

Wallingford Zoning Board of Appeals

Monday, October 19, 2020

7:00 p.m.

Meeting Conducted Remotely through GoToMeetings

Minutes

Present: Chairman Joseph Rusczek; Secretary Louis Czerwinski; Commissioners Thomas Wolfer; Samuel Carmody, Raymond Rys; Alternate: Karen Harris, and Robert Parisi; Amy Torre, Zoning Enforcement Officer.

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

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, October 23, 2020. The effective date of your variance will be Friday, October 23, 2020; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, November 8, 2020. If you commence operations and/or construction during the appeal period, you do so at your own risk.

Voting members are Carmody, Czerwinski, Rys, Wolfer, and Chairman Rusczek.

PUBLIC HEARINGS

1. #20-021 - Variance Request/Williams/12-16 Northfield Road

Chairman Rusczek noted that neither the applicant nor a representative was present.

2. #20-022 – Variance Request/Zeng/600 Williams Road

Chairman Rusczek noted that neither the applicant nor a representative was present.

3. #20-023 – Variance Requests/Antonelli/side yard of 11.2 ft. (20 ft. required), building coverage of 17% (15% max permitted), and the front yard of 38/9 ft. (40 ft. required) to construct a 340 sq. ft. single-story addition at 11 Liandina Road in an R-18 District.

Mr. Czerwinski read the staff notes into the record for application 20-023, side yard, front yard, building coverage variance, Antonelli, 11 Liandina Road. The applicant proposes a side yard setback of 11.2 ft. where 20 ft. is required and 25.1 ft. exists, a front yard of 38.9 ft. where 36.9 ft. exists and 40 ft. is required, and building coverage of 17% where 14% exists and maximum 15% is permitted in order to construct a ground level, single story 34 sq. ft. addition at 11 Liandina Road in an R-18 District. Dwelling is a split-level design and the applicant requests variances in order to create an accessible bedroom and bath space at ground-level. Any associated ramps for means of entry and egress require no Zoning approval.

Pamela Grazioso, 11 Wall Street, Wallingford, explained that the application is to add a handicap accessible bedroom and bathroom on the first floor for her father who has ALS. She noted that Allen Frederickson wanted to speak in favor but had a bad connection.

Public Comment – none

Chairman Rusczek closed the public hearing and opened it up for discussion and possible action by the Board.

DRAFT

Chairman Rusczek noted that it is a straightforward application for making it more handicap accessible and stated that he is in favor of it.

Mr. Rys: Motion to approve the variance request for side yard of 11.2 ft. to construct a single-story addition at 11 Liandina Road as shown on submitted plans received 9/18/2020 and Property Survey showing proposed addition, the property of Anthony Antonelli dated 9/4/2020, subject to the following condition:

1. **Comments from Erik Krueger, Senior Engineer, Water and Sewer Division dated October 8, 2020.**

Mr. Carmody: Second

Vote: Carmody – yes to approve; Czerwinski – yes to approve; Wolfer – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.

Mr. Rys: Motion to approve the variance request for front yard of 38.9 ft. to construct a single-story addition at 11 Liandina Road as shown on submitted plans received 9/18/2020 and Property Survey showing proposed addition, the property of Anthony Antonelli dated 9/4/2020, subject to for the following condition:

1. **Comments from Erik Krueger, Senior Engineer, Water, and Sewer Division dated October 8, 2020**

Mr. Carmody: Second

Vote: Carmody – yes to approve; Czerwinski – yes to approve; Wolfer – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.

Mr. Rys: Motion to approve the variance request for building coverage of 17% to construct a single-story addition at 11 Liandina Road as shown on submitted plans received 9/18/2020 and Property Survey showing proposed addition, the property of Anthony Antonelli dated 9/4/2020, subject to the following condition:

1. **Comments from Erik Krueger, Senior Engineer, Water, and Sewer Division dated October 8, 2020**

Mr. Carmody: Second

Vote: Carmody – yes to approve; Czerwinski – yes to approve; Wolfer – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.

The variances are approved.

4. **#20-024 - Variance Request/Erba/front yard of 39.34 (50 ft. required) to construct a 332.2 sq. ft. addition and a vertical addition (dormer) at 1465 Tuttle Avenue in an RU-40 District.**

Mr. Czerwinski read the staff notes into the record. The applicant proposes a front yard setback of 39.74 ft. where 50 ft. is required and 39.74 ft. exists at its minimum to construct a 22 ft. x 15.1 ft. single-story addition (3 season room) to the rear of the dwelling at 1465 Tuttle Avenue in an RU-40 District. The proposal also includes a 23 ft. dormer to the rear of the existing dwelling above the proposed addition thus expanding the existing dwelling vertically. The property is a corner lot with two front yards and non-conforming regarding front yard setbacks and lot area. Addition and dormer both require Variance approval as both are an expansion of non-conformity. In addition, he noted an Interoffice Memorandum

from Erik Krueger, Senior Engineer, Water & Sewer Divisions received October 9, 2020, and an Inter-Departmental Referral from the Health Department dated October 7, 2020, asking for a B100a form.

Frank Erba, a contractor representing the customer at 1465 Tuttle Avenue, explained that it is an RU-40 setback. They are looking at the back corner of the property, where the existing structure is currently just under 47 ft. off the property line. They are looking to go straight up vertically with a dormer and are not expanding on any of the property lines. They are staying within the confines of the existing house. Currently, at the rear of the property, there is a patio. Atop that patio, they will be framing a three-season room that is the same width (23 ft by approx 16 ft) off the back of the house.

Chairman Rusczek noted the application is for an addition plus a 3 season room and a dormer. Mr. Erba confirmed it is a dormer and three-season room. Chairman Rusczek noted that there was no change to the setbacks. Mr. Erba confirmed that the three-season room actually fades further away from the property line. They will be set in from the edge of the house on the dormer is set in by a couple of feet and the 3 season room is flush with that wall so it doesn't encroach closer than 47 feet, which is the current setback.

Mr. Parisi asked if the dormer requires a variance approval. Chairman Rusczek replied yes because they are already inside the 50-foot setback.

Public Comment – none

Chairman Rusczek closed the public hearing and opened it up for discussion and possible action by the Board.

Chairman Rusczek noted that this is a straightforward application and the house was built before the zoning and setback changes.

Mr. Wolfer extended appreciation to Paul Reynolds for doing such a great job in this area of town. He noted that Mr. Reynolds has helped others and does a great job.

Mr. Czerwinski stated that he agreed that it is a straightforward application.

Mr. Czerwinski: Motion to approve the variance request 20-024/Erba/1465 Tuttle Avenue for front yard of 39.74 ft. to construct an addition (3 Season Room) and dormer (vertical expansion) at 1465 Tuttle Avenue as shown on submitted plans received 9/18/2020 and Proposed Plot Plan, land of Christine and Robert Livolsi, 1465 Tuttle Avenue dated 9/17/2020, subject to:

1. Comments from Erik Krueger, Senior Engineer, Water, and Sewer Division dated October 8, 2020, and
2. Comments from Health Department received October 7, 2020.

Mr. Carmody: Second

Vote: Carmody – yes to approve; Czerwinski – yes to approve; Wolfer – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.

The variance is approved.

5. **#20-025 - Variance Request/ Loukides/side yard or 7.93 ft. (20 ft. required) to construct a screened porch addition at 54 Ridgeland Circle in an R-18 District.**

Mr. Czerwinski read the staff notes into the record. Applicant requests side yard setback of 7.93 ft. where 8.63 ft. exists and 20 ft. is required to construct a single-story addition (screened porch) to the rear of the dwelling at 54 Ridgeland Circle in an R-18 District. Property predates zoning and has existing non-conforming side yard setback. The proposal is to expand existing non-conformity to the rear to add a single story 394 sq. ft. screened porch. Where there is an existing patio the applicant proposes to replace it with an addition. The Board should consider that there are alternate compliant locations on the parcel for constructing the same addition, therefore hardship is questionable. In addition, he noted an Interoffice Memorandum from Erik Krueger, Senior Engineer, Water & Sewer Divisions dated September 10, 2020.

David Gaetano, the contractor for the 1.5 season screen porch, explained that the request is to add a screen porch to an existing slab. When the house was purchased, there was a dilapidated screen porch that was removed.

Chairman Rusczek stated that he understands that the dwelling predates zoning. He asked if they considered other locations for this porch. Mr. Gaetano replied that the homeowners want the porch attached to the house and don't want to cover windows or lose the pool location. The slab is already there. The existing garage would still be the furthest to the sideline setback.

Ms. Harris asked when the original porch was removed. Mr. Gaetano replied that he understands that the homeowner purchased the house close to 20 years ago and took down the porch shortly after because it was falling apart. Ms. Harris asked for confirmation that there had been a structure there. Mr. Gaetano confirmed.

Public Comment – none

Chairman Rusczek closed the public hearing and opened it up for discussion and possible action by the Board.

Chairman Rusczek stated that he had no problem with the application. The house predates zoning, the slab is there and there used to be a porch there.

Mr. Rys: Motion to approve the variance request for side yard of 7.93 ft to construct an addition at 54 Ridgeland Circle as shown on submitted plans received 10/13/2020 and Proposed Plot Plan, land or John and Darlene Loukides, 54 Ridgeland Circle dated 9/14/2020, subject to:

1. **Comments from Erik Krueger, Senior Engineer, Water, and Sewer Division dated October 8, 2020, and**
2. **Comments from Health Department received October 7, 2020.**

Mr. Carmody: Second

Vote: Carmody – yes to approve; Czerwinski – yes to approve; Harris (for Wolfer) – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.

The variance is approved.

6. **#20-026 - Variance Requests/Franceskino/building coverage of 18% (15% max permitted) and side yard of 12.05 ft. (20 ft. required) to construct an addition at 20 South Side Drive in an R-18 District.**

Mr. Czerwinski read the staff notes into the record. The applicant proposes a +/- 300 sq ft. addition to the rear of the property. The addition is proposed as a 4 season porch to be a common space between the primary dwelling and the Accessory Apartment. Submitted plan and photos from August 2020 variance application and lack of building elevation plans identify no means of entry/egress from the exterior of the residence, nor means of access from the primary dwelling. The addition appears to eliminate or have to accommodate bilco door access to the basement and appears to need to accommodate differing heights. Without direct access to the primary dwelling, the proposed addition would be an expansion of the Accessory apartment and would not be permitted. This office cannot support the proposed addition as presented as there is no associated hardship and does not comply with the regulations regarding Accessory apartments. Furthermore, the property has received variance approval to exceed maximum building coverage and reduce setback requirements in the past. The applicant was denied variance approval in August 2020 for building coverage and side yard setback for a similar proposal. There is no hardship associated with seeking further relief from the same Zoning Regulations. In addition, he noted an Interoffice Memorandum from Erik Krueger, Senior Engineer, Water & Sewer Divisions dated October 8, 2020, and an Inter-Departmental Referral from the Health Department dated October 7, 2020.

Paul Buckley Reynolds, from Stonewall Boundaries, 80 Sage Drive, Wallingford, explained the application. Looking at the drawing, it is a corner lot with two front setbacks of 40 feet and two side setbacks of 20 feet. The shape is a triangle. Even though there are the required 18,000 square feet for the lot, most space is toward the front. There is barely any backyard. The application was denied last month. This proposal does not look to add to the accessory apartment, but to add common space. The basement of the residence is finished and ingress/egress is provided through the bulkhead. The board recommended to the applicant to go back to look at the plan to make it more acceptable and she has done so. The proposed addition is set further away from the property line. It was 9.45 feet away and is now 12.05 feet away where an existing 13.49 exists. He stated that they are not adding to the accessory apartment. He pointed out the bulkhead in the plans which will be ingress/egress for the common space. He explained that the family has been trying to create more space in the time of COVID.

Kelly Franceskino, 20 South Side Drive, Wallingford, explained that from the main dwelling finished basement there would be an entry into the four-season porch. There would be access from the accessory apartment into the same shared space. There is a door to exit the room to the outside yard. There is still access to the basement. She noted that she submitted letters from her neighbors and has their full support. She stated that she hopes that with these modifications, pulling away from the side yard setback and making it shared space, and complying with the Board's wishes, approval will be granted to go ahead.

Chairman Rusczeck asked if they are removing the bilco door. Mrs. Franceskino confirmed and explained that it will be the entry to the shared space and there will be a door off that room that to get outside. Chairman Rusczeck asked how they would access the house. Mrs. Franceskino replied the bilco door will be removed and there will be a door like stairs out into the new space. To get to the main house from the new shared space you'd go in the new back door into the room and then down the stairs into the main dwelling. So there will be a staircase into this room where the bilco door was. Chairman Rusczeck noted that there is an entrance into the accessory apartment. He asked if there will be a door to the main house first floor. Mrs. Franceskino confirmed that it is through the bilco area. She noted that the basement is finished, so that's the main house. Chairman Rusczeck asked if there was an entryway to the first floor of the house from the 3 season room. Mrs. Franceskino replied no, just to the finished basement.

Chairman Rusczek asked Amy Torre, Zoning Enforcement Officer, what the difference was between this application, and the last application that was denied. Mrs. Torre replied that there is a slight decrease in the side yard setback but an increase in building coverage. She noted that the footprint is around the corner of the accessory apartment thus proposing to eliminate the need for the third variance in the original request for the accessory apartment add-on. She stated that it is still questionable whether this would be considered accessible to both units. She reported that she doesn't know if the fire marshal would have an issue with the entryway from the basement. There may be structural and safety issues if you cannot enter at the grade level of the home. This equal level as the accessory apartment is now where the flooring would be because right now that bilco presents two different floor levels. There was no plan showing how it could be structurally possible, nor whether or not it would be in keeping with the regulations regarding accessory apartments. They dropped a variance that may still be needed from the first application. She stated that there is a history of variances approved on this property. Chairman Rusczek noted that because to the back, is it considered an addition to the accessory apartment? He stated that he doesn't see the bilco door as an entryway. Mrs. Torre replied that it remains to be seen whether the additional variance should be requested. It is just not being requested at this time. She stated that it appears, potentially, to still be an expansion of the accessory apartment.

Mr. Wolfer asked Mrs. Torre if there is an exit door being used in the addition. He noted that Mrs. Torre said there is a door from the house into the apartment but is there an exit. Mrs. Torre replied that there is no entry to the main house at this point. They are proposing that the bilco door will somehow be the entry point into the house and then they are proposing an exit into the outdoors. She stated there is an entry to this new space from the accessory apartment and at this point no means of entry into it from what is proposed. They have to show how it could be constructed.

Mr. Reynolds stated the bilco doors will be eliminated and the proposed addition incorporates the bilco doors and the access would be to the finished basement of the primary residence. He noted that there are no plans to show that because they are waiting for approval. He acknowledged that they would have to meet the approval that is granted, otherwise it cannot be built. If we cannot show this a being part of the primary residence they wouldn't get a building permit to move ahead.

Chairman Rusczek stated that they usually want a drawing of some sort to see what it's going to look like. He stated that, in the picture, it looks like the bilco door footing is about grade. He asked if there will there be a step up into the accessory apartment. Mrs. Franceskino replied yes, the plan is to bring the steps up into the new addition from the basement. It is the same height as the existing house. She noted that they aren't going any higher or longer.

Chairmen Rusczek asked what the hardship is. Mr. Reynolds replied that the lot itself is the hardship. It meets the 18,000 square feet requirement but it's a corner lot with two front requirements of 40 feet which pushes the house way back. Then there are the two 20 foot side setbacks. He explained that the other variances were granted in past due to the shape of the parcel. There is not much back yard because the house is pushed back. Chairman Rusczek stated that he is not seeing the hardship. He stated, in his opinion, that there could be are other places to the back of the house with possibly not needing a variance.

Mr. Czerwinski asked for clarification that there is a door to the addition and a door into the accessory and then the bilco area is converted to an entry/exit that leads to the basement. Mrs. Franceskino confirmed and stated that the bilco door will be the entry from the main dwelling into the addition.

There is a door from the accessory apartment into the same space and then there is a door to the outside. Mr. Czerwinski asked for clarification that the bilco area goes to the basement, so that entry into the new structure goes into the basement of the existing house. Mrs. Franceskino confirmed. Mr. Reynolds added that the location is primarily where an existing wooden deck is presently. There is already an open deck in that location which is at least 75% of where they are proposing the addition.

Mrs. Torre stated that the non-conforming lot size was the basis for three prior variances to property, so hardship is exhausted. She questioned the Board to find hardship with the land. She stated that first and foremost to consider whether or not an additional variance is necessary. Mr. Reynolds noted that he only came up with two prior variances in his research. He's aware of the front and side setback variances. Mrs. Torre replied that the application refers to three variances. She noted that the property is already over the building coverage as a result of the earlier additions and you are asking to go further over. She stated that the application from two months ago misrepresented what space was and the accessory apartment was granted in arrears because the addition was proposed as expanded living space to the main dwelling but was actually an accessory apartment. Mrs. Franceskino stated that the expansion for the addition in the back, some of it is the existing deck, and the rest is empty space between the accessory apartment and the main dwelling porch, so they are not going further into the yard. The neighbors are okay with it. Regarding the hardship with the land, when the addition was put on in 1985, it was for additional living space. Later when her parents retired, they had the apartment legalized for them because they put in the bathroom and kitchen. She noted that her parents build the house in 1965. She reiterated that it will be common space. She stated that the hardship is the corner lot and the world we live in today. They are not going taller or further. She pleaded with the Board to let her proceed. Mr. Reynolds noted that the family is three generations in this space.

Mr. Wolfer asked for clarification that the Fire Marshal can't approve of a plan unless he sees it physically there. Chairman Rusczek agreed and suggested that the building department would want to look at it too. Mr. Reynolds confirmed. In terms of moving ahead with a building permit, he would go to other town officials including fire and building department if the variances are granted.

Public Comment – none

Chairman Rusczek closed the public hearing and opened it up for discussion and possible action by the Board.

Chairman Rusczek noted that he still doesn't see the hardship and believes the application is not much different from the earlier application. He also thinks it is a stretch to use the bilco door as an entrance into the main living space.

Mr. Parisi stated that this commission is sometimes difficult because the rules are not easy to apply. He stated that he agrees with the staff and Chairman Rusczek.

Mr. Wolfer: Motion to approve the variance request for side yard of 12.05 ft. to construct an addition at 20 South Side Drive as shown on Proposed Plot Plan, land of Kelly and Anthony Franceskino, 20 South Side Drive dated 9/17/2020, subject to:

1. Full access created from primary dwelling to the proposed addition,
2. Comments from Erik Krueger, Senior Engineer, Water & Sewer Division dated October 8, 2020, and
3. Comments from Health Department received October 7, 2020.

Mr. Rys: Second

Vote: Carmody – no to approve; Czerwinski – no to approve; Wolfer – no to approve; Rys – no to approve and Chairman Rusczek – no to approve.

The variance for the side yard has been denied.

Mr. Wolfer: Motion to approve the variance request for building coverage of 18% to construct an addition at 20 South Side Drive as shown on Proposed Plot Plan, land of Kelly and Anthony Franceskino, 20 South Side Drive dated 9/17/2020, subject to:

1. Full access created from primary dwelling to the proposed addition,
2. Comments from Erik Krueger, Senior Engineer, Water & Sewer Division dated October 8, 2020, and,
3. Comments from Health Department received October 7, 2020.

Mr. Rys: Second

Vote: Carmody – no to approve; Czerwinski – no to approve; Wolfer – no to approve; Rys – no to approve and Chairman Rusczek – no to approve.

The variances are denied.

Chairman Rusczek called again for any representative for applications 20-021 and 20-022. None were heard.

CONSIDERATION OF MINUTES

Mr. Rys: Motion to accept the minutes of the Monday, September 21, 2020, regular meeting.

Mr. Wolfer: Second

Mr. Wolfer referred to the new business section of the minutes. He noted an article in the Record Journal and commended Sam Carmody on doing a fine job in letting someone know there was a problem. He stated that he took offense to the letter he received from the Mayor. He noted that not every body that has representation for the citizens of the town meets in the Town Hall. They do them virtually. Mr. Conroy commented that he had no choice to work in public and that his presence endangered others. He stated that being there that night was unacceptable. Mr. Wolfer asked what the plan was for this Board going forward. He mentioned that the Mayor's letter said there is a new ventilation system in Town Hall. Mr. Wolfer stated he would challenge him on that and would like proof that the air quality is better than it was two months ago. He asked what we as a Board are going to do for meetings going forward. Will they be virtual or in Town Hall?

Chairman Rusczek agreed to look into it. He stated that he would like to stay virtual to the first of the year and revisit it. He admits that he might not get his way. He noted that he wasn't at the last meeting. He noted that some board members contacted him with concerns. He noted that we are here to serve the public and if there's another option we need to consider it so the public can be safe. He went to the planning office and reported the concerns of the majority of the Board members. He stated that he can't promise that the next meeting will be virtual but is hoping it will be. He stated that he respects the opinions of the Board. His impression is that the majority is concerned. He doesn't see a problem with virtual meetings.

Mr. Wolfer thanked Sam for bringing it up and getting more people involved. Mr. Carmody thanked the Chairman for working to accommodate concerns. Chairman Rusczek noted that he understands the concerns and will look into the November meeting and will report back.

Vote: Unanimous to approve

NEW BUSINESS

Chairman Rusczek reported that he understands there will not be a quorum for the scheduled December meeting, so he will cancel that meeting. So, due to lack of a quorum, the December ZBA meeting will be canceled.

The Board sang happy birthday to Lou Czerwinski.

ADJOURNMENT

Mr. Wolfer: Motion to Adjourn at 8:15 pm.

Mr. Rys: Second

Vote: Unanimous to approve

Respectfully submitted,
Cheryl-Ann Tubby
Recording Secretary