

Wallingford Zoning Board of Appeals

Monday, September 18, 2023

7:00 p.m.

**Robert F. Parisi Council Chambers
Town Hall – 45 South Main Street**

Minutes

Present: Chairman Joseph Rusczek; Board Members: Thomas Wolfer; Karen Harris, Secretary; Alternates Robert Gross; Robert Prentice; and Amy Torre, Zoning Enforcement Officer.

Chairman Rusczek called the meeting to order at approximately 7:00 p.m. The Pledge of Allegiance was recited.

Voting members tonight are Gross, Wolfer, Harris, Prentice, and Chairman Rusczek.

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, September 22, 2023. The effective date of your variance will be Friday, September 22, 2023; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, October 8, 2023. If you commence operations and/or construction during the appeal period, you do so at your own risk.

Chairman Rusczek announced that application #23-020/Mancini/17 Jenna Road, Variance Request for Building Coverage will not be heard tonight. It will be continued to the October meeting.

PUBLIC HEARINGS

1. #23-018– Variance Request/Chandler/14 Tankwood Road

Ms. Harris read the staff notes dated September 8, 2023, into the record. The applicant seeks a side yard of 14 ft. where 20 ft. is required and 14 ft. exists to construct a +/- 91 Sq. ft. addition to an attached garage at 14 Tankwood Road in an R-18 District. The existing attached garage is already located 14 feet from the side boundary. The proposal is to expand the existing single-bay garage 6 ft. forward by the 15.2 ft. width of the garage. The existing garage predates zoning and is currently non-conforming with respect to the side yard to the west. Therefore, any expansion, of any size requires a Variance Approval to construct.

Greg Chandler, Gold Shield Construction, 1224 Worthington Ridge, Berlin, represented the homeowner. The proposal is to move the garage forward because it's only 20 feet deep and not big enough to park a car. It will still be 14 feet behind the front of the house.

Chairman Rusczek clarified that the purpose is to make the garage usable and the hardship is that it predates zoning.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

Mr. Wolfer: Motion to approve application #23-018/Chandler/14 Tankwood Road for a Variance Request for a side yard of 14 ft. where 14 ft. exists and 20 ft. is required to construct an addition to an

attached garage at 14 Tankwood Road as shown on Zoning Location Survey, prepared for Patricia J. Cooley, 14 Tankwood Road dated 7/1/2023 and submitted plans received 7/24/2023.

Ms. Harris: Second

Vote: Gross - yes to approve; Wolfer – yes to approve; Harris – yes to approve; Prentice – yes to approve, and Chairman Rusczek – yes to approve.

The variance is approved.

2. #23-019 – Variance Request/Komal/895 North Colony Road

Ms. Harris read the staff notes dated September 8, 2023, into the record. The applicant seeks a side yard of 5 ft. where 20 ft. is required to install 8 vacuums with 8 ft. booms at 895 North Colony Road in an RF-40 District. The applicant received Special Permit approval for four vacuums of 4 ft. in height in August of 2010. Although the current 4 vacuums are located 5 ft. from the side boundary, structures \geq 8 ft. in height require compliance with setbacks and the addition of more vacuums and alterations to the site will also require continuing to the Planning and Zoning Commission (PZC) for a new revision to the Special Permit following any determination from the Zoning Board of appeals(ZBA). The applicant has already installed the 8 new vacuums and removed the ADA-compliant parking per confirmed referral and pictures provided to this office in June of 2023. The applicant was advised of the violation and subsequently has submitted this Variance Request and companion Special Permit revision to the PZC for the ZBA and PZC's determination whether hardship exists and alterations to the site are viable to approve 'after-the-fact' construction.

Jeremy Grossman, 6 Laurie Lane, and Tom Minogue, Counsel, presented for the applicant. Mr. Grossman explained that they added the vacuums and booms and didn't know that the booms were not compliant. He was not told about the side yards. He filled out the application when he found out.

Chairman Rusczek stated that he understood and that he also wouldn't have thought a variance was needed. He also noted that they frown on requests that come in after the fact. Mr. Grossman stated that they were going to make other changes but decided not to due to the setback. They thought that since the vacuums were already there there wouldn't be a problem adding the booms. He provided letters from his two neighbors indicating that they had no issue with the vacuums. He noted that the booms are not bright or gaudy.

Mr. Wolfer asked if the ADA compliance had been addressed. Ms. Torre replied not yet. The space and striping have been removed and the change has not yet been approved. She noted that any site modification needs to go to the Planning and Zoning Commission. She reminded the Board that they need to consider where the vacuums are in proximity to the side boundaries.

Mr. Gross asked if we were discussing the addition of the 4 vacuums. Chairman Rusczek replied that we are approving where they put them and the height. Mr. Gross clarified that the applicant didn't know they had to come to ZBA. Mr. Grossman confirmed.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

Mr. Wolfer: Motion to approve application #23-019/Komal/895 North Colony Road, a Variance Request for a side yard of 5 ft. where 20 ft. is required to install 8 vacuums with 8 ft. booms at 895

North Colony Road as shown on Site Plan 895 North Colony Road, prepared for Mark Komal dated July 28, 2023.

Ms. Harris: Second

Vote: Gross - yes to approve; Wolfer – yes to approve; Harris – yes to approve; Prentice – yes to approve, and Chairman Rusczek – yes to approve.

The variance is approved.

4. #23-021 – Variance Request/Biehl/21 Grieb Trail

Ms. Harris read the staff notes dated September 8, 2023, into the record. The applicant seeks building coverage of 22% where a 15% maximum is permitted to construct an 864 sq. ft. detached garage at 21 Grieb Trail in an R-18 District. The parcel is undersized for the zone as it predates zoning. The existing building coverage is at maximum before the addition of the proposed garage. The Board may want to suggest a possible condition of approval for the removal of the existing shed in favor of an ample detached garage for storage and housing of motor vehicle(s) which will lessen the building coverage request.

John Biehl, 21 Grieb Trail explained that they need storage. They would like to cover the garages. He is willing to take down the shed. He needs storage for cars and a lawnmower.

Chairman Rusczek asked if it would be for commercial use. Mr. Biehl replied no.

Mr. Gross asked if there had been a garage there before. Mr. Biehl replied no. He stated that there had been a portable garage but it had been taken down. It will be replaced by the garage. Mr. Gross asked if the garage could be put behind the house. Mr. Biehl replied that it would be in the back.

Chairman Rusczek noted that the garage will be 13 ft behind the house and that the Board is to focus on the coverage.

Ms. Torre noted that canvas garages are still considered buildings. She suggested adding to the motion to include any shed or other structure.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

Mr. Wolfer: Motion to approve application #23-021/Biehl/ 21 Grieb Trail for a Variance Request for Building Coverage of 22% where 15% exists and 15% maximum is permitted to construct a 36 ft. x 24 ft. detached garage as shown on Limited Property/Boundary Survey, Zoning Location Survey, Land of Marilyn and John Biehl, 21 Grieb Trail, dated 8/2/2023 and submitted plans received 8/16/2023, subject to:

- 1. Removal of existing accessory structures or shed(s).**

Mr. Gross: Second

Vote: Gross - yes to approve; Wolfer – yes to approve; Harris – yes to approve; Prentice – yes to approve, and Chairman Rusczek – yes to approve.

The variance is approved.

5. #23-022/Variance Request/Berthold/99 Seiter Hill Road

Ms. Harris read the staff notes dated September 8, 2023, into the record. The applicant seeks a side yard of 12 ft. where 20 ft. is required and 25 ft. exists to add a single-story, single bay (13 ft. x 22 ft.) to the attached garage at 99 Seiter Hill Road in an R-18 District. As is customary, the Board should discern any hardship and evaluate whether any alternative detached or other structure may enable compliance.

Matt Berthold, 99 Seiter Hill Road explained that they will be adding a single-story, single bay to the attached garage for storage of vehicles, lawnmowers, and toys and to increase the maneuverability in the garage. He added that they will be adding a larger vehicle. The current driveway pitch makes it difficult to access the vehicles. He noted that this is partly due to his medical condition. He added that they will be modifying the home's first-floor office to the back of the house in a compliant zone.

Chairman Rusczek noted that this will create a three-car garage and that he doesn't see the hardship having to do with the land. Mr. Berthold replied that there is a playscape in the back that is not moveable and a concrete slab from an old shed. So the side of the house is the best option. Chairman Rusczek asked if he uses a handicapped-accessible vehicle. Mr. Berthold replied no.

Mr. Gross asked if this was just for storage, can if they just add it to the garage. Mr. Berthold replied that they can only add 5 feet without a variance. So it made sense to just add the full bay. He noted that there will still be ample room to get around the home. Mr. Gross asked about the shed on the property. Mr. Berthold replied that it stores outdoor furniture and is about 10 ft. x 12 ft.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

Mr. Wolfer: Motion to approve application #23-022/Berthold/99 Seiter Hill Road for a Variance Request for a Side Yard of 12 ft. where 25 ft. exists and 20 ft. is required to construct an additional garage bay to an existing two-car attached garage as shown on Plot Plan, Lot No. 41 Seiter Hill Road dated 6/28/1983 and submitted rendering received 8/16/2023.

Mr. Gross: Second

Vote: Gross - no to approve; Wolfer – yes to approve; Harris – yes to approve; Prentice – yes to approve, and Chairman Rusczek – yes to approve.

The variance is approved.

6. #23-023/Variance Request/Arico/42 Carr Street

Ms. Harris read the staff notes dated September 8, 2023, into the record. The applicant seeks a Variance for Building Coverage of 17.39% where a 15% max is permitted and 15% exists to construct a single-story +/- 412 sq. ft. living space addition to the rear of the dwelling at 42 Carr Street in an R-18 District. The parcel is undersized and the dwelling is non-conforming with respect to the side and front setback. The existing building coverage is 15%, the maximum allowed for the zone. The proposed addition is located compliantly on the property yet an addition or structure of any size on the lot will exceed allowable building coverage limits.

Jeffrey Arico, 42 Carr Street explained that the size of his family is expanding so they need more living space. This will be to the back and will be a master bedroom and will allow an expansion of the kitchen.

Mr. Prentice clarified that this addition is within the setbacks and we are just looking at coverage.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

Mr. Wolfer: Motion to approve application #23-023/Arico/42 Carr Street for a Variance Request for Building Coverage of 17.39% where 15% exists and 15% max is permitted to construct a single story addition to the dwelling rear as shown on 42 Carr Street, Property Survey, prepared for Jeffrey Arico, dated May 16, 2023 and submitted proposed floor plans received 8/17/2023 and proposed elevations received 9/11/2023.

Mr. Gross: Second

Vote: Gross - yes to approve; Wolfer – yes to approve; Harris – yes to approve; Prentice – yes to approve, and Chairman Rusczek – yes to approve.

The variance is approved.

7. #23-024/Variance Request/D’Errico/181 North Colony Street

Ms. Harris read the staff notes dated September 8, 2023, into the record. The applicant seeks a Variance for front yards of 24 ft. (Rembert Street) and 33 ft. (North Colony Street) where 40 ft. is required to add a covered patio/deck to the building at 181 North Colony Street in a CA-12 District. The parcel is a corner lot and is currently used as a restaurant on the ground floor. The applicant would like to construct a covered patio/deck to the rear of the business which encroaches into both front yards of this corner lot. The existing building, in its entirety, is located in the front setbacks thus necessitating a Variance Request for any attached addition for the same. The patio/deck is ≤ 360 Sq. Ft. and is proposed to be located on an existing landscaped area within the parking area.

Joseph D’Errico, Director of Operations, Hard Hat Restaurant, 181 North Colony Street, and Richard Fontaine, Engineer, Richard’s Civil Engineering presented. Mr. D’Errico explained that he took over the restaurant two years ago and is moving it to more of a family-oriented restaurant than a bar. He explained that they wanted a small, roofed patio with dining space for 10 tables to satisfy the requests of customers. Mr. Fontaine added that the patio is off the back and is handicapped accessible.

Mr. Gross asked if it would be in the grass area. Mr. D’Errico replied that it would impede half of the island that has some shrubs. Mr. Fontaine added that it would take away one parking space. Mr. Gross asked where the waste storage is. Mr. D’Errico replied on the other side. Mr. Fontaine noted that it will be just to the edge of the travel lane which is a 12 – 14 ft lane to the storage area.

Ms. Torre noted that the site modifications will go to Planning and Zoning. CT Law supersedes zoning and allows outside dining by right on his property. He can put tables out there without asking for permission. The roofing is why he is here.

PUBLIC COMMENT

Jack Oliviera, representing his mother, Maria Oliviera, 96 Meadow Street, noted that his parents live directly behind the business. They call the Police Department at least twice a month due to noise and smoking. This addition will increase the noise. Mr. D'Errico replied that they have had the police there only once that he can recall in the last two years. Mr. Oliviera stated that they smoke and throw bottles and the police department has been to the outside of the business. Mr. D'Errico stated that he would like to know when these things happen and that they can't stop people from smoking outside. He wants to be a good neighbor. The place was a bar and they have spent time and money on cleaning it up. He is certain that most of the bar crowd is gone. They close at midnight.

Chairman Rusczek suggested including in the motion a condition to restrict outside use after 10 p.m. Mr. D'Errico agreed with the condition.

Ms. Torre noted that the Board is looking only at the setback. There is no harm in including the condition. She suggested that the neighbor submit something in writing to Planning & Zoning to be added to the application. They will need to go to Planning & Zoning due to the site change and they can impose this condition.

Hearing no further public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

Ms. Harris asked if it is possible to restrict areas for smoking. Ms. Torre replied that that is out of the purview of this Board and P&Z. They can require putting up fencing or shrubbery that can help mitigate the smoke.

Chairman Rusczek asked to add the 10 p.m. closing to the motion.

Mr. Wolfer: Motion to approve application #23-024/D'Errico/181 North Colony Road for a Variance Request for front yards of 24 ft. and 33 ft. where 0 ft. and 40 ft. exist and 40 ft. is required to construct a covered patio as shown on Site Plan, Land of Robert L. Rogers, Sr., North Colony Street and Rembert Street dated August 1994, revision date 9/29/1994, with the following condition;

- 1. No outdoor dining after 10 p.m.**

Ms. Harris: Second

Vote: Gross - yes to approve; Wolfer – yes to approve; Harris – yes to approve; Prentice – yes to approve, and Chairman Rusczek – yes to approve.

The variance is approved.

OTHER BUSINESS

Mr. Wolfer asked about the workshops mentioned in the newsletter. Ms. Torre replied that this is an alternative to the required training. She suggested bringing in a speaker for both ZBA and P&Z to help meet the education requirement. She can set that up. Mr. Wolfer asked her to do so.

CONSIDERATION OF MINUTES

Mr. Wolfer: Motion to approve the Zoning Board of Appeals minutes from July 17, 2023, as submitted.

Mr. Gross: Second
Vote: Unanimous to approve

ADJOURNMENT

Mr. Wolfer: Motion to adjourn the September 18, 2023 meeting at approximately 7:50 p.m.

Mr. Gross: Second

Vote: Unanimous to approve

Respectfully Submitted,
Cheryl-Ann Tubby
Recording Secretary

