn. *Discussion:* M. Melanson noted the site plans again don't match as far as the deck is concerned; site plans show 12' X 30'. M. Fox expressed concern the conveyance has not been completed between the parties and the house is not torn down; suggested a condition of those 2 things. M. Melanson felt that would be part of the variance anyway because the lot size is being reduced and if there is the other structure on it, the house can't be built. M. Fox said by requesting the variance before the conveyance may be putting the cart before the horse because in theory a variance is being requested on something they don't own. Chairman Nalette reviewed a proposed condition; said this is adding congestion; not addressing an existing house; people have use of their property. R. Dew agreed. Vote: all opposed – **motion failed**. Reason: No hardship.

#07-5012 Request for a 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 304 ROW 1 for Daigle Harris. Peter Kores and Robert Cohen representing the applicant. Mr. Cohen explained the existing house encroaches on the neighbor; intend to tear down the existing house and build a house consistent with the neighborhood; will not effect views, gains 4 parking spots, size is comparable to existing houses, use is consistent with the neighborhood; situation is unique because it needs a better place, site is difficult to work with because it lacks off-street parking and location in the cul-de-sac; referred to Section 10.5 – sewage is available; existing water is well and consistent with Section 10.5.1.

Mr. Kores explained the transfer of the property will increase the size of the lot by approximately 300 s.f. and give Mr. Daigle frontage on the cul-de-sac which he has very little now because encroachments by the stairway of the Mosiers; it would replace a piece of sub-standard housing on cinderblocks perched precariously on the top of the cliff into a contemporary, code-meeting style the 20th century prefers; coverage will not be in excess of the standards; would be a fine thing to do. Chairman Nalette verified the prints are very basic and they are okay with Marc. M. Melanson said he got all the measurements off it; has all the sizes, roof pitch but as far as doors, windows, it's acceptable. M. Fox verified the applicant is attempting to reduce the non-conformity. S. Lange verified this will have a full basement; asked if there will be blasting. Mr. Kores said it is fractured rock; anticipate no blasting; should be no problem excavating it. J. Massicotte noted the plans for the new house show no footing drains, roof drains, etc. Mr. Cohen said there are revised prints that may or may not show that. M. Melanson said those locations are predetermined by wetlands due to the proximity to the Lake. J. Massicotte verified the land will change hands before any work is done. Mr. Cohen said we are okay with that as a condition; there is a draft with the specifics. M. Fox noted the transfer of properties will make the existing shed shown on the drawing a non-conforming shed in that it's ½ on and ½ off. Discussion regarding the shed on both properties. R. Dew noted the plan for this application shows 2 sheds. M. Fox stated the one previously non-conforming is going to stay non-conforming and the one where once the property changes hands becomes non-conforming. Mr. Kores said it is pre-existing. M. Fox said that shouldn't be an issue. R. Dew noted the plan shows 1 shed and the other shows 2 sheds. Mr. Daigle explained 1 shed holds the water pump and will be taken down and the other is marked wrong; it is inside the property line. M. Fox verified that is the one to the north.

Public comment by Mr. Mosier.

M. Melanson said the only way this variance can be granted is to modify the lot size of the other because they are reducing the lot making a non-conforming lot more non-conforming; not an even swap. S. Lange asked how that is done since that was failed. M. Melanson noted it was never stated if this was year-round or a cottage; a year-round doesn't fit the footprint and so if they are moving it, have to get a variance for that; the existing shed would have to be removed or given a variance because it has to be a minimum of 5' from the property line which it won't be if they convey the land. M. Fox asked how big for a year-round. M. Melanson said 1-story has to be 950 or 2-story it must be 675 on the 1st floor. Chairman Nalette verified this does not make it. M. Melanson explained it is 572 so it's considered a seasonal cottage. Chairman Nalette offered the applicant the opportunity to extend this application 30 days to bring back the right paperwork. Mr. Cohen asked what has to be done with the other application in order to make this work. Chairman Nalette explained the proposed 22' X 26' house does not meet the full-time s.f. requirement. Mr. Cohen asked how you differentiate. M.

Melanson explained between October and November can only be there like 10 days. Chairman Nalette said what has happened with the land swap was to make the other 2 lots more non-conforming so need an application for a variance for this to happen. Mr. Cohen verified that if this application was amended so the swap were even, we wouldn't have that problem. Chairman Nalette explained anytime you reduce 308 & 309 you are creating a lot that is more non-conforming. M. Melanson explained instead of giving them more land, give them the same amount they are taking so you are not reducing those lots. M. Fox said the problem is you are taking more property from 310 than 309. M. Melanson said those lots are merged under regulation, are on one field card; that would solve the problem but the problem would be have to have it drawn here so they know the setbacks. Mr. Cohen asked if they come back at the next meeting with it re-drawn would that be acceptable. Chairman Nalette offered to table this to the next meeting for consideration. M. Melanson said the problem with that is if this is kept open, don't have to re-notify it and if it is being changed for seasonal, we're adding to it; this should be denied without prejudice so they can come back with a separate application with the right numbers and can be legally noticed in the paper properly. M. Fox verified they would have to pay the application fee again. M. Melanson said the application fee covers the legal notice. Discussion confirming the necessity of abutters being re-notified by mail. Chairman Nalette offered the option of withdrawal vs. deny without prejudice. Mr. Cohen withdrew his application.

Decision: **Motion** by R. Nalette **to accept the withdrawal of variance #07-5012 for the property located at 304 ROW 1 for Daigle Harris**. Second by R. Dew. Vote: all in favor – **motion granted.**

#07-5013 Request for a Modification of Variance #06-4986 at Rowley Street Ballfields for Town of Winchester Recreation Department. Alesia Corso, representing the applicant, explained they would like to move the maintenance building 2' toward Walker Field and away from Scasco to avoid replacing the fence. M. Melanson explained the footings would be undermining the Scasco parking lot; easier to move the building than rebuild the parking lot. M. Fox verified the building already exists. Ms. Corso said no; indicated the activity on the plans. M. Melanson explained due to the size of the bottom of the building footings, would lose part of Scasco's parking lot. No public comment – public hearing closed.

Decision: **Motion** by R. Nalette **to grant variance #07-5013 for modification of #06-4986 to change the northeast side yard setback from 33.5' to 35.5' for the property located at Rowley Street Ballfields for Town of Winchester Recreation Department.** Second by S. Lange. Vote: all in favor – **motion granted**. Reason: reasonable request.

Request for variance from the Flood Plains for the Town of Winchester. M. Melanson explained the ordinance says you can't put a living area in a floodplain without a variance from the Zoning Board of Appeals and a bathroom is considered a living area; putting an addition on the Gaylord-Tiffany Building but need more restrooms; adding a couple of toilets which will be handicap accessible. **Motion** by R. Dew **to grant variance from Ordinance 119 to allow a bathroom to be built in a floodplain for the Gaylord Tiffany Building on Rowley Street for the Town of Winchester Recreation Department.** Second by R. Winn. ***Discussion:*** J. Massicotte asked if there is a septic system; verified there are already bathrooms there. M. Melanson said TAHD said there are no issues; explained there is currently 2 there now - a men's and women's bathroom now; taking them out, adding a hallway but the amount of fixtures will be the same – just handicap accessible and in

a different location. M. Fox asked about #2 of the ordinance. Vote: all in favor – **motion granted**. Reason: reasonable request – complies with statute; does not impede the flow of water.

Item 5 **Approval of Minutes of July 24, 2007 meeting**
Motion by R. Winn **to approve the minutes of July 24, 2007.** Second by M. Fox. All in favor – **motion carried unanimous.**

Item 6 **Old Business**
- Application Rates – nothing new to report

Item 7 **New Business** - none

Item 8 **Bills Presented – Motion** by R. Winn **to pay secretary hours of 1.0 for the July meeting**. Second by M. Fox. Vote: all in favor – **motion carried unanimous.**

Item 9 **Correspondence** – none

Item 10 **Discussion with ZEO** - Extensive discussion regarding the letter from the Planning & Zoning Commission.

Item 11 **Motion to adjourn at 10:45 p.m.** by R. Nalette. Second by R. Winn. All in favor - **motion carried unanimous.**

Respectfully Submitted,

Laurie Bessette
Minutes Secretary, Zoning Board of Appeals

ZBA 8/28/07

705 call to order also Kevin Nelligan

Rich explained procedures to go into Exc Sess

Motion to go into exec session 707 R Winn
~~Rich~~ Shange
Unanimous

Motion to come out of executive session by @ 7:25 Richard
R Dew
No action taken Unanim

Rich expl procedures for ZBA

Break called @ 9:17 reconvened @ 9:25 p

Minute Ray ~~Rich~~ Mike F } unanimous

Secretary Ray Mike F } unanimous

~~Motion~~
10 – Disc re PZC letter – Rich – continued to direct ZEO to enforce rules as bd understand
Unanimous cont.
Motion to adj 10:45 Rich Ray