

DRAFT

Wallingford Zoning Board of Appeals

Monday, July 19, 2021

7:00 p.m.

Meeting Conducted Remotely through GoToMeetings

Minutes

Present: Chairman Joseph Rusczek; Vice-Chair Raymond Rys; Secretary Louis Czerwinski; Board Members: Thomas Wolfer; Samuel Carmody; Alternate: Robert Parisi and Amy Torre, Zoning Enforcement Officer.

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

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

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, July 23, 2021. The effective date of your variance will be Friday, July 23, 2021; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, August 8, 2021. If you commence operations and/or construction during the appeal period, you do so at your own risk.

Chairman Rusczek noted that the following application will not be heard this evening, but will be heard next month.

2. #21-014 – Variance Requests/Moran/321 Church Street

PUBLIC HEARINGS

1, #21-012 – Variance Requests/Maghery/48 Apple Street

Mr. Czerwinski read the staff notes into the record. The applicant requests a front yard of 24.5 ft. (and 27.09 ft.) where 24.7 ft. (and 37.09 ft) exists and 40 ft. is required and a building coverage of 23% where 20% exists and 15% max is permitted to construct a single-story, 270 sq. ft. handicap accessible addition at 48 Apple Street in an R-18 District. The parcel is non-conforming with regard to lot area, setbacks, and building coverage as well as located on a corner lot. The applicant's request is for accommodation to allow re-configuring the interior bedrooms and bath for handicap accessibility. This office has determined the presence of both accessibility need as well as hardship and can support these requests. Correspondence included drawings dated May 14, 2021, and Proposed Plot Plan, Land of Erin Maghery, 48 Apple Street, Wallingford, CT by Stone Wall Boundaries, LLC dated May 14, 2021.

Erin Maghery, 18 Apple Street, explained her plan to make the bathroom and bedroom handicap accessible and push out the two bedrooms 10 ft.

Chairman Rusczek noted that the corner lot is the hardship.

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

Mr. Rys: Motion to approve a Variance Request for a front yard setback of 24.5 ft. to construct a single-story, 10 ft. x 27 ft addition as shown on Proposed Plot Plan Land of Erin Maghery, 48 Apple Street dated May 13, 2021, and plans/rendering received May 14, 2021, subject to:

1. Comments from the Health Department received July 12, 2021, and

2. Comments from the Water and Sewer Division dated July 8, 2021

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 request is approved.

Mr. Rys: Motion to approve a Variance Request for building coverage of 23% to construct a single-story, 10 ft. x 27 ft. addition as shown on Proposed Plot Plan Land of Erin Maghery, 48 Apple Street dated May 13, 2021, and plans/rendering received May 14, 2021, subject to:

- 1. Comments from the Health Department received July 12, 2021, and**
- 2. Comments from the Water and Sewer Division dated July 8, 2021**

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 request is approved

3. #21-016 – Variance Request/Butka/5 Highland Drive

Mr. Czerwinski read the staff notes into the record. The applicant seeks a front yard of 32.8 ft. where 42.8 ft. exists and 40 ft. is required to construct a 250 sq. ft. addition to the attached garage at 5 Highland Drive in an R-18 District. The parcel is currently compliant and fronting on Highland Avenue on 3 sides, therefore, limiting compliant alternative(s) for the addition since any proposal requires compliance with 3 front yard setbacks of 40 ft. Correspondence included a letter from William and Joyce Butka dated June 14, 2020; a letter from John & Christine Geary, dated June 14, 2021; a drawing dated June 24, 2021; and Improvement Location Survey Property of William Jr. & Joyce Butka, 5 Highland Drive, Wallingford, CT, dated June 17, 2021.

William Butka Jr. & Joyce Butka, 5 Highland Drive explained that the house is a split level and they want to put an addition on to for storage space that is easier to access than the existing crawl space.

Chairman Rusczek noted that the hardship is the corner lot. Mr. Butka added that this is the only possible location so it doesn't block anyone.

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

Mr. Rys: Motion to approve a Variance Request for front yard of 32.8 ft. to construct a 10 ft. x 25 ft. single-story addition to the attached garage/dwelling at 5 Highland Drive as shown on Improvement Location Survey, Property of William Jr., and Joyce Butka, 5 Highland Drive dated 6/3/21 and plans/rendering received 6/17/21 and 6/24/21, subject to:

- 1. Comments from the Health Department received July 12, 2021, and**
- 2. Comments from the Water and Sewer Division dated July 8, 2021.**

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 request is approved

4. #21-018 – Special Exception Request/In Memoriam Cemetery Association of Wallingford/18 Maplewood Avenue (1 North Main Street Extension)

Mr. Czerwinski read the staff notes into the record. The applicant seeks a Special Exception Approval to expand the burial plots and add/construct internal roadways for access and navigation around the proposed burial sites. The site is an existing cemetery in excess of 20 acres. The applicant is proposing no new structures/buildings. Special Exception requests for changes/expansion of the cemetery use should evaluate the nature, location, size, intensity, and site layout of the use such that it will be in harmony with the appropriate and orderly development of the area in which it is situated as per Section 9.1.J.1 of the Wallingford Zoning Regulations. The cemetery is an existing development/use of the parcel yet any proposed changes and alterations require new/additional Special Exception Approval. Correspondence is the Data Accumulation Plan Depicting Proposed master Plan Layout, Land N/F In Memoriam Cemetery #1 North Main Street Extension, Wallingford, CT, dated June 18, 2021.

Dennis Ceneviva of Ceneviva Law Firm and Dr. Frank Pimentel, Chairman and President of the Board of Trustees of the In Memoriam Cemetery Association of Wallingford presented. Atty. Ceneviva explained that the cemetery was incorporated in 1887 and that Association operates the cemetery. Pursuant to Section 4.1.B.6 of the zoning regulations, cemeteries are a permitted use by special exception in accordance with the provisions of section 9.1. This pre-dates zoning and is the first special exception request. The Association has a master plan to increase the burial plot area within the 20-acre parcel. The expansion plan is a 10-year plan. They are not changing the footprint of the development. Everything would be internal to the site. There will be additional roadways and extended water mains but no lighting. They will keep the character of the cemetery the same as it is currently. There is no request for a crematorium or any other structure. He stated that staff had suggested and they incorporated arrows to direct traffic in a one-way pattern so it won't impact the town roads. The application complies with 9.1.J. This use is more intense since there are more plots, but not more impactful because there are no structures. Most of the land in that area is already developed other than land that is part of the cemetery.

Chairman Rusczek asked if the roads will be two-lane. Atty. Ceneviva replied that it will be a single lane to avoid conflicted cars or back up onto roads. Traffic will be in one direction. Chairman Rusczek asked if the road would be two lanes wide for parking. Atty. said yes. Chairman Rusczek asked when they planned to start. Mr. Pimentel replied that it is based on funds but they expect it to take some time. He explained that it would be done in parts. Chairman Rusczek asked if there would be a buffer for the Maplewood Avenue residents. Mr. Pimentel replied that the master plan includes fencing but is not high enough to block the view. He noted that the adjacent properties have trees and that the Maplewood Avenue residences already view the cemetery. Chairman Rusczek stated that he expects the plots to be set back from the road. Mr. Pimentel confirmed and stated that they haven't gotten that far in their plans but want to keep the neighbors happy. Chairman Rusczek suggested some sort of buffer there. Atty. Ceneviva replied that they would consider a condition that landscaping be worked out with staff.

Ms. Torre stated that it is appropriate to add conditions, but noted that the special exception approval is to the use. Any roads, water lines, and drainage would be part of a Site Plan proposal and landscaping would be looked at by Planning and Zoning.

Mr. Czerwinski asked if all the lots that border the cemetery have trees and if they were on the homeowner's property or the cemetery. Mr. Pimentel replied that there are trees on both. Mr.

Czerwinski asked about section P that mentions cremation and asked if there would be a crematorium on-site. Mr. Pimentel replied that the section is for cremation burials.

Public Comment:

Alexander Hentz, 22 Winding Brook, asked who would follow any type of debris or chemical mishaps that might occur and if there would there be any recourse or enforcement of sewage and waste removal. Chairman Rusczek replied that there are no buildings with bathrooms in the proposal. Mr. Hentz explained he was referring to CO2 monoxide and hazardous gas and chemicals due to disruption to the land. He noted that the land was given as burial grounds which are not in the laws and legislature. Chairman Rusczek replied that cemeteries are allowed in the zoning regulations. Chairman Rusczek replied that there would be no emissions or CO2. Mr. Hentz explained when we cut a tree down it releases CO2. He stated that we need zoning regulations due to the tampering with soil and preservation of land. Chairman Rusczek stated that the cemetery owns the property and has the right to develop it. Mr. Hentz asked if they have the right to dig up graves. Chairman Rusczek stated that he believes that they do. Mr. Hentz asked if we can have testing done of whatever is released from the ground. Chairman Rusczek noted that this is something that has not been asked of the Board before. Mr. Hentz stated that if you destroy the land we need reparations. Chairman Rusczek replied that he didn't see where they are destroying the land and stated they will follow all state regulations. Mr. Hentz stated that townspeople deserve to have input in future zoning. Chairman Rusczek stated that Mr. Hentz's comments would be taken into consideration.

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

Mr. Rys: Motion to approve a Special Exception Request for Cemetery at 18 Maplewood Avenue (1 North Main Street Extension) to add burial plots and internal roadway(s) as shown on Data Accumulation Plan Depicting Proposed Master Plan Layout, Land N/F In Memoriam Cemetery, 1 North Main Street Extension dated June 8, 2021.

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 Special Exception is approved

CONSIDERATION OF MINUTES

Mr. Rys: Motion to accept the minutes of the Monday, June 12, 2021, Wallingford Zoning Board of Appeal meeting as submitted.

Mr. Carmody: Second

Vote: Unanimous to approve

ADJOURNMENT

Mr. Czerwinski: Motion to adjourn the July 19, 2021 meeting at 7:35 pm.

Vote: Unanimous to approve

Respectfully Submitted,
Cheryl-Ann Tubby
Recording Secretary