

DRAFT

Wallingford Zoning Board of Appeals

Tuesday, February 22, 2022

7:00 p.m.

**Town Hall – 45 South Main Street
Room 315**

Minutes

Present: Chairman Joseph Rusczek; 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, Harris, and Rusczek.

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, February 25, 2022. The effective date of your variance will be Friday, February 25, 2022; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Tuesday, March 14, 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 application will not be heard this evening, but will be heard next month.

5. 22-010 – Variance Request/Williams/12-16 Northfield Road.

PUBLIC HEARINGS

1. #21-029 – Variance Requests/Kowalczyk/1340 Whirlwind Hill Road

Commissioner Czerwinski read the staff notes into the record. This application is a continuance from the November 2021 ZBA Meeting. The Board requested the Applicant present building plans/rendering and continued the Application to the February 2022 ZBA Meeting. The applicant has submitted the rendering and modified plans reflecting the redesigned footprint and location of the dwelling which lessened two of the requested variances from the original application. The proposal reflects a front yard of 43.2 ft. where 75 ft. is required, a side yard of 27.3 ft. (the original request was 23.9 ft.) where 40 ft. is required, and building coverage of 6.6% (the original request was 7.9%) where 5% max is permitted to construct a new single-family dwelling at 1340 Whirlwind Hill Road in an RU-120 District. The parcel is a non-conforming vacant lot with respect to lot area (40,430 sq. ft. where 120,000 sq. ft. is required) and frontage (149.91 ft. where 250 ft. is required). The parcel also has identified wetlands and will require Wetlands permitting and Health Department Permit for the septic system before any construction may commence. The ZBA has the determination strictly for the building and its location on the parcel. Though the parcel area is non-conforming, the building envelope is sufficient to accommodate a home without requiring both front and side yard setbacks. An alternate design such as orienting the structure parallel to the street could either reduce or eliminate the need for a Variance Approval. The proposed attached garage with a second story and front porch are the only encroaching elements of the dwelling requiring front and side yard setback variances. The location of the dwelling appears to be somewhat limited by the parcel, associated wetlands, and septic location option(s). Correspondence included revised drawings received September 17, 2021; correspondence from the Health Department dated

November 8, 2021; letter received November 10, 2021, and a new revised drawing dated February 14, 2022.

Joseph Kowalczyk, 1161 South Broad Street, explained that they worked with an architect to figure out how to make the whole first floor ADA compliant. As a result, they reduced the coverage request by 1.8% and reduced the front and side yard setbacks.

Chairman Rusczek asked about the hardship. Mr. Kowalczyk replied that it is the non-conforming lot and the placement of the septic in the only possible spot in the rear of the lot. So the building has to be set back from the septic and the wetlands. Chairman Rusczek asked if they had tried to do something different with the garage to eliminate the side yard setback. Mr. Kowalczyk replied that they tried different angles but due to the driveway and the van that he has to move in, this is what works. Also, the master suite will be above the garage. Chairman Rusczek asked if the positioning of the garage has to do with the ADA. Mr. Kowalczyk replied yes, due to the way the downstairs lays out and the structural elements. He stated that they are trying to avoid an L shape so it blends in with the neighborhood.

Mr. Czerwinski asked if the variances were to make it ADA compliant. Mr. Kowalczyk replied yes and that it wouldn't happen on a single story. Mr. Czerwinski asked about the master suite and if there will be an elevator. Mr. Kowalczyk replied that it will be above the garage and a little towards the rear. The disabled individual will be secluded downstairs. He will have a bedroom and walk-in bathroom on the first floor where everything will be accessible. Mr. Czerwinski noted that 6.6% coverage works out to 2,668 sq. ft.

Ms. Harris asked if they had looked at positioning the house differently so they wouldn't need the variances for the front and side. Mr. Kowalczyk replied yes and that they tried flipping the design but there is no way to get the driveway in without touching the wetlands. He stated that if they cut the garage out it's not work building the house due to the loss of square footage.

Chairman Rusczek noted that the application still has to go to Wetlands

Mr. Czerwinski asked where the leaching fields will be. Mr. Kowalczyk replied in the back with the septic. He added that the engineer, Juliano just finished the response to the Health Department comments for the field and received approval.

Mr. Wolfer noted that the Board is only looking at the building and its location on the lot. He stated that based on the revised plan submitted, it looks like the applicant has tweaked it as much as possible.

Public Comment

Jack Kranyak, 1349 Whirlwind Hill, across the street from this property. He owns the farm that this lot has been part of for 100 years. He noted that in the '50s his uncle tried to build there, digging the foundation and establishing the driveway. The property was purchased knowing the size of the house they wanted and the restrictions on the land, and now they want to increase the size of the house. The wetlands are everywhere. Angling the house puts it closer to the neighbor's property line. Whirlwind Hill is a feeder road now and the restrictions are wider. He noted that he had to go back 75 feet for his farm buildings. He doesn't understand why they have to go closer than the 75 ft, the further back on the property the drier it is. He stated that he opposes any variances on this property.

Nancy Farnham Charles, 1290 Whirlwind Hill Road stated that she and her brother, James B. Farnham, own 1302 Whirlwind Hill which shares a borderline with 1340. Her property is hayfields and woodlands surrounding three houses on the north side. The Land is in the CT Dept Agricultural Preservation program and can only be used for agriculture. The 10-acre hayfield slopes down sharply from the house at 1613 to the lot at 1340. Haying is often difficult due to the wetness of the lower portion which abuts 1340. There is considerable runoff that runs into this property. From there the water goes into McKenzie Reservoir. Because this is such a vulnerable lot, the zoning requirements for the size of the house's footprint should be respected. She asked the Board to deny the request for a variance.

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

Mr. Wolfer: Motion to approve application #21-029/Kowalczyk/1340 Whirlwind Hill Road Variance Request for a front yard setback of 43.2 ft. to construct a new single-family dwelling at 1340 Whirlwind Hill Road as shown on Limited Property/Boundary Survey, Zoning Location Survey, Proposed Subsurface Sewage Disposal System, Land of Henry Jensen, 1340 Whirlwind Hill Road, dated 9/9/21, revision date 2/14/22 and submitted rendering received 2/14/22, subject to:

1. Comments from Environmental Planner requiring IWWC permitting, received October 8, 2021; and
2. Comments from the Health Department received November 8, 2021.

Mr. Czerwinski: Second

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

The variance is denied.

Mr. Wolfer: Motion to approve application #21-029/Kowalczyk/1340 Whirlwind Hill Road Variance Request for side yard of 27.3 ft. to construct a new single-family dwelling at 1340 Whirlwind Hill Road as shown on Limited Property/Boundary Survey, Zoning Location Survey, Proposed Subsurface Sewage Disposal System, Land of Henry Jensen, 1340 Whirlwind Hill Road, dated 9/9/21, revision date 2/14/22 and submitted rendering received 2/14/22, subject to:

1. Comments from Environmental Planner requiring IWWC permitting, received October 8, 2021; and
2. Comments from the Health Department received November 8, 2021.

Mr. Czerwinski: Second

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

The variance is denied.

Mr. Wolfer: Motion to approve application #21-029/Kowalczyk/1340 Whirlwind Hill Road Variance Request for building coverage of 6.6% to construct a new single-family dwelling at 1340 Whirlwind Hill Road as shown on Limited Property/Boundary Survey, Zoning Location Survey, Proposed Subsurface Sewage Disposal System, Land of Henry Jensen, 1340 Whirlwind Hill Road, dated 9/9/21, revision date 2/14/22 and submitted rendering received 2/14/22, subject to:

1. Comments from Environmental Planner requiring IWWC permitting, received October 8, 2021; and
2. Comments from the Health Department received November 8, 2021.

Mr. Czerwinski: Second

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

The variance is denied.

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

Commissioner Czerwinski read the staff notes into the record. The application is continued from January 2022 in order for the applicant to amend and lessen the request for 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 Original Proposal included 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 a 20.6 ft. front yard. The Second Addition was 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. The modified proposal reduced one front yard request of 0 ft. (South View Drive) for a 256 sq. ft. addition to a front yard of 8 ft. for a 213 sq. ft. addition. At the very least, this office cannot discern a hardship necessitating further reducing a front yard (South View Drive) as well as expanding an existing, non-conforming front yard at all beyond the existing 9.2 ft. The Board should carefully consider the presence of hardship to vary the compliant front yard (Long Hill Road) to accommodate a second addition. Correspondence included a letter dated January 14, 2022, plans received December 17, 2021, and revised plans received February 7, 2022.

Robert Marosz, 124 Long Hill Road, gave an overview of the changes to the application. He pointed out how they cut out a considerable amount of square footage and eliminated the zero setback. He cut the plan back to almost even with the existing mudroom and removed the new front entrance facing South View Drive. He will keep the door facing the backyard. He noted that the overhang over the existing mudroom counts as pre-existing square footage. Mr. Marosz showed how he kept the distance of 8 ft and kept the corner. He noted that he can't go further towards Long Hill due to the gas line. He stated that they will be multiplying the existing square footage and moving it over a couple of times and using the existing overhang square footage. This amendment pushes it back to the corner of the house to make it flush. No changes were made to the addition on the Long Hill side to make a nicer entrance. He stated that his hardship is that the structure pre-dates zoning, he is on a corner lot with two front yards, and putting the addition in a location not requiring a variance is difficult due to the topography and is too wet.

Mr. Czerwinski asked about the current entrances to the house. Mr. Marosz pointed out the three entrances on the plan. He stated that there is also a walk-out basement. He noted that the addition would open up the stairwell and provide easier access. Mr. Czerwinski asked why he is only asking for 15 inches off the existing structure. Mr. Marosz replied that since he was asking for a change he included it. Ms. Torre noted that the extra 15 inches take into account the overhang toward South View. He is allowed 18 inches beyond the request for the overhang. He doesn't need the 15 inches to accommodate the overhang. Mr. Czerwinski asked if it affects the stairs. Mr. Marosz asked if he could have the foundation even with the existing structure. If it's 9.6 like it is with the mudroom, and extended toward Long Hill Road, that gives him room to swing around.

Chairman Rusczek asked if there is only the one staircase. Mr. Marosz replied yes. Chairman Rusczek asked about the mudroom. Mr. Marosz replied that it is 6.9 ft. out from the house. Chairman Rusczek

asked if he would be okay if the Board approves 6.9 ft off the house and 33.5 ft. long. Mr. Marosz said yes.

Mr. Conroy asked for clarification of what the applicant is asking for. Chairman Rusczek replied that now he is asking for 8 ft. Ms. Torre noted that asking for 8 ft. would reduce to the existing 9.2 ft. so it would be reduced to the existing 9.2 ft.

Mr. Rusczek asked if the applicant would accept measuring off the house 6.9 sq. ft on the South View side and stated that the Board could approve that. Ms. Torre confirmed that the Board can approve less than requested. Mr. Marosz noted that he's moving it to the side.

Hearing no public comments, Chairman Rusczek closed the public hearing and asked for discussion or possible action. He noted the new calculation to be used in the motion. Ms. Torre noted the second motion pertaining to the addition on South View. Instead of a front yard of 8 feet, the amended motion would be 9.2 ft. and that is the only change. The 9.2 ft. is being expanded as per the plans.

Mr. Wolfer: Motion to approve application #22-006/124 Long Hill Road variance request for a front yard of 12 ft. (Long Hill Road) where 20.6 ft. exists and 20 ft. is required to construct a single-story addition at 124 Long Hill Road as shown on Zoning Location Survey, prepared for Robert J. Marosz, 124 Long Hill Road dated July 3, 2009, revised October 31, 2009, and submitted revised plans/renderings received 2/7/22, subject to:

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

Ms. Czerwinski: Second

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

The variance is denied.

Mr. Wolfer: Motion to approve application #22-006/124 Long Hill Road variance request for front yard of 9.2 ft. (South View Drive) where 9.2 ft. exists and 20 ft. is required to construct a single-story addition at 124 Long Hill Road as shown on Zoning Location Survey, prepared for Robert J. Marosz, 124 Long Hill Road dated July 3, 2009, revised October 31, 2009, and submitted revised plans/renderings received 2/7/22, subject to:

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

Ms. Czerwinski: Second

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

The variance is approved.

5. **22-007 – Variance Request/Cleveland for Housing Authority-Town of Wallingford/2 Wharton Brook Drive.**

Mr. Czerwinski read the staff notes into the record. The applicant seeks building coverage of 18.2% where 4.7% exists and a maximum of 15% is permitted to construct two 3-story buildings with 16 affordable housing units/apartments at 2 Wharton Brook Drive in an R-18 District. The Parcel abuts additional Housing Authority property. The applicant will be proceeding to Planning and Zoning Commission for Special Permit/Site Plan Approval following ZBA determination. Correspondence included two sets of plans dated December 17, 2021.

Chris Pazzani, 45 Tremper Drive, Director Wallingford Housing Authority, and David Stein of Silver Petrocelli Architects presented the application. Mr. Stein explained that they purchased the property adjacent to their existing parcel. There is an existing commercial building on the property. The intent is for the Authority to move their offices to the new building from the location on Tremper Drive. Affordable housing is to be built to the rear of the property. They need a variance for maximum coverage because they are unable to combine the two lots based on the funding through CHAFA. He noted that the majority of housing authority properties are in the R-18 zone but there is also property in other zones that allow larger lot coverage. He stated that they are unable to remove a portion of the existing to reduce lot coverage. He mentioned the fixed dimensions for affordable housing units.

Chairman Rusczek asked for clarification of the property behind the old Fairview Dairy. Mr. Stein referred to drawing C100 showing the adjacent lot is to the right or east. Chairman Rusczek clarified that if they were able to combine the lots there would be no issue. But because there are two separate lots, they don't meet the coverage. Mr. Stein replied yes.

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

Ms. Harris asked if it was possible to merge the two lots. Ms. Torre replied that she can't speak to that.

Mr. Wolfer: Motion to approve application 22-007/Cleveland (Wallingford Housing Authority/2 Wharton Brook Drive Variance Request for Building Coverage of 18.2% where 4.7% exists and a maximum of 15% is permitted to construct a new residential housing building at 2 Wharton Brook Drive as shown on Property and Topographic Survey, Land of the Housing Authority of the Town of Wallingford, 2 Wharton Brook Drive dated 12/14/21 and Architectural Site Plan, 2 Wharton Brook Office and Apartment Renovations and Addition dated 12/17/21, and Unit Floor Plan, 2 Wharton Brook Office, and Apartment Renovations and Addition, dated 12/8/21.

Mr. Czerwinski: Second

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

The variance request is approved.

6. #22-008/Special Exception Request/RMS Development, Inc./4 Circle Drive

Mr. Czerwinski read the staff notes into the record. The applicant seeks a Special Exception Approval to operate a Group Day Care Home at 4 Circle Drive in an R-18 District. The property currently has a Special Exception Approval for a Day Care Center which utilizes the entire building and the entire site. The new Special Exception Approval is necessary when any change to enrollment, square footage, or clientele is proposed. The applicant will be providing Group Day Care Services to adults with intellectual disabilities as opposed to children and continuing to occupy the entire building and the entire site. Correspondence included a Zoning Board of Appeals Applicant Review signed by the Fire Marshal, dated February 3, 2022, and maps submitted December 22, 2021.

Steve Wollman, Board of Directors Residential Management Services, 808 Four Rod Road, Berlin explained the application. He explained that this is not going to be a home, it is a day program. There will be no overnight services. The property currently has a day program for children, the applicant will have a day program for adults with disabilities. The hours will likely be 7 am to 3 pm or maybe 5 pm,

Monday through Friday. The structure will not change other than signage to provide for safe drop-off and pick-up. It's basically the same use that is currently there.

Chairman Rusczek clarified that they are switching from daycare for children to daycare for folks with disabilities. He asked if the children will still be there. Mr. Wollman replied no. They are buying the building from the current owner and the daycare will be gone.

Mr. Czerwinski asked about the use of the upstairs. Ms. Torre noted that this is for different users. Mr. Wollman replied that the upstairs is strictly storage.

Ms. Harris asked if they are already the owners of the building. Mr. Wollman replied no. The purchase is pending the outcome of this application.

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

Mr. Czerwinski: Motion to approve application #22-008/RMS Development, Inc./4 Circle Drive a Special Exception Request for Group Day Care at 4 Circle Drive in an R-18 District as shown on Site Plan, Pumpkin Patch Full-Time Care and Nursery School, 4 Circle Drive dated 1/21/2002 and submitted profile received 12/22/2021.

Mr. Wolfer: Second

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

The variance request is approved.

CONSIDERATION OF MINUTES

Mr. Wolfer: Motion to approve the minutes of the Monday, January 19, 2022, Wallingford Zoning Board of Appeal meeting as submitted.

Mr. Czerwinski: Second

Vote: Unanimous to approve

Chairman Rusczek shared information on a conference of the Connecticut Federation of Planning and Zoning Agencies on March 24th at the Aqua Turf.

ADJOURNMENT

Mr. Wolfer: Motion to adjourn the February 22, 2022 meeting at approximately 7:55 pm.

Mr. Czerwinski: Second

Vote: Unanimous to approve

Respectfully Submitted,
Cheryl-Ann Tubby
Recording Secretary