

Wallingford Zoning Board of Appeals

Monday, January 19, 2022

7:00 p.m.

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

DRAFT

Minutes

Present: Chairman Joseph Rusczek; Vice-Chair Raymond Rys; Commissioners: Secretary Louis Czerwinski; Bruce Conroy; Karen Harris; Thomas Wolfer; 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, Czerwinski, Wolfer, Rys, and Rusczek.

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, January 21, 2022. The effective date of your variance will be Friday, January 21, 2022; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Tuesday, February 8, 2022. If you commence operations and/or construction during the appeal period, you do so at your own risk.

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

1. #21-029 – Variance Requests/Kowalczyk/1340 Whirlwind Hill Road
4. #22-003 – Variance Request/Ramirez/195 Hall Avenue
8. #22-007 – Variance Request/Cleveland for Housing Authority – Town of Wallingford/2 Wharton Brook Drive.

PUBLIC HEARINGS

2. #22-001 – Variance Request/S. Colony 1074, LLC/1074 South Colony Road

Commissioner Czerwinski read the staff notes into the record. The applicant seeks a variance to permit a new building oriented and with a primary entrance perpendicular to Route 5, South Colony Road where the orientation/primary entrance is required to be facing and parallel to a thoroughfare (Route 5, South Colony Road) at 1074 South Colony Road in a CB-40 District. Section 6.33 of the Wallingford Zoning Regulations State, "The 'front', including primary entrance, of any building to be built on property abutting a road designated as a thoroughfare, shall be oriented to run parallel to the lot frontage and not be blocked by any other walls or portion of a building." Although this is a parcel with numerous existing buildings, the construction of an additional building must also comply with this regulation. The applicant will be proceeding to the Planning and Zoning Commission for Site Plan Approval following ZBA determination. Mr. Czerwinski noted the correspondence including a letter from Attorney Jim Laughlin to the Zoning Board of Appeals received November 5, 2021, and a site plan dated November 5, 2021.

Atty. Jim Laughlin, 221 North Main Street, presented for the applicant CubeSmart, 1074 South Colony. He shared a rendering showing the amount of impervious surface that will be removed. It is 17,000 sq. ft. with much of it to the north within the regulated area under the Inland Wetlands and Watercourses

regulation. The plan is to construct a state-of-the-art self-storage facility, remove many of the buildings at the old Zandri's and renovate the remaining buildings. The new structure will be in the back and will be a 90,000 sq. ft. 3-story structure. The traffic impact will be reduced from the prior use. The regulation in section 6.33 requires that the main entrance face Rt. 5 and the front edge of new structures must run parallel to Rt. 5. The proposed new structure will be 200 feet back from Rt. 5 and behind a neighboring property and the big building in front. The main entrance for the new building will be on the south so parking is more readily accessible. He noted that they provided the survey and notice to the abutting property owner. He explained that the hardship is due to the layout of the property. The peculiar shape makes the regulation unworkable, limiting parking and would make it difficult for customers to access the building. He added that they are preserving a resource, Wharton Brook, and the wetlands area surrounding it. Roof water will be redirected so it will be infiltrated better before it enters the wetlands and the restored vegetative area will be better for water filtration.

Chairman Rusczek asked which buildings will be taken down. Atty. Laughlin directed him to the late exhibit and explained that to the east and south of the purple line is the impervious surface to be taken out and the structures to be torn down. He noted that all the improvements will be outside of the regulated area and within the setback.

Mr. Wolfer asked about the height of the building. Atty. Laughlin replied that it will be within the zoning regulations.

Mr. Czerwinski asked for clarification of where the impervious will be removed to bring it back to its natural state and which buildings will be removed. Atty. Laughlin explained the lines on the drawing and that the buildings within the dotted line (the regulated area) will stay.

Ms. Torre commented that the application is only for the front door, the rest will be handled by Planning and Zoning. She clarified that the intent of this regulation was to avoid the rear of a building facing the street. This building will be perpendicular. The hardship has been demonstrated based on only the entrance location. Atty. Laughlin noted that they are preserving a resource and building up this portion of Rt. 5.

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

Mr. Czerwinski: Motion to approve application #22-001 Variance Request for 1074 South Colony Road, Variance Request for Primary Entrance-Building Orientation to be perpendicular to street frontage where facing and parallel to street frontage is required to construct a new commercial building (self-storage) 1074 South Colony Road as sown on Limited Property/Boundary Survey, Improvement Location Survey Land of Zandri's Stillwood Inn, LLC, 1074 South Colony Road dated November 3, 2021, and submitted plans/renderings received November 5, 2021.

Mr. Conroy: Second

Vote: Conroy – 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. #22-002 – Special Exception Request/Gatcomb/1238 Scard Road

Commissioner Czerwinski read the staff notes into the record. The applicant requests a Special Exception Approval for 1300 sq. ft. of garage area to erect a 1080 sq. ft. detached garage at 1238 Scard Road in an RU-120 District. The applicant would not require Special Exception Approval for +/-1100 sq. ft. of the total garage area. This office has received no elevations, building plans, or renderings to discern building height. The maximum building height for a detached garage is 15 ft. The Board should condition any approval on building plans complying with the height maximum requirement and to permit no dormers. Plans and Rooflines/pitch should be made clear as any dormers and the like alter the height measurement. The proposed location complies with the Accessory Building/Attached Garage requirements. He also noted the plans received November 12, 2021, and January 13, 2022.

James and Allison Gatcomb, 138 Scard Road, explained that the property is a single-story, flat-roofed house with no basement or attic and the garage is small. They restored the house and want to build a garage for their cars and storage space.

Chairman Rusczek asked about the garage doors. Mr. Gatcomb replied that it will be a two-bay garage with a man door. It will be used for two cars, a lawnmower, and other storage. The second floor will be for storage only. He noted that his builder did the garage on the property next door so the builder is aware of the height requirements. He acknowledged that they cannot have a dormer but plan to do dog houses for light. He stated that they have no intention to turn it into an apartment but have run electricity and water out there, but there is no sewer.

Mr. Czerwinski asked if the second floor is just a storage space due to the 15 ft requirement. Mr. Gatcomb replied yes. He noted that the dormers are the dotted line on the plan. Mr. Czerwinski asked how the maximum height of 15 ft. works when the garage height in the drawing looks like 11.6 ft. without the dormer. Chairman Rusczek noted that there is no issue because there will be no dormers. Ms. Torre noted that a condition of approval will be that there are no dormers. The application is based on the plans submitted which include a dormer. She recommended using the condition of approval. Chairman Rusczek noted that the dog house from the drawing is okay. Ms. Torre agreed, for aesthetic purposes and not adding living space.

Chairman Rusczek stated that if the application is approved there will be no dormers allowed. Mr. Gatcomb acknowledged.

Public Comment

Margaret Kunz, 60 Williams Road, stated that she has been there for 24 years and her property abuts this property. She stated that the Gatcombs have almost 4 acres yet they build this garage on the property line abutting two properties. She added that a garage that is close to the property line is an eyesore and takes away from the naturalness of the country setting. They have already taken down many trees. She noted that she has horses in that area and the construction on the house bothered them and now there will be more construction. She asked what the largest size garage would be allowed without approval. Chairman Rusczek replies 938 sq. ft. Ms. Kunz asked that the garage be built in a different place and smaller.

Ms. Torre clarified that the applicant is requesting just under 200 sq. ft. more than what they are entitled to, which is 1,100 sq. ft. of a garage. This is a Special Exception, not a variance, so the threshold of hardship does not exist. Anyone is permitted a detached garage within 5 feet of the rear and side property lines. She stated that the garage is located properly.

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

Mr. Rys: Motion to approve application #21-002/Gatcomb/1238 Scard Road for a Special Exception Request for 1300 sq. ft. of garage area to erect a 1080 sq. ft. detached garage at 1238 Scard Road as shown on Limited Property/Boundary Survey, Zoning Location Survey, Land of Allison K. Gouveia, 1238 Scard Road, Dated 11/02/21, subject to:

1. **Building height may not exceed 15 ft. and**
2. **No dormers to be permitted.**

Ms. Czerwinski: Second

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

The application is approved.

5. 22-004 – Variance Request/Sabatucci/3 Westview Drive

Mr. Czerwinski read the staff notes into the record. The applicant seeks a side yard of 4 ft. where 15 ft. is required and 15 ft. exists to construct a two-story addition and covered front porch at 3 Westview Drive in an R-11 District. The proposal includes a 372 sq. ft. single-story covered front porch and a 396.8 sq. ft. two-story addition to the southeastern side of the dwelling. The representation of the proposal by the applicant and submitted plans suggest a potential or future Accessory Apartment at the site. Where an Accessory Apartment is permitted, it must be approved by the Planning and Zoning Commission and comply with the regulations and requirements. No application has been submitted to date for such to the Planning and Zoning Commission, therefore the construction of an additional dwelling unit cannot occur. This office suggests a condition of any possible approval be that no construction or use of the added living space as an Accessory Apartment may be permitted unless and until an application is made and approved by the Planning and Zoning Commission for an Accessory Apartment. He also noted two sets of drawings received on December 16, 2021.

Justin Sabatucci, 33 Acorn Lane, Bristol stated that this is his childhood home and he is hoping to purchase it. They are looking to stretch the house out by 16 ft for an in-law apartment. They need a variance due to the size of the lot and the angle of the house. The addition would flow with the existing structure. The porch is for aesthetics. He stated that they could look into a single-story addition but that would also require a variance. They determined that the 2-story plan was the most appropriate option. He understands that he will need to go to P&Z for approval for the accessory apartment.

Chairman Rusczek noted that the house already has an addition off the back and multiple outbuildings. He asked if they had looked at other locations for the addition. Mr. Sabatucci explained that there is a storage shed at the rear of the lot and the addition was to the living room. He noted that they had looked at other options but all would still need a variance. This is the best option. Given the situation with the lot, they have to attach it to the house, not the garage.

Ms. Torre stated that whether or not it meets regulations for an accessory apartment the regulations permit an addition to be allowed to accommodate an accessory apartment. The variance is to approve the structure. It cannot be outfitted as an accessory until the required approval is received. So they can build the walls and have additional living space but can't install a kitchen. She suggested the Board look at this as an approval for an addition on the condition that it cannot be an accessory until approved by Planning & Zoning. Mr. Sabatucci agreed.

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

Mr. Rys: Motion to approve application 22-004/Sabatucci/3 Westview Drive for a Variance Request for a side yard of 4 ft. where 15 ft. is required and 15 ft. exists to construct a 2-story addition at 3 Westview Drive as shown on Zoning Location Survey, showing proposed addition, property of Kristine Sabatucci, dated 11/29/2021 and submitted plans/renderings received 12/16/21, subject to:

- 1. No construction of or use of proposed addition as an Accessory Apartment until the Application has been made and approval obtained from the Planning and Zoning Commission, and**
- 2. Comments from Erik Kruger, Water and Sewer Division dated January 7, 2022.**

Mr. Wolfer: Second

Vote: Conroy – 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.

6. #22-005 – Variance Request/ADMOR Builders, LLC/9 Laurelwood Drive

Mr. Czerwinski read the staff notes into the record. The applicant seeks a side yard of 14.9 ft. where 15 ft. exists and 30 ft. is required to construct a single-story addition at 9 Laurelwood Drive in an RU-40 District. The proposed addition is to the rear of the home and attached garage. The dwelling is oriented diagonally on a pie-shaped lot. The existing dwelling (specifically the attached garage) is 15 ft. from the side property boundary. Regulations at the time of construction of the new dwelling permitted garages, whether attached or detached, to have a side setback of 5 ft. Current regulations require a Variance Approval for any setback encroachment, for any addition including attached garages. He also noted two sets of drawings received on December 17, 2021.

David Musso, ADMORE Builders, 1201 South Curtis Street, represented the owner Kristin & Blair Donewald. The application is to add an office area to allow the owner to work from home. This would include moving the laundry and bathroom. The addition would be single-story and comply with the lines of the house.

Chairman Rusczek asked if they looked at other locations. Mr. Musso replied that this is the best solution due to the plumbing. He added that the hardship is the need to work from home. Also, it is in a zone that changed since the house was built. Chairman Rusczek noted it is a pie-shaped property. He asked if they looked at locations that don't require a variance. Mr. Musso replied that they looked at other locations, but they wouldn't work with the plumbing.

Ms. Torre noted that the zoning did not change. She explained that in the 70s and early 80s even an attached garage was allowed to encroach on the setback but not living spaces. The setback has not changed since that time. The change was that attached garages can no longer encroach. This proposal puts the living space in the setback.

Public Comment

Dillon Cruz, 15 Laurel Wood Drive, stated that his property abuts on that side and asked for time to review the plans to see how it would impact them. Chairman Rusczek asked if they received notice of the variance request. Mr. Cruz replied yes, they received a letter about a week ago. Carolyn Cruz, 15

Laurel Wood Drive, noted that they didn't realize that number 9 was abutting, so they didn't realize that it was an issue. There is a driveway that goes between the two properties so it is right next door.

Ms. Torre noted that the notification is a legal process and the plans are publicly available. She stated that they cannot hold up the vote but offered to let them look at the plans now.

Hearing no further comment Chairman Rusczek closed the public hearing and called for discussion or action.

Mr. Rys: Motion to approve application #22-005 for ADMOR Builders, LLC, 9 Laurelwood Drive for a Variance Request for a side yard of 14.9 ft. where 30 ft. is required and 15 ft. exists to construct a single-story addition at 9 Laurelwood Drive as shown on Location Improvement Survey, Proposed Site Plan, 9 Laurelwood Drive dated 11/12/21 and submitted plans/renderings received 12/17/21, subject to:

1. **Comments from Erik Krueger, Water and Sewer Division dated January 7, 2022.**

Mr. Wolfer: Second

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

The variance request is denied. (A supermajority is required.)

7. #22-006 – Variance Requests/Marosz/124 Long Hill Road

Mr. Czerwinski read the staff notes into the record. The applicant seeks two front yard variances of 0 ft. and 12 ft. where 20 ft. is required and 20.6 ft. and 9.2 ft. exist to construct two single-story additions at 124 Long Hill Road in an R-15 District. The parcel is a corner lot fronting on Long Hill Road and South View Drive. The proposal includes an 85 sq. ft. covered entry requiring a front yard of 12 ft. on Long Hill Road where the existing front yard is compliant with 20.6 ft. The second addition is 256 sq. ft. with an additional means of access to the dwelling reducing the front yard on South View Drive to 0 ft. where 9.2 ft. exists and 20 ft. is required. This office cannot discern a hardship necessitating reducing a front yard to zero to construct an addition especially when a compliant option exists to expand to the NW (rear of dwelling). He also noted drawings received December 17, 2021, and a letter dated January 14, 2022.

Robert Marosz, 124 Long Hill Road, explained the plan to build an addition facing south to make a truncated stairway into a regular stairway. This will allow space when coming down and easier access in and out of the house. The original staircase went to an attic and might not meet code now. The hardship is the location/foundation of the house which predates existing zoning. There are two front setbacks already 5 ft inside the house. Mr. Marosz explained that they looked at building on the southwest corner but the land slopes down, it's wet there and the old stone foundation would make it excessively expensive. He stated that they are actually shifting the entrance and making it wider to line up with the stairwell. Part of the addition is a landing for the new door with the stairs would on the property line. He stated that this proposal doesn't present any hazard or inconvenience to anyone and would not affect anyone's line of sight. It would be like expanding his existing mudroom.

Chairman Rusczek stated that he has a hard time with no setback. He understands that the house predates zoning but he can't approve of making a non-conformity worse.

Ms. Torre noted that the Board can grant less but not more. She noted that the other front yard (Long Hill Road) is currently conforming and he is asking for a variance to become non-conforming.

Chairman Rusczek asked if they can continue the meeting to allow the applicant to get another drawing. Ms. Torre replied that that is an option. Mr. Marosz stated that he is happy to revise the drawing and asked for suggestions. Chairman Rusczek stated that moving the addition to the rear is the best choice because there is plenty of room. He added that in his opinion, he would be happy with the current setback for the mudroom. Ms. Torre noted that any variance request is for a particular project, so we need to see a proposal to react to.

Mr. Conroy agreed that the addition can come out no further than the mudroom because otherwise, it's too close to the road. He suggested submitting another plan.

Mr. Czerwinski asked if the applicant could present multiple drawings. Ms. Torre replied that the proposal must match the request. An amendment to the proposal can be made for small adjustments but it has to match. We are not designing the project. She also noted that a second story was added to this home already. There are two additions in the proposal and she suggested being clean on which addition is being amended. She also stated that it is difficult to find a hardship for two additions.

Chairman Rusczek suggested continuing the hearing to the February meeting and suggested Mr. Marosz look at making the proposal no more non-conforming than the building currently is. Ms. Torre reminded the application that stairs count toward the encroachment. She suggested moving the stairs. Ms. Torre asked that revised drawings be submitted as soon as possible.

Chairman Rusczek: Motion to continue #22-006 Variance Request for Marosz at 124 Long Hill Road to the February 22, 2022 meeting.

**Mr. Czerwinski: Second
Unanimous**

CONSIDERATION OF MINUTES

Mr. Rys: Motion to approve the minutes of the Monday, November 15, 2021, Wallingford Zoning Board of Appeal meeting as submitted.

**Mr. Wolfer: Second
Vote: Unanimous to approve**

ADJOURNMENT

Mr. Wolfer: Motion to adjourn the January 19, 2022 meeting at approximately 8:30 pm.

**Mr. Rys: Second
Vote: Unanimous to approve**

Respectfully Submitted,
Cheryl-Ann Tubby
Recording Secretary