

DRAFT

Wallingford Zoning Board of Appeals

Monday, November 16, 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 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, November 20, 2020. The effective date of your variance will be Friday, November 20, 2020; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, December 6, 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.

Chairman Rusczek announced that the following application would not be heard tonight. It will be heard at the January meeting.

#20-031 – Variance Request/Colony Road Storage, LLC/600 South Colony Road No Action Requested

PUBLIC HEARINGS

1. #20-027 – Special Exception Request/Customary Home Application-Salons/Savo/3 Farm Court
Mr. Czerwinski read the staff notes into the record for application 20-027/Special Exception Request/Customary Home Occupation for a Salon/Savo/3 Farm Court. The applicant is requesting a customary home occupation for a home salon with a single chair utilizing approximately 100 sq. ft. plus access to a ½ bath in the lower level of the residence. Off-street parking is available and no more than two clients will be present at any given time and no more than four clients on a given day at 3 Farm Court in an R-18 District. Also, there is correspondence from the Health Department dated November 9, 2020.

Kristi Savo and Jonathan Stern of 3 Farm Court, Wallingford, presented the application. Ms. Savo explained that she is proposing a single chair home hair studio. She is currently at a salon but due to the pandemic, she wants to bring a few clients here and there to the home studio. She stated that it won't complicate the neighborhood.

Chairman Rusczek asked how many clients she would have per day. Ms. Savo replied that there would be 4 or 5 per day at the most. She stated that she can only have one at a time due to COVID. Mr. Stern added that there could be two people there if a parent brought a child but she can't bring in a second client until the first is done.

Chairman Rusczek asked what her hours of operation would be. Ms. Savo replied that it depends on her children and the school schedule and when clients are available. She stated that she would likely run

from 10:00 am to 1:30 pm and then start up again at 4:00 pm and run to 6:30 or 7:00 pm. Chairman Rusczek explained that the hours and days would be part of the approval to keep everything in check. So he suggested she use the worst-case scenario. Ms. Savo replied that she usually would work 3-4 days a week, so Tuesday, Wednesday, and Thursday. She might work Friday and/or Saturday. Chairman Rusczek suggested using hours of operation from 9:00 am to 7:00 pm, Tuesday through Saturday. Ms. Savo agreed.

Mr. Wolfer asked if clients park in front of the garage door and enter and exit the salon through the garage. Ms. Savo confirmed that is correct. Mr. Wolfer asked if there is room to get a car out without backing into the road. Mr. Stern replied that if there is only one car in the driveway, they can do a K-turn. Mr. Wolfer asked what happens when the next client comes. Do they have to wait before entering? Ms. Savo replied that before she starts a new client, she has to sanitize. If the next client is parked on the street, they will text and she will tell them when to come into the studio.

Mr. Czerwinski asked if 7:00 pm would be the start of the last appointment or when the last appointment would leave. Ms. Savo stated that her last appointment would start no later than 6:30 pm. Mr. Stern added that she wouldn't take a long appointment, like a color, late in the day.

Mr. Rys asked how this application is different from other recent applications that had a similar type of request. Mrs. Torre replied that each application is different. This is a permitted use with certain limitations, such as no signage and no employees, by special exception. The Board determines if it is appropriate for the particular neighborhood and parking is available. Mr. Rys noted that it is quiet in that area. He added that unless the neighbors don't want this type of use in that area, he is inclined to accept it.

Public Comment

Eileen Sassi, 5 Farm Court, Wallingford, stated that their driveway abuts her house. There would be no other house that it would bother. She stated that it would be an almost invisible operation. In her opinion, there would be no impact on the neighborhood. There is no other house close to the garage or driveway that would be bothered. She supports the application.

Stacey & Sharon Weise, 1 Farm Court, Wallingford, stated that they had several concerns. Stacey Weise noted that parking is an issue. She knows with two cars in the driveway, they can't turn around. If clients are waiting in the street, she had concerns with cars running in the winter. She stated that the number of clients is vague as are the hours of operation. She stated that this business would add to cars going up and down the street. She is also concerned about the impact on property assessments. She asked what would happen after the COVID restrictions are lifted, would the number of clients increase. She also noted that without a sign, the business would be difficult to find and there is no guarantee that confused clients would not be knocking on her door. She asked that her concerns be addressed.

Chairman Rusczek replied that the hours of operation and days have been defined. He asked the applicant if the house has a number. Mr. Stern replied that the number is on the front of the house and the mailbox. Chairman Rusczek asked for the length of the driveway. Mr. Stern estimated 60-70 feet. Ms. Savo stated that many cars come and go in their neighborhood so she didn't think one or two cars would have much impact. Mr. Stern noted that they drew up plans for the space but didn't measure the driveway. The length of the driveway is about the same as the neighbors on either side. Chairman Rusczek asked how many cars can be parked in the driveway. Mr. Stern replied a maximum of four and if there is one car, it can turn. Chairman Rusczek stated that he would like to see them keep clients in the

driveway. He asked for clarification of the Saturday hours. Ms. Savo stated that she would only occasionally be working on a Saturday and between 9 am and 2 pm. She noted that after COVID restrictions are lifted, she can only do a maximum of two clients at a time. There would never be 4 or 5 clients at once.

Chairman Rusczek suggested setting the hours as Tuesday through Friday, 9 am to 7 pm, and Saturday, 9 am to 2 pm. Mr. Stern noted that in winter weather, Ms. Savo has an agreement with a salon to use that location instead of the house. He also noted that most of her clients already have a relationship with her and know which house to go to.

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

Chairman Rusczek stated that he knows this type of operation happens without going through this process. He believes that what is being proposed will have minimal effect on the neighborhood.

Mr. Rys: Motion to approve application #20-027/Savo/3 Farm Court, Special Exception Request for customary home occupation (hair salon-single chair) as shown on plans/representation submitted with Application received October 9, 2020, subject to conditions:

- **Operation days and hours are limited to Tuesday through Friday, 9:00 am to 7:00 pm and Saturday, 9:00 am to 2:00 pm.**

Mr. Czerwinski: Second

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

The variance is approved.

2. #20-028 – Variance Request/Side Yard Setback/Morgan/131 Ridgeland Circle.

Mr. Czerwinski read the staff notes into the record for application 20-028/Variance Request/Side Yard Setback/Morgan/131 Ridgeland Circle. The applicant requests a side yard setback of 12.5 ft. where 24.7 ft. exists and 20 ft. is required to construct an attached single car, 245 sq. ft. garage at 131 Ridgeland Circle in an R-18 District. The site has an existing, below-grade 240 sq. ft. garage which cannot accommodate a vehicle due to low height profile and thus serves as storage space. The Board should consider if compliant options(s) exists to add a garage area. For example, a detached garage located in the rear of the property would require a 5 ft side yard setback and would not require variance approval. Also, there is correspondence from the Health Department dated November 9, 2020.

Glen and Anne Morgan, 131 Ridgeland Circle, Wallingford presented the application. Mr. Morgan stated that the variance is to build an attached garage. The house was built in 1953 and predates the zoning regulations for the area. The majority of the land is to the left of the house. Due to the topography of the lot, this is the only place to put a single car garage. The south elevation slopes down to where there was a 55-inch tree trunk that remains because it's too expensive to remove it. The proposed one-car garage is the exact kind of garage as seen in the rest of the neighborhood. Mr. Morgan believes the garage would be an improvement for the neighborhood. The shed built in the back is 66 inches in height at the top of the door. It won't accommodate their vehicles.

Chairman Rusczek clarified that they are adding one car attached garage and that the hardship is that the house predates zoning. The other part is the way the property/topography not suitable for building. Mr. Morgan concurred.

Mr. Czerwinski asked when the house was purchased. Mr. Morgan replied that they just purchased it in March of 2020.

Public Comment – none

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

Mr. Rys: Motion to approve application #20-028/Morgan/131 Ridgeland Circle, a variance request for side yard of 12.5 ft. to construct a single car attached garage as shown on Plot Plan of 131 Ridgeland Circle prepared for Ann and Glen Morgan dated 09/12/2020, revision dated 09/29/2020 and plans received 10/14/2020.

Mr. Wolfer: Second

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

The variance is approved.

3. #20-029 – Special Exception Request/Palmieri/941 North Farms Road

Mr. Czerwinski read the staff notes into the record for application 20-029/Special Exception Request/Garage Area/Palmieri/941 North Farms Road. The applicant proposes a garage area of 1157 sq. ft. where 241 sq. ft. exists to construct a 916 sq. ft. attached garage at 941 North Farms Road in an RU-40 District. The subject property is a thru lot with two front yards and two side yards. The proposed attached garage is compliant with regard to all required setbacks and building coverage. Also, there is correspondence from the Health Department dated November 9, 2020.

Alex Palmieri, 941 North Farms Road, Wallingford, explained that the variance is to construct an attached garage and it would include a little bit more living space. He stated that they have a lot of old trees on the property and they want their 4 cars to be indoors.

Chairman Rusczek asked for clarification of the living space. Mr. Palmieri replied that they will lose a covered porch because the garage abuts it so the porch will get closed in. There's going to be six feet of closet space between the existing porch and the garage. He stated that this is all compliant with the zoning regulations. He hopes that the house will look nicer than it does now.

Chairman Rusczek asked for clarification that he's going to add on a three-car garage with storage. Mr. Palmieri replied the extra storage is indoors. He meant that an existing garage is where that stuff would go. The new garage is just for cars.

Ms. Harris asked which road the garage would be accessed from. Mr. Palmieri replied from North Farms Road. You would pull up into the driveway and turn right into the garage. There would be no need to back out on North Farms Road. Ms. Harris asked how many cars. Mr. Palmieri replied three. Ms. Harris asked if they are eliminating the existing garage. Mr. Palmieri replied that they are not eliminating the old garage immediately. It will not be used for cars.

Public Comment – none

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

Ms. Harris asked if there was a limit to how many garages can be on a residential property. Mrs. Torre replied that everybody by right is allowed 936 sq. ft. garage area, but it can go up if the living space of the home is larger, up to 1800 sq. ft. She stated that the existing single car garage puts him over what would be allowed by right. It's classified as a garage no matter what you put in it. Ms. Harris clarified that variance is necessary because they are not eliminating the existing garage. Mrs. Torre confirmed that.

Mr. Wolfer: Motion to approve application #20-029/Palmieri/941 North Farms Road, Special Exception request for total garage area of 1157 sq. ft. where 241 sq. ft. of garage exists to construct an attached 916 sq. ft. garage as shown on submitted plans received 10/16/2020 and Property/Boundary Survey Map #941 North Farms Road, dated 10/14/2020.

Mr. Rys: Second

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

The variance is approved.

4. #20-030/Variance Request/Side Yard Setback/O'Malley/53 Hill Avenue.

Mr. Czerwinski read the staff notes into the record for application #20-030/Variance Request/Side Yard Setback/O'Malley/53 Hill Avenue. The applicant proposes a side yard setback of 18.47 ft. where 20 ft. is required and 16.37 ft. exists to construct a full dormer and vertical addition to the rear of the dwelling at 53 Hill Avenue in an R-18 District. The Side Yard setback is 18.47 ft. at its minimum from the roof peak, which is the northern-most point of the proposed addition. The existing dwelling predates zoning and has a side yard setback of 16.37 ft. at its minimum. Vertical addition does not include any changes to the existing footprint/first floor. Also, there is correspondence from Thomas Ruggerio of 55 Hill Avenue received November 9, 2020; and a memo from the Health Department dated November 9, 2020.

Billy O'Malley, 53 Hill Avenue, Wallingford, stated that add a full dormer across the back of the house. The house was built pre-zoning. The dormer will be one foot in from the sides but he can't do that with the 20-foot variance. He thanked his neighbor for submitting a letter of support and noted that he is the only neighbor affected.

Chairmen Rusczek stated that the house predates zoning and is already within 20 feet. He asked for clarification that it's just a vertical addition and is not expanding the setback. Mr. O'Malley agreed.

Public Comment – none

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

Mr. Rys: Motion to approve application #20-030/O'Malley/53 Hill Avenue. A variance request for a side yard of 18.47 ft. to construct a vertical addition (full rear dormer) at 53 Hill Avenue as shown on

submitted plans received 10/16/20 and Proposed Plot Plan, land of Billy O'Malley, 53 Hill Avenue dated 10/18/20.

Mr. Czerwinski: Second

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

The variance is approved.

5. #20-032/Proton International, LLC/932 Northrop Road

Mr. Czerwinski read the staff notes into the record for application #20-032/Variance Request/Parking/Proton International, LLC/932 Northrop Road. The applicant requests a parking variance of 50 spaces where 112 spaces are required to develop the site as on Outpatient Radiation Cancer Treatment center at 932 Northrop Road in an I-5 District. The applicant will be proceeding for Site Plan Approval from the Planning and Zoning Commission following determination from the ZBA regarding parking. Regulations require 1 parking space per 150 sq. ft. of GFA for Medical/Outpatient Use. Based on the Conceptual plan submitted with the Variance Application, the proposed GFA is 17,370 sq. ft. requiring 116 parking spaces. Applicant seeks reduction based on historical needs and data for patient and employee parking from like sites in the US. The ability to add parking to the site as needed may change or for future alternate Use exists whether the parcel is subdivided in the future or remains as a single lot. Reducing the impervious surface and maintaining open natural space is desirable yet the applicant should clearly demonstrate the hardship associated and the Board should evaluate to what level reduction is relative to that hardship. Also, there is correspondence from Attorney Jim Loughlin to Wallingford Zoning Board of Appeals dated November 2, 2020; an interoffice memo from Erik Krueger, Senior Engineer, Water & Sewer Division to Amy Torre, Zoning Enforcement Officer, dated November 10, 2020; and correspondence from the Health Department dated November 9, 2020.

Jim Loughlin, of Loughlin Law, 221 North Main Street, Wallingford presented. Also present were Peter Carbone, of Proton International and Andrew P. White an engineer with Tighe & Bond Engineers of Middletown. Atty. Loughlin clarified that in Amy's letter she references 1 space per 150 ft. The applicant thought they were subject to a different regulation of 1 space per 250 sq. ft. Thus he stated they are asking for 50 where 116 are required. The number of 50 spaces is due to discussions with staff, Engineering, and Water & Sewer. The decision was to approach the Board with what is necessary. Thus that is the proposal in the letter from Tighe and Bond. This Radio Cancer Treatment center is a partnership of Proton with Yale-New Haven Health and Hartford Healthcare. The state of the art cancer treatment facility will be located at the corner of I-91 and Rt. 68 behind the Marriott. Proton proposes 50 spaces as necessary based on its uses nationwide as shown in letters from other facilities. There will be at most 24 employees with no more than 3 or 4 patients at any given time. So 50 spaces are 20 more than is necessary. That will be more parking per sq. ft. than other facilities. The purpose of the variance is to protect natural resources on and underneath the property and promote the town's Comprehensive Plan. The law only requires that the variance not adversely affect the Comprehensive Plan. Private development is finally coming to the I-91 corridor. In this case, two renowned hospital entities are coming to Wallingford with state of the art cancer technology. This is a campus-like setting, preserving the trees. He noted they are also protecting the watershed by reducing impervious area, thus reducing the resulting pollutant load in the stormwater runoff. They are reducing the impervious area by 20,000 sq ft. Atty. Loughlin shared case law that supports the hardship. He stated that preserving a resource is grounds for a variance. In Engen vs. Town of New Canaan in 2004 the Superior Court overruled the appeal and sustained the decision of the ZBA to preserve the architectural integrity of the property. In

this case, they are in the watershed. The regulation for the I-5 zone states it's to protect the watershed and promote business. Mr. Krueger's letter states that the variance is valuable to protect the watershed. Atty. Loughlin noted that in his letter dated November 2nd he states that most of the trees in the area are cut down. For a campus-like setting, we need the trees. The applicant is proposing to cut down fewer trees and reduce the amount of parking. To be legally sound, the law says that an application for a variance to be granted, it cannot adversely affect the Comprehensive Plan. He stated that they are promoting the Comprehensive Plan. Also, the hardship has to be unusual and unnecessary. It is unnecessary as they will have a maximum of 24 employees and no more than 3 or 4 patients at a time. Fifty spaces are all that's necessary. He stated that not granting the variance would adversely affect the Town's Comprehensive Plan.

Chairman Rusczek stated that this project is exciting. He asked what their plan is if they need more than 50 spaces. Atty. Loughlin replied that the original application called for subdividing the property and they are not doing that. He noted that if more parking spaces are necessary, the land to the north will be available. Chairman Rusczek clarified that there is room to expand if needed. Atty. Loughlin confirmed.

Mr. Czerwinski asked if the use should change, is the applicant willing to document that the variance would lapse. Atty. Loughlin agreed to put that as a condition. He noted that if they do change the use, they would have to apply for a change of use and the variance would automatically lapse.

Public Comment

Tim Ryan, Economic Development Commission stated that he has been working with Mr. Carbone and Proton International for two years and they are not done yet. This is a long process. He stated that this is the single biggest and most exciting project in town. It is a \$72 million taxable project. Beyond the money, it will provide cancer treatments to families throughout the state and puts Wallingford on the map. This is a significant project. He asked for approval of the variance.

Chairman Rusczek agreed that this is exciting and he is pleased that they picked Wallingford. He closed the public hearing and opened it up for discussion and possible action by the Board.

Mr. Rys: Motion to approve application #20-032/Proton International, LLC/932 Northrop Road. A variance request for 50 parking spaces where 116 parking spaces are required to construct an Outpatient Radiation Cancer Treatment Center at 932 Northrop Road as shown on submitted conceptual plans received 10/20/2020 and correspondence and documents received 11/2/2020.

Mr. Carmody: Second

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

The variance is approved.

CONSIDERATION OF MINUTES

Mr. Rys: Motion to accept the minutes of the Monday, October 19, 2020, regular meeting.

Mr. Wolfer: Second

Vote: Unanimous to approve

MEETING SCHEDULE

Chairman Rusczek suggested canceling the December 20, 2021 meeting due to its proximity to Christmas. Board members concurred.

Chairman Rusczek suggested canceling the August 16, 2021 meeting, due to vacation schedules. Board members concurred.

Mr. Rys: Motion to approve the 2021 meeting schedule as changed removing the August and December meetings.

Mr. Wolfer: Second

Vote: Unanimous to approve

NEW BUSINESS

Chairman Rusczek read a letter from Robert Parisi dated November 9, 2020, addressed to the Zoning Board of Appeals. "I will be resigning from the Zoning Board of Appeals by the end of November. I want to thank you for the opportunity to serve with such a dedicated group and to you for your excellent leadership and the experience of working with you. Respectfully and in friendship, Bob Parisi".

Chairman Rusczek noted that Bob was a valuable asset to the Commission and was responsible for getting him involved in this work. He noted that Bob has helped many others get involved. Bob served a lot of years and will be missed. Mr. Rys noted that Bob got him involved as well and stated that he is a bank of knowledge that will be missed. Mr. Carmody noted that Bob contributed wisdom and expertise to the Board. Mr. Wolfer echoed the comments of the others.

Mr. Wolfer asked if these meetings will continue to be virtual. Chairman Rusczek replied that until further notice, yes. He stated that he expects to continue meeting virtually until the spring. Mr. Wolfer stated that he will drop a copy off at the office of Governor Lamont's standing general order stating that all meetings of municipal boards and commissions must be held completely remotely and/or a way must be provided for members to participate remotely if a member doesn't want to attend in person. Mr. Wolfer noted that he will only attend meetings virtually. Chairman Rusczek noted that we are here to serve the public. If members don't participate, then we can't serve the public. Mrs. Torre added that for the foreseeable future there is no intent to do live meetings. All boards and commissions are meeting virtually for the foreseeable future and resources are in place to continue to do so.

Chairman Rusczek noted that there is no December meeting. He asked members to keep their South Colony and Northfield Road application paperwork as they will be heard in the New Year.

ADJOURNMENT

Mr. Rys: Motion to adjourn the November 16, 2020 meeting of the Zoning Board of Appeals at 8:30 pm.

Mr. Wolfer: Second

Vote: Unanimous to approve.

Respectfully Submitted,
Cheryl-Ann Tubby
Recording Secretary