

**Wallingford Zoning Board of Appeals**

**March 18, 2024**

**7:00 p.m.**

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

**Minutes**

**Present:** Joseph Rusczek, Chairman; Board Members: Bruce Conroy; Thomas Wolfer; Karen Harris; Ray Rys; Alternate Members 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 Conroy, Wolfer, Harris, Rys, and Chairman Rusczek.

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, March 22, 2024. The effective date of your variance will be Friday, March 22, 2024; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, April 7, 2024. If you commence operations and/or construction during the appeal period, you do so at your own risk.

**PUBLIC HEARINGS**

**1. #24-004/Special Exception Request/Choiniere/40 New England Drive**

Ms. Harris read the staff notes into the record. Application #24-004 is a Special Exception Request for a Customary Home Occupation for weight management services. The applicant proposes to use a ~305 sq. ft. first-floor space to conduct weight management services. The applicant proposes approximately two hours, two days per week to consult with one client at a time with the property owner as the sole employee. Off-street parking is more than adequate to support services as the property is a rear lot with ample driveway and parking for both occupants and guests/clients. This office can support the Board's approval for this Special Exception as the Applicant's representation and submitted documents demonstrate compliance with all criteria of the Customary Home Occupation regulations.

Gina Choiniere, 40 New England Drive, explained that she has been working with injectables at a Medical spa and wants to move her work to her home. She provides weigh-ins, consultations, education, medical history, etc. Clients receive the medications at their homes and return in a month for weigh-ins and consultations. She will see an average of 10 clients a day two days a week. Her hours will be 9 am to 11 am or no later than noon on Wednesdays and Fridays.

Mr. Gross asked if the medications are sent directly to the clients and they inject themselves. Ms. Choiniere replied yes. The clients would come to her monthly. She shows them how to self-inject. Mr. Gross asked if the prescriptions have to be renewed each month. Ms. Choiniere replied yes.

Mr. Wolfer asked if she would have control over appointments or if some clients would be unannounced. Ms. Choiniere replied she would see appointments only and doesn't advertise. Her clientele comes from word of mouth.

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

Mr. Conroy asked if the recommendations of staff will be put in the Motion. Ms. Torre replied that they are already part of the record.

**Mr. Rys: Motion to approve application #24-001 for a Special Exception Request for Choiniere for a Customary Home Occupation for Weight Management Services at 40 New England Drive as shown on plans submitted with the application and received 2/14/2024.**

**Mr. Wolfer: Second**

Mr. Conroy asked if the recommendations of staff will be put in the Motion. Ms. Torre replied that they are already part of the record.

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys - yes to approve; and Chairman Rusczek – yes to approve.**

The application is approved.

**2. #24-005/Special Exception Request/Severson/33 Maltby Lane**

**3. #24-007/Variance Request/Severson/33 Maltby Lane**

Ms. Harris read the staff notes into the record. Application #24-005 is a Special Exception Request for a total garage area of 2,752 sq. ft. where 1,408 sq. ft. exists and a 1,344 sq. ft. additional detached garage is proposed at 33 Maltby Lane in an RU-80 District. The applicant received a Special Exception Approval on June 19, 2017, for the current existing 1,408 sq. ft. of garage area. The 2017 Approval was to add a 550 sq. ft. detached garage to an existing 858 sq. ft. attached garage. The current Special Exception Request is sought to allow construction of an additional 1,344 sq. ft. detached garage. The proposed additional detached garage causes the primary dwelling/living area to be less than and subordinate to 2,752 sq. ft. of the garage area, and therefore questionable which is the primary building and which is the accessory building(s). The Board should consider the use of ~3 times the permitted garage area as-of-right (936 sq. ft.). Special Exception and Variance Approvals follow the land and thus cannot be based on the needs/wants of the current property owner but on the appropriateness of the request for the parcel.

The Variance Request is for a rear yard of 5 ft. where 30 ft. is required to locate the proposed detached garage on the property. The proposed detached garage is not located 100% behind the dwelling to enable a 5 ft. side and rear minimum setback and therefore must comply with all setback requirements for the zone. In this case, the proposed garage location is compliant with front and side setbacks, yet requires a rear yard variance of 5 ft. for the 30 ft. requirement.

Although the two applications are relative to the same proposal, any motion and determination for the two requests need to be made individually. Any Approval should be conditioned upon comments from the Health Department. Correspondence included an Inter-Departmental Memorandum from the Health Department dated March 8, 2024.

Erik Severson, 33 Maltby Lane, explained that he wanted to build a barn but was told he couldn't, so he's doing a garage. He has three antique cars, trailers, and antique farm equipment. He is surrounded on three sides by Town land and can't see his neighbor. He will store the trailers in the garage.

Mr. Conroy recused himself. Chairman Rusczek asked Mr. Gross to vote on this application.

Chairman Rusczek noted that he already has 1,408 sq. ft. of garage. The total square footage is bigger than his house. Mr. Severson agreed but said he also has his personal car, a lawn tractor, and two trailers. He won't do any commercial work there. He stated that the house is in the corner of the lot. He's torn down one barn and is going to tear down another. Chairman Rusczek asked about the 5 ft. setback variance in the backyard. Mr. Severson replied that there is a drainage swale through the center of the property and he wants to be able to avoid it when backing the trailer into the garage.

Ms. Harris asked for clarification of the status of the two barns on the property. Mr. Severson stated that one has been removed and the other is an eyesore and will be coming down. The one still standing is about 300 - 400 sq. ft. Ms. Harris asked if there would be driveways to the garage doors. Mr. Severson replied no. It will remain grass.

Mr. Gross asked about the comments from the Health Department. Mr. Severson replied that the septic is behind the house about 75 to 100 ft. from the new building. The well is farther away.

Mr. Rys asked for clarification on the size of the building to be removed. Mr. Severson said it is about 300 sq. ft. Mr. Rys asked if there is anywhere else on the property to build that would be compliant. Ms. Torre replied that she can't answer that. She stated that there were wetlands issues with the detached garage in 2017. She noted that the 300 sq. ft. stable is allowed in the residential zone but barns are not allowed. She stated that the garage regulations allow a minimum 5 ft. setback but the garage needs to be 100% behind the furthest foundation point of the house. She added that she didn't know if the hardship was water on the property.

Chairman Rusczek asked about the swale. Mr. Severson replied that it provides drainage after it rains from water coming off the wetlands. Chairman Rusczek asked how far the swale would be from the front of the garage. Mr. Severson replied 50 ft. He added that the trailer plus the truck is 30 ft. He also wanted to be 50 ft. off the swale in case it was considered wetlands.

Ms. Harris asked if there was another spot on the property that would eliminate the variance. Mr. Severson replied no, due to the swale.

Mr. Gross asked if there had been a survey to determine that it couldn't go elsewhere. Mr. Severson replied that the garage wouldn't be 50 ft. from the swale in any other location. He is trying to keep it behind the house. Mr. Gross asked how he gets across the swale to the garage. Mr. Severson replied that he could drive over where it's piped under the driveway or over the end when it's dry.

Ms. Harris asked what would be in the garage if there was no driveway. Mr. Severson replied with two trailers, farm equipment storage, and his tractor. It is not stuff that moves a lot. He added that he has a 10% building allotment on his property. Ms. Torre replied that he is referring to building coverage and he is compliant. Ms. Torre suggested two potential conditions. 1) that the garage not be used for storing commercial equipment and 2) that plumbing not be allowed so it cannot become a dwelling.

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

**Mr. Rys: Motion to approve application #24-005 Special Exception Request for Severson for garage area of 2,752 sq. ft. where 950 sq. ft. maximum is permitted and 1,408 sq. ft. exists to construct a 1,344 sq. ft. detached garage at 33 Maltby Lane as shown on Zoning Location Survey, property of Erik Severson, 33 Maltby Lane, dated November 20, 2023 and submitted plans received February 14, 2024, subject to:**

- 1. Comments from the Health Department, dated March 6, 2024**
- 2. No storage of commercial equipment or commercial use**
- 3. No plumbing installed**

**Ms. Harris: Second**

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

The application is denied.

**Mr. Rys: Motion to approve application #24-007 Variance Request for Severson for a rear yard of 5 ft. where 30 ft. is required to locate and construct a 1,344 sq. ft. detached garage at 33 Maltby Lane as shown on Zoning Location Survey, property of Erik Severson, 33 Maltby Lane, dated November 20, 2023, and submitted plans received February 14, 2024, subject to:**

- 1. Comments from the Health Department dated March 6, 2024.**

**Mr. Harris: Second**

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

The application is denied.

#### **4. #24-006/Variance Request/Angeletti/58 North Branford Road**

Ms. Harris read the staff notes into the record. The applicant seeks a Variance Approval for a detached garage with a height of 19.25 ft. where a 15 ft. maximum is permitted in order to erect a ~12 ft. dormer on one side of the 36 ft. x 26 ft. proposed garage for a new construction residential dwelling and garage at 58 North Branford Road in an RU-120 District. The parcel is 6.38 acres with demolished non-conforming dwellings leaving existing Accessory structure(s), including an 1800s barn partially erected in Town Right of Way. The applicant submitted building plans to permit new construction of a dwelling with an attached garage, fully compliant with setbacks and building coverage for the Zone. Reconstructing the dwelling in an alternate location on the property lessens the non-conforming structures on the parcel. Zoning regulations define garages as detached when connected to the dwelling by any structure greater than 8 ft. in length, including covered corridors and breezeways. Detached garages are limited to a 15 ft. height maximum. The attached garages may be 30 ft. in height. Although the proposed garage is connected to the dwelling, the structure connecting them is 10-12 ft., therefore, per regulation, it is considered detached. The Height Maximum is only exceeded relative to the one 12 ft. wide dormer in the center of one 36 ft. side of the garage.

Nicholas Angeletti, 58 North Branford Road, explained that the dormer on one side of the garage increases the height of the garage due to the height calculation. He noted that the garage is considered detached though it is attached by a breezeway. They are starting to build the house. He requested that they not treat the garage as detached.

Ms. Torre explained the regulations, which specifically state that a garage attached to a building with something such as a covered walkway or breezeway is considered detached if greater than 8 ft. This presents as an attached garage, but this is larger than 8 ft. We are stuck with the regulation. The house and lot are a significant size. She noted that they had done everything properly. She also noted that this is not a full dormer it's a portion of the garage on one side.

Chairman Rusczek asked for verification that this breezeway is more than 8 ft. Ms. Torre replied yes.

Mr. Conroy asked if there was any way to change the length of the breezeway so it complies. Mr. Angeletti replied that due to the topography, this length makes it a natural step. Changing it would also affect the rooflines.

Mr. Gross asked if they can't incorporate the extra two feet. Mr. Angeletti replied that it would involve some rework of the architectural plan. The ridge of the garage doesn't change. There is no room up there, just an architectural dormer. He can eliminate the dormer.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action. Chairman Rusczek noted that this may be a regulation that needs to be reviewed. Mr. Conroy noted that we aren't here to change regulations. We need to follow them.

**Mr. Rys: Motion to approve #24-006 for Angeletti for a variance request for a height of 19.3 ft. where 15 ft. maximum is permitted to construct a detached garage with one dormer as part of new construction of a single-family home at 58 North Branford Road as shown on Architectural Site Plan, Angeletti Residence, 58 North Branford Road, dated July 21, 2023, and submitted plans received February 16, 2024.**

**Mr. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – yes to approve; Harris – yes to approve; Rys - yes to approve; and Chairman Rusczek – yes to approve.**

The application is approved.

## **ELECTION OF OFFICERS**

### **5. Election of Officers**

**Vice Chair Rys: Motion to nominate Joe Rusczek for Chairman of the ZBA stating that he has been a good chairman, is kind and courteous, and asks good questions. He deserves another term.**

**Ms. Harris: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys - yes to approve; and Chairman Rusczek – abstain.**

Chairman Rusczek accepted and thanked the Board for their support. Communication is key and we get along well.

Chairman Rusczek: Motion to nominate Ray Rys for Vice Chair of the ZBA stating that he does his job and has made being Chair easy. He appreciates Mr. Rys as Vice Chair.

Ms. Harris: Second

Vote: Conroy – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys - abstain; and Chairman Rusczek – yes to approve.  
Mr. Rys accepted.

Chairman Rusczek: Motion to nominate Karen Harris for Secretary of the ZBA and stated that she has been a superb secretary and does her homework.

Mr. Rys: Second

Vote: Conroy – yes to approve; Wolfer – yes to approve; Harris – abstain; Rys - yes to approve; and Chairman Rusczek – yes to approve.  
Ms. Harris accepted.

### CONSIDERATION OF MINUTES

#### 6. January 16, 2024, Regular Meeting

Mr. Wolfer: Motion to accept the January 16, 2024, Zoning Board of Appeals Minutes as submitted.

Mr. Rys: Second

Vote: Unanimous

#### 7. February 20, 2024, Regular Meeting

Mr. Wolfer: Motion to accept the February 20, 2024, Zoning Board of Appeals Minutes as submitted.

Ms. Harris: Second

Vote: Unanimous

### ADJOURNMENT

Mr. Wolfer: Motion to adjourn the March 18, 2024, regular meeting of the Zoning Board of Appeals at 7:45 p.m.

Ms. Harris: Second

Vote: Unanimous

Respectfully submitted,

Cheryl-Ann Tubby

Recording Secretary