

Wallingford Zoning Board of Appeals

October 21, 2024

7:00 p.m.

Room 315

Town Hall – 45 South Main Street

Minutes

Present: Joseph Rusczek, Chairman; Board Members: Ray Rys, Vice Chair; Bruce Conroy; Thomas Wolfer; Karen Raddatz, Secretary; 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, Raddatz, Rys, and Chairman Rusczek. Mr. Gross will vote on the first application in place of Mr. Conroy.

Chairman Rusczek noted that tonight’s decisions will be published in the Record-Journal on Friday, October 25, 2024. The effective date of your variance will be Friday, October 25, 2024; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, November 10, 2024. If you commence operations and/or construction during the appeal period, you do so at your own risk.

Chairman Rusczek announced that application #24-031 – Appeal of Decision of a Zoning Enforcement Officer (Denial of Building Permit)/Malchiodi/386 Williams Road, will not be heard at the November meeting.

PUBLIC HEARINGS

1. #24-026/Variance Request/Siddiqui/57 Simpson Avenue

Ms. Raddatz read the staff notes into the record. Application 24-026 is technically an amendment to previously granted Variance 24-012 (approval on June 17, 2024) for the same front yard setback of 17.5 ft. where 20 ft. is required and 22.5 ft. exists to construct a covered front porch at 57 Simpson Avenue in an R-11 District. This Variance Request is unchanged and the project is the same. The plans submitted with the original Variance Request were for a 20 ft. x 5 ft. covered porch across the entire front width of the dwelling. The dwelling actually is 24 ft. wide. Since the motion for approval was made based on submitted plans at the time, and those plans had an incorrect dimension, the applicant seeks approval to amend the approved Variance with corrected supporting building plans. The request however is unchanged. This office would also request a waiver and refund of the re-application fee. This Amendment to a previously granted Variance is not necessarily required, yet the applicant seeks to ensure an accurate and correct approval.

Mir Siddiqui, 57 Simpson Avenue explained that his construction guy made a mistake. Mr. Siddiqui wants the porch to be the full width of the house.

Chairman Rusczek asked what the difference is. Mr. Siddiqui replied 4 feet.

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

Mr. Rys: Motion to waive the application fee for application #24-026.

Mr. Wolfer: Second

Vote: Gross – yes to approve; Wolfer – yes to approve; Raddatz – yes to approve; Rys - yes to approve; and Chairman Rusczek – yes to approve.

Mr. Rys: Motion to approve #24-026 Variance Request, Siddiqui, for a Front Yard of 17.5 ft. where 20 ft. is required to construct a 24 ft. wide covered front porch amending a Variance Approval for a 20 ft. wide porch at 57 Simpson Avenue in an R-11 District.

Mr. Wolfer: Second

Vote: Gross – yes to approve; Wolfer – yes to approve; Raddatz – yes to approve; Rys - yes to approve; and Chairman Rusczek – yes to approve.

The application is approved.

2. #24-027/Variance Request/Gethers/26 Deme Road

Ms. Raddatz read the staff notes into the record. The applicant seeks a Variance Approval for a side yard of 19.1 ft. where 20 ft. is required and 35.1 ft. exists to construct a 2-story addition at 26 Deme Road in an R-18 District. The lot is a conforming thru-lot fronting on two streets with an unusual “L” shape with the majority of the parcel behind and to the Northeast of the dwelling. Although the request is for less than 1 ft. of required side yard setback, the Board should consider whether reducing one dimension of the proposed addition by 1 ft. and eliminating the need for a Variance is the more viable alternative.

Chairman Rusczek noted that Mr. Conroy will be voting from now on tonight.

Terry Gethers, 26 Deme Road explained that he originally wanted to put on an addition, but the situation has changed. Now he needs to expand to accommodate his mother-in-law downstairs. The extra foot allows for closet space.

Chairman Rusczek asked if he looked at adding on to the other side of the house. Mr. Gethers replied that he couldn't due to the stairs.

Mr. Gross asked how close it would be to the neighbors and if it would be two stories. Mr. Gethers replied it would go toward the right. Yes, it will be two stories. Mr. Gross asked the total width of the room. Mr. Gethers replied 16 ft. deep and 28 ft. wide with a bathroom and closet.

Mr. Conroy asked if he would consider dropping the foot and avoid the need for a variance. Mr. Gethers replied that it would affect the costs and the architect would need to redraw the addition. Mr. Conroy noted that cost is not a factor in zoning.

Mr. Gross asked if the whole first floor would be used by his mother-in-law. Mr. Gethers replied yes.

Ms. Torre noted that there should be a condition that the space is not to be used as an accessory apartment. If it is just living space it is fine.

Chairman Rusczek asked if there would be a kitchen. Mr. Gethers replied no.

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

Mr. Rys: Motion to approve #24-027 Variance Request for side yard of 19.1 ft. where 20 ft. is required to construct a 2-story addition at 26 Deme Road as shown on Zoning Location Survey, As-Built Lot 9, Oak Hill, #26 Deme Road, dated 11/11/03, and submitted plans received 9/10/2024; subject to:

1. Living area only, no kitchen (i.e. not an accessory apartment)

Mr. Wolfer: Second

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

The application is approved.

3. 24-028/Variance Request/Vorsteveld/121 Dudley Avenue

Ms. Raddatz read the staff notes into the record. Application 24-028 is a Variance Request for front landscaping of 23.7 ft. where 50 ft. is required and existing to expand the parking area and add a trailer storage area at 121 Dudley Avenue in an I-40 District. The lot is a 1-acre parcel within and surrounded on 3 sides by 12.35 acres (524-526 South Cherry Street and 109 & 197 Dudley Avenue) also part of BYK USA property. The applicant proposes 24 trailer parking spaces (60 ft. x 8 ft.), including sufficient area for trailer access, 23.7 ft. from the front boundary. The front setback for the I-40 zone is 50 ft. Surface modifications such as parking areas do not qualify as structures requiring Variance Approval for any setback requirement yet 6.14.C of the Zoning Regulations requires the entire front yard (50 ft.) to be landscaped. The surrounding BYK properties comply with landscaping requirements on Dudley Avenue. A reduction in front landscaping requirements relates to 140 ft. of 175 ft. total 121 Dudley Avenue Street frontage. The Applicant will proceed to the Planning & Zoning Commission following the Zoning Board of Appeal determination for Site Plan Modification.

Anton Vorsteveld explained that he is an employee of BYK at 524 South Cherry Street. He showed a diagram of the site. Due to production growth, they need to expand with 12 more trailer truck parking spaces. He explained that they pushed it close to the road to allow room for turning. Some of the existing travelways will be used for parking. They will be adding a total of 600 ft. of green space will be in exchange.

Chairman Rusczek asked for clarification of where the parking will be. Mr. Vorsteveld explained that this is the property across from the car wash. The structure there used to be used for maintenance. Chairman Rusczek asked about greenery. Mr. Vorsteveld replied that they plan to move the fence line to match the existing fencing and add an arborvitae privacy screen. The parking area will be sloped so any potential spill will be contained away from stormwater drainage.

Mr. Gross asked about the entrance and exit for trailers. Mr. Vorsteveld showed the path the trucks will use.

Chairman Rusczek asked if truck traffic would be just on their property and the Hebrew Cemetery. Mr. Vorsteveld confirmed that they have an agreement with the Hebrew Cemetery.

Mr. Conroy asked about the hardship. Mr. Vorsteveld replied that it is the required 50 ft. setback. The setback would make it difficult to safely turn and park in this area. There is no other spot on the site for this type of facility. Mr. Conroy stated that he doesn't agree that it's a hardship. He is hesitant to set a precedent. Mr. Vorsteveld noted that the project still has to go to Planning and Zoning.

Ms. Torre noted that the Variance is strictly to not landscape that required front yard. Planning and Zoning has the authority to compensate elsewhere for the landscaping. This is just to reduce the setback in one area of the property.

Mr. Conroy stated that this is not the only property owner that has to meet this requirement.

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

Mr. Rys: Motion to approve #24-028 a Variance Request for Front Landscaping Area of 23.7 ft. where 50. ft. is required to construct a trailer parking area and trailer storage at 121 Dudley Avenue as shown on the Zoning Location Plan, 121 Dudley Avenue, sheets CZ-101 and 102, dated 9/5/2024 and submitted plans received 9/11/2024.

Mr. Wolfer: Second

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

The application is approved.

4. #24-029 – Variance Request/National Sign Corp c/o Darcy Roy/905 North Colony Road

Ms. Raddatz read the staff notes into the record. The request is for a total sign area of 73.86 sq. ft. where 54 sq. ft. maximum is permitted and 48.92 sq. ft. exists to construct a 24.94 sq. ft. ground sign at 905 North Colony Road in an RF-40 District. Current Sign Regulations allow one ground sign not to exceed 64 sq. ft. per parcel and the total allowed sign area (including any ground sign) for the parcel allowed is based on the linear measurement of the building. Allowances for this zone permit 1 sq. ft. of signage for each linear foot of building frontage. The site design of the new business at this location is of a drive-thru only with an approximately 525 sq. ft. building. The applicant removed the existing ground sign from the previous business in order to allow some permitted signage on the site. The applicant is entitled to far less signage than existed on-site for the simple reason the building is $\frac{1}{4}$ the previous size. Sign Regulations are currently being updated and will include the right to claim any legally existing signage. To that end, this office can support the granting of this Variance for the approximately 25 sq. ft. of additional signage for a single ground sign. The ground sign requested is less than the pre-existing signage on this site and would be allowed as of right several months from now post the adoption of amended sign regulations.

Darcy Roy, 7 Burning Tree Lane, explained that they are asking to install an additional pylon sign. They have signs on the front and side of the building but since the building is set back it is hard to see the signage. The proposal is much smaller than what was there and smaller than what would be allowed.

Chairman Rusczek asked about the front setback from the road. Ms. Roy replied that it is 10 feet from the property line.

Mr. Gross asked if the razor signs would be removed. Ms. Roy replied yes.

Mr. Wolfer agreed that it is hard to see the business while driving.

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

Mr. Rys: Motion to approve #24-029 Variance Request for sign area of 73.96 ft. where 54 sq. ft. max is permitted to erect a 24.94 sq. ft. ground sign at 905 North Colony Road as shown on Site Plan, sheet 2, Seven Brew Coffee, dated 4/1/24, revision dated 8/26/24, and submitted plans received 9/12/2024.

Mr. Conroy: Second

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

The application is approved.

5. #24-030 – Variance Request/Chick-Fil-A, Inc./1098 North Colony Road

Ms. Raddatz read the staff notes into the record. The applicant requests a Variance Approval for a side yard of 6.5 ft. where 20 ft. is required and 16.8 ft. exists to expand a canopy of approximately 850 sq. ft. over a proposed 2nd drive-thru/pick-up lane at 1098 North Colony Road in an RU-40 District. An additional Planning & Zoning Commission application/approval for Site Plan modification will follow the Zoning Board of Appeal determination to address the addition of the actual 2nd drive-thru aisle. The side yard variance request is necessary only for the erection of the additional canopy. The parcel is unique as it is surrounded on three sides and incorporated within a cluster of commercial parcels (retail, restaurant, and associated parking) with interior “shared” access ways to each. The side yard Variance requested affects the boundary with the neighboring restaurant site’s parking spaces and landscaped parking buffer and does not impede any parking, access, or circulation for this or any abutting property.

Atty. Amy Souchuns, with Hurwitz, Sagarin, Slossburg, and Knuff, LLC., 135 Broad Street, Milford explained that the side yard variance request is part of a plan to update the site and make a full two-lane queue for ordering and delivery. In May of 2022, they made a smaller side yard variance request for the existing canopy. The new canopy will match. The hardship is the very unique shape, orientation, and location in the center of a larger property.

Chas Evans, licensed engineer with Bohler Engineering, 65 LaSalle Road, West Hartford, showed the site and where the variance is requested. They want to expand the existing canopy to protect customers and employees. They will be within 6.5 feet of the side property line. They will be changing 6.5 inches in the curb line. Otherwise, the property remains the same. The canopy will cover a lane and a half.

Chairman Rusczek clarified that it will not fully cover both lanes. Mr. Evans confirmed.

Gideon Lee, Development Manager at JLC, explained that he is the development consultant for Chick-fil-A. They are working on retrofitting all the Chick-Fil-A restaurants so all have two lanes. The canopy provides shelter for the team members and guests. He explained how the covered space would be used. It allows the drive-thru to operate more efficiently.

Mr. Gross asked about the curb being moved. Mr. Evans replied that it is along the edge of the driveway to provide adequate spacing. It is moved closer to the parking lot. Mr. Lee added that they will maintain the landscaping.

Ms. Souchuns noted that this will be part of the site plan modifications.

Mr. Conroy noted that this will also help with traffic. Mr. Lee added that there will still be a single lane at the entrance but it will open up to two lanes.

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

Mr. Rys: Motion to approve #24-030 Variance Request for Side Yard of 6.5 ft. where 20 ft. is required to construct/expand a canopy over portion of proposed 2nd drive-thru aisle at 1098 North Colony Road as shown on Site Plan, Chick-Fil-A Wallingford, FSR# 3370, 1098 & 1100 North Colony Road, dated 9/10/2024, and submitted elevations/plans received August 16, 2024.

Mr. Wolfer: Second

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

The application is approved.

7. #24-032 – Variance Requests/CT Food Bank/2 Research Parkway

Ms. Raddatz read the staff notes into the record. The application is for 6 Variance Requests: Front Yard Setback of 50 ft. where 100 ft. is required and 89 ft. exists, Building Coverage of 25% where 20% maximum is permitted and 16.6% exists, Minimum Open Space of 40% where 50% minimum is required and 55.8% exists, Minimum Open Space in Natural State of 35% where 75% Natural State Open Space is required and 56% exists, Loading Dock(s) in the Front Yard where no Loading Docks in Front Yard are permitted, and Watershed Interchange 50% (50 ft.) Landscaping of Required Front Yard where 100% of Required Front Yard (100 ft.) is to be landscaped in order to expand the loading dock and construct building additions for cool/frozen storage, dry salvage, and staging area at 2 Research Parkway in a WI District. The parcel is a prime example of the hardship and limitations a site may possess. The site is fronted on all 4 sides by streets, both the Town of Wallingford and CT Roads/Thoroughfares. As such, the parcel has 4 required front yards, no side yard(s) and no rear yard. 2 Research Parkway also has no abutting properties and is essentially an island. The Watershed Interchange District was created on 4/12/2022 with added protections and requirements for potential impacts to the Watershed and Water Supply. The parcel and its use predated the inception of the WI Regulations and therefore the necessity

for the WI Front Landscaping in Natural State was not required. This requirement and this particular Variance Request applied only to the two front yards on Thorpe Avenue and Joseph Carini Drive as these 2 of the 4 front yards are affected by the proposed building construction and site alteration. Consequently, the WI Zone regulations are of critical importance so compliance is critical whenever possible and relief requests are reduced to the absolute minimum. The Board should evaluate the option to at least reduce this particular Variance Request (along with any other requested variance which may be reduced) by alternative solutions such as creating green space and natural open space elsewhere on the parcel or even by such means as "green roofs" or the like. The Board may always approve a Variance for less than the requested amount, never for more. It is not necessary to deny a Variance for alternate/reduced quantity, but rather approve with the amended determination or condition the Approval on any required adjustments or actions with deadlines to complete at a later date.

Tino Rivero, Chief Operations Officer, CT Foodbank, 2 Research Parkway; Angela Cahill, and Kyle ____, licensed architects, STV, Inc., 280 Trumbull Street, Hartford presented.

Mr. Rivero explained what CT Foodbank does and why the addition is needed. At the time of the merger, the zoning regulations were different. He noted that the new WI district regulations are not ideal for them. This proposal gives them the minimum space they need to support the growing need. It is not ideal but this will make the warehouse more efficient and safer and will allow them to consolidate operations.

Ms. Raddatz asked if they expect the expansion to be enough if the need continues to grow. Mr. Rivero replied that they expect that this will be good for the next 12 – 15 years. All the product selection and distribution is done in Wallingford. Ms. Raddatz asked how much more traffic would be generated. Mr. Rivero replied that there would be the same number of trucks, but more agencies may come to pick up and there could be more volunteers.

Ms. Cahill explained that they looked at the programmatic needs and space needs with a team of architects, engineers, transportation planners, construction professionals, and project managers. The basic need was storage. They reviewed many options for an ideal solution. This proposal meets the minimum needs and respects the new regulations as much as possible. They have made concessions in the layout to get as close to the zoning codes as possible. The hardship is the change of zone and the four front yards. She stated that they are asking for the setback on two sides to be reduced to 50 ft. The coverage and open space change requests are for only 5% and 10% change. She noted that the expansion is only possible on the ground floor. The building has little impact on the environment. She noted that it would be a burden to add 'green roofs' because of the cost of designing, building, and maintaining them.

Chairman Rusczek stated that the Board would have liked a better drawing of the changes to the property. He asked for an explanation of what is expanding and where. Ms. Cahill explained. Chairman Rusczek asked where the loading docks are now. Mr. Rivero showed the locations and noted how the loading docks would be affected if the configuration was modified.

Mr. Conroy asked how the trucks got to the loading docks. Mr. Rivero confirmed that the driveway will move into to open space around the building.

Mr. Gross asked where the new loading docks will be. Mr. Rivero showed potential space for two additional loading docks. The new ones will be on the Research Parkway side next to the existing ones. Mr. Rivero noted that they use box trucks which will access from Thorpe Avenue and tractor trailers that will go to the back side.

Chairman Rusczek asked if approved, where the roadway would be. Kyle replied that it would be in the natural open space, but they haven't designed it yet. Chairman Rusczek stated that considering how much they are asking for, the drawing is inadequate.

Ms. Torre stated that the location of the driveway is not the Board's concern. If the Board grants the variance, they will have to go to Planning & Zoning and if not approved, they will come back to us. The building envelope is reduced by the four front yards. The Zone requires the front yard to be entirely landscaped. She noted that the drive aisle can go through landscaped areas.

Mr. Gross asked what the setback would be if there were side yards. Ms. Torre replied 50 ft. She noted that Planning and Zoning can tell them they need to compensate with green space elsewhere.

Ms. Raddatz asked if the request was for a reduction to 50 ft. on all four sides. Ms. Torre replied that they are only asking for the areas where the building additions are. Ms. Raddatz clarified that it is two front yards. Ms. Torre confirmed and noted that they are also asking for building coverage, landscaping, and open space for the site. Planning and Zoning can focus on environmental issues.

Mr. Gross asked what would be in the natural state and if they would be disturbing the trees on the west side. Kyle replied they will use about 10 ft. of it at the corner of the building. Mr. Gross asked what percentage they would be down to. Kyle replied that 75% of the existing open space. They are proposing going from 50% to 40% of the site being open space. Ms. Cahill added that the total coverage will be 25% instead of 20%. Mr. Gross stated a concern with the loss of the natural habitat. He asked if the loading docks would be on three sides. Mr. Rivero replied only on two sides. He clarified that there will be no loading docks on the west, just truck parking. Mr. Gross noted that what you do is fabulous. His concern is with the regulations.

Commissioner Rusczek agreed that they do an amazing job. They are just asking for a lot.

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

Mr. Rys: Motion to approve #24-032 Variance Request for front yard of 50 ft. where 100 ft. is required to construct loading dock(s) and building addition(s) at 2 Research Parkway as shown on Site Plan Proposal, CT Foodbank, Inc., submitted September 16, 2024.

Mr. Conroy: Second

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

Mr. Rys: Motion to approve #24-032 Variance Request for Building Coverage of 25% where 20% max. is permitted to construct loading dock(s) and building addition(s) at 2 Research Parkway as shown on Site Plan Proposal, CT Foodbank, Inc., submitted September 16, 2024.

Mr. Conroy: Second

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

Mr. Rys: Motion to approve #24-032 Variance Request for Minimum Open Space of 40% where Minimum 50% is required to construct loading dock(s) and building addition(s) at 2 Research Parkway as shown on Site Plan Proposal, CT Foodbank, Inc., submitted September 16, 2024.

Mr. Conroy: Second

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

Mr. Rys: Motion to approve #24-032 Variance Request for Minimum Open Space in Natural State of 35% where Minimum 75%. Open Space in Natural State is required to construct loading dock(s) and building addition(s) at 2 Research Parkway as shown on the Site Plan Proposal, CT Foodbank, Inc., submitted September 16, 2024.

Mr. Conroy: Second

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

Mr. Rys: Motion to approve #24-032 Variance Request for Loading dock(s) in Front Yard where No Loading Dock(s) in Front Yard permitted to construct loading dock(s) and building addition(s) at 2 Research Parkway as shown on Site Plan Proposal, CT Foodbank, Inc., submitted September 16, 2024.

Mr. Conroy: Second

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

Mr. Rys: Motion to approve #24-032 Variance Request for WI Zone Front yard Landscaping of 50% (50 ft.) where WI Zone Landscaping requires 100% (100 ft.) front yard to be landscaped to construct loading dock(s) and building addition(s) at 2 Research Parkway as shown on Site Plan Proposal, CT Foodbank, Inc., submitted September 16, 2024.

Mr. Conroy: Second

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

The application is approved.

CONSIDERATION OF MINUTES

1. September 16, 2024, Regular Meeting

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

Ms. Rys: Second

Vote: Unanimous

ADJOURNMENT

Mr. Conroy: Motion to adjourn the October 21, 2024, regular meeting of the Zoning Board of Appeals at 8:35 p.m.

Ms. Raddatz: Second

Vote: Unanimous

Respectfully submitted,
Cheryl-Ann Tubby
Recording Secretary