

## Wallingford Zoning Board of Appeals

Monday, September 19, 2022

7:00 p.m.

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

### Minutes

**Present:** Chairman Joseph Rusczek; Vice-Chair Ray Rys; Board Members: Bruce Conroy; Thomas Wolfer; Robert Gross; Karen Harris; 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, Wolfer, Harris, Rys, and Chairman Rusczek.

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, September 23, 2022. The effective date of your variance will be Friday, September 23, 2022; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, October 9, 2022. If you commence operations and/or construction during the appeal period, you do so at your own risk.

Chairman Rusczek announced that application #22-034 will not be heard tonight. It has been withdrawn

### **PUBLIC HEARINGS**

1. **#22-029 – Variance Request/Choate Rosemary Hall/333 Christian Street (AKA 59 North Elm Street)**

Ms. Harris read the staff comments into the record. The Applicant seeks a front yard of 13 ft. where 40 ft. is required to construct a new Admissions building with associated underground parking at 333 Christian Street (corner of North Elm Street) in an R-18 District. This application pertains ONLY to front yard setbacks. The Applicant will need to proceed to the Planning and Zoning Commission for Special Permit Approval for all other required site elements of the new development. The Educational Institution's tax-exempt status should not impact any determination the ZBA should render. The section of the parcel identified for the proposed new building is the southeast corner of the intersection of Christian Street and North Elm Street. The request for a front yard of 13 ft. is the minimum point of the front yard as it pertains to the frontage on North Elm Street. The second proposed front yard Variance Request references the minimum point of 37.8 ft. front yard as pertains to the frontage on Christian Street. North Elm Street at Christian Street has an unusual and skewed boundary and widening of the Town right-of-way along North Elm Street well beyond a Town Road's typical dimensions. In actuality, the front yard on Elm Street measures 43.2 ft. to the curb and 25 ft. to the "standard" measurement of town road width and front boundary if not skewed. The Board should evaluate this and the applicant's presentation to determine the presence of hardship in order to grant Approval concerning the North Elm Street front yard. The Applicant need only adjust the proposed building 2.1 ft. to the South to achieve compliance with the Christian Street front yard. Therefore, this office cannot support the Christian Street front yard setback request as a compliant alternative exists and is easily met. In addition, there is a letter from the Town Planner, a letter from Phillip Youker, 29 Curtis Avenue, a memo

from the Town Engineer, a memo from the Town Planner, and a letter from Dennis Ceneviva dated July 18, 2022.

Dennis Ceneviva, of the Ceneviva Law Firm at 721 Broad Street in Meriden, introduced Patrick Durban, CFO, Choate Rosemary Hall, 333 Christian Street, and George de Brigard with Robert A.M. Stern Architects, One Park Avenue, New York, NY.

Atty. Ceneviva explained that the amended variance request is for the new Admissions building which will be in the heart of campus. It will be at the southeast corner of the North Elm Street and Christian Street intersection. The setback requirement is 40 ft. The proposed location will be 13 ft from the street right-of-way but well over 40 ft off the curb line. He provided a summary of how the location was chosen as part of Choate's long-range plan. The location allows for underground parking which allows Choate to reclaim a 60-car parking lot as green space.

Mr. Durban explained that the intent is a purpose-built building that is centrally located. It will include meeting space as well as underground parking. It is necessary because Admissions has outgrown its current space. He explained they spent many years considering where to place the building. They will maintain the neighborhood aesthetic. If the building were set back according to regulations, it would look different from the nearby buildings, which sit closer to the road.

Mr. de Brigard used the drawings to show the property line on North Elm Street and the location of nearby buildings concerning their distance from the curb to show how the new building will look the same. The building will maintain the character and fabric of the neighborhood. He showed the entrance for visitors will be from Christian Street. He explained the underground parking garage will be larger than the building and will take advantage of the slope. The area falls almost 17 feet across the site. The bottom of the site will be 240 feet from the curb. The garage is under that grade change. This challenge was met by placing the building as proposed.

Chairman Rusczek clarified that the illustration shows the building at 13 ft. He asked where the underground garage ended. Mr. de Brigard showed this on the drawing.

Ms. Harris asked where the cars would enter and how many would it hold. Mr. de Brigard showed the entrance and replied that it will hold approximately 75 cars. Ms. Harris asked if it would be mostly for visitors or employees. Atty. Ceneviva replied a combination of both. He noted that the Admissions building is not active all year and the parking garage will replace the 60-car parking lot.

Mr. Rys asked if the parking was removed, could the building be placed elsewhere without a variance. Mr. de Brigard replied that he believes so, but that the underground parking is part of the project. He stated that the current lot for Admissions across the street is smaller. Mr. Ceneviva stated that if the variance is denied, additional parking will be needed above ground. The number of applicants to the school is driving this purpose and this location fits best. Atty. Ceneviva stated that there are other places on campus to build the building but not to serve the intended purpose. From a strategic perspective, this becomes an identity building.

Mr. Gross asked if the slope is challenging. Mr. de Brigard replied that the challenge is to conceal the parking below ground and maintain the athletic field to the south. They want to avoid making the walls of the parking garage visible. He stated that if they go further south, they would run out of room to do it underground. They would need to bring in fill and fill in the athletic field. Mr. Gross asked if they would

lose parking spaces by moving it back. Mr. de Brigard replied that they could reduce the size of the garage but would lose the efficiency of the garage.

Mr. Conroy asked how much the grade would change. Mr. de Brigard replied that they would follow the natural grade from curb to building face. The green space next to the building would be level and catch the rest of the grade going down to the athletic field. Mr. Conroy asked what the slope is now. Mr. de Brigard replied that the slope goes down 17 ft. It will be leveled out for approximately 190 feet. Mr. Conroy clarified that the only reason not to move the building is to avoid going into the athletic field. Mr. de Brigard stated that the retaining wall of the parking garage would be exposed. Mr. Conroy clarified that the intent is to hide the retaining wall. Mr. de Brigard confirmed.

Atty. Ceneviva stated that site plan issues can be addressed by the project engineer, Brian Kaye, Landscape Architect and Project Engineer of SLR Consulting, who is present. Chairman Rusczek stated that that is not necessary.

Atty. Ceneviva explained the hardship and quoted from Fuller's Connecticut Practice, series, 9<sup>th</sup> edition, "front setback requirements...are designed primarily to keep buildings and structures at a significant distance from streets for safety reasons". Distance requirements are a Target. In this case, the building will be more than 40 ft from the street and has 30 granite posts along North Elm Street and a sidewalk. There is a unique level of safety in this location. He mentioned the street right of way that is skewed easterly at this location. That reduces the building area by at least 12 feet. Atty. Ceneviva mentioned that the topography allows underground parking. Moving the building would result in a retaining wall and more asphalt. He noted that the other buildings at the intersection and most on the street all sit significantly closer to the street. He noted the memo from the Town Engineer that there is no problem with the location as long as the driveway is on Christian Street. He emphasized that this is a unique application and that this proposed building location was planned over a couple of years.

Chairman Rusczek asked about the football field that was approved last year. Mr. Durban replied that they found the proposed field was not feasible because of safety issues to get the kids to the field and the need for facilities. So they did not pursue the application with P&Z.

Ms. Harris asked about the setback request for Christian Street. Atty. Ceneviva replied that they will withdraw that request. They agree that the building can be moved south so they don't need the variance.

Chairman Rusczek noted that it is the garage that is causing the problem. Atty. Ceneviva responded that putting the building 40 ft. from the skewed property line will make it inconsistent with its neighbors. Chairman Rusczek stated that he understands their intent to make the buildings uniform but the other buildings are much older and built before zoning, so they can't be used as a comparison.

Ms. Torre stated that the object in general is to try to eliminate non-conformities. Choate has also been there for over 100 years. The Board needs to determine if placing this building similarly to others is valuable.

Mr. Gross asked how big the building will be. Mr. Durban replied about 14,000 sq. ft. Mr. Gross clarified that the hardship has to do with the parking garage.

Atty. Ceneviva stated that the fact that the street line is skewed 12 ft. is the hardship. That is not something that they created and is unique to the property. There is less room to build because of that.

#### PUBLIC COMMENT

Chairman Rusczek asked speakers to focus on the hardship.

Robin Hettrick, 412 Williams Road stated that they indicated that they can move the building, just not the way they want. So it is not a hardship with the land.

Philip Youker, 29 Curtis Avenue quoted the four specific conditions for a variance from page 235 of the zoning regulations. He stated that Choate owns a large empty building nearby and asked why that or the old student center is not viable. He stated that there is nothing particular or unusual about this location. Mr. Durban responded to the question about using the empty building. The old student center would require extensive renovations.

Mike Votto, 377 North Elm Street, stated that he doesn't agree with the stated hardships presented. He stated that his family has a close relationship with Choate but stated that they are becoming abusive. Mr. Votto noted that the building will cause hardship to the people in the area.

Jared Liu, 59 Curtis Avenue, stated that he is very pro-Choate and asked if they would be adding parking if they don't get this variance. He also asked about the notification of neighbors. Ms. Torre replied that they are required to notify the property owners of properties that touch the application. The addresses were pulled from the Assessor's office records.

Robert Blanchard, 39 Curtis Avenue commented on the skewed property line and suggested that it was done purposely in case a turn lane needs to be added. He quoted a court case on granting a setback variance (Ward vs. The Hartford ZBA). It states that it is not the authority of the ZBA to grant a variance because other properties are similar.

Atty. Ceneviva stated that if the Board is not convinced of the need, he would ask for consideration that the skewed property line requires the building to be over 50 feet from the street.

Mr. Gross asked if the property line across the street is straight. Atty. Ceneviva stated that it is. Mr. Gross asked how big the town's right of way is. Atty. Ceneviva replied 22 feet on that side of the road. Mr. Gross asked why they didn't address this with the town. Atty. Ceneviva replied that they thought it would be more appropriate to come to this Board.

Robert Blanchard, Curtis Avenue, noted that they can move the football field back and resolve the hardship.

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

Mr. Wolfer stated that Choate Rosemary Hall has put Wallingford on the map, supports local businesses, provided better crossing lights, etc. But the North Elm Street and Christian Street intersection is the most feared intersection in town due to the pedestrian traffic when school is in session. He stated that

they do not have a hardship for a building this size in this location. He stated that he cannot support the variance request.

Mr. Conroy echoed that Choate is great for the Town. He understands the skewed property lines and noted that they are not equal distances for all properties and are rarely straight. He stated that he can't support this variance request.

**Mr. Rys: Motion to approve application #22-029, Choate Rosemary Hall/333 Christian Street (AKA 58 North Elm Street) for a variance request for a front yard of 13 ft. (North Elm Street) to construct a new Admissions Building with underground parking at 333 Christian Street AKA 59 North Elm Street as shown on Choate Admission Center, Site Plan Layout and Landscaping, dated 5/16/2022, received 6/17/2022 and submitted plans received 6/17/2022 and modified application and plans received 8/12/2022, subject to:**

1. **Comments from Alison Kapushinski, Town Engineer dated 6/30/2022, resubmitted 9/8/2022, and,**
2. **Comments from Fire Marshal received 7/1/2022.**

**Ms. Harris Second**

**Vote: Conroy – no to approve; Wolfer – no to approve; Harris – yes to approve; Rys – no to approve, and Chairman Rusczyk – no to approve.**

The application is denied.

**2. #22-030 – Variance Request/Choate Rosemary Hall Foundation/245 North Main Street**

Ms. Harris read the staff comments into the record. The Applicant seeks a front yard of 26 ft. where 30 ft. is required to construct an addition to provide an accessible entry and interior movement among floors within the building by adding an elevator and ramps at 245 North Main Street in a CLB District. The parcel is a corner lot with front yards on North Main Street and Curtis Avenue. The setback request is fronting on Curtis Avenue and pertains to 64 sq. ft. of encroaching building of an addition less than 200 sq. ft. in total. The location of the addition is also in proximity to parking which is also accessed from Curtis Avenue. She also noted an Inter-Department Memorandum from the Town Planner dated 9/13/22.

Dennis Ceneviva, of the Ceneviva Law Firm, 721 Broad Street, Meriden, introduced Patrick Durban, CFO, Choate Rosemary Hall, and Brian Kaye, Project Engineer of SLR International, in Cheshire. Atty. Ceneviva explained that this property is 6,000 sq ft. on .54 acres on the corner of North Main Street and Curtis Ave. in the CLB district. The property is a Bed and Breakfast/Inn build in 1891. In the southeast corner is a stairwell. Parking is to the east side with access from Curtis Avenue. The request is for a variance of 3.27 ft of front yard setback on the Curtis Ave. side or 26.73 ft. from the property line where 30 ft. is required. The elevator is required for ADA Accessibility.

Mr. Kaye showed the addition on the drawing. The addition is inclusive of the elevator, access to the elevator, and access to the first floor. It will replace the back porch. He explained why they chose that location, including avoiding changing the architecture and avoiding the removal of the kitchen and a bathroom. The elevator requires 6 feet and the hallway must be 6 feet to access the elevator. This is the best location. Only the elevator and hallway will push out from the building.

Ms. Harris asked what the purpose of the building will be. Mr. Durban replied that it will remain an Inn.

Mr. Gross asked why they can't put the elevator in the back near the parking. Mr. Kaye replied that there is a hatchway and utilities. The elevator can't wrap around the corner without affecting the structure and how the building is used.

Mr. Conroy asked if there is a legal opinion since this is ADA. Ms. Torre replied that public safety and accessibility weigh heavier than hardship. Atty. Ceneviva noted that the Inn was not compliant with ADA in the past. Once you start making changes to a building you have to meet the 1990 ADA requirements. ADA mandates the size, height, width, and depth of the elevator as well as the location. He noted that only a small portion will encroach on the setback. The location is determined by the location of the existing stairwell and the entry point for the building. The impact on the neighborhood will be imperceptible. Mr. Conroy asked if the rooms will also be ADA compliant. Mr. Ceneviva replied yes.

#### PUBLIC COMMENT

Jared Liu, 59 Curtis Avenue stated that the proposal makes sense and that he is in favor. He asked what will happen with the tree that was partially cut down. Mr. Durban replied that he doesn't know yet what is going to happen to the tree stump.

Robert Blanchard, 39 Curtis Avenue, stated that this is in his front yard and offered photos. He stated that there is a unique architectural aspect from the side as well as the front. It would be better on the back. He added that because it costs more is not a hardship. He asked if the Inn will be used only by the school. Chairman Rusczek noted that the use does not apply to this discussion.

Eileen McKeen, 13 Burke Heights Drive stated that she has seen a lot of old Victorian inns that have elevators and doesn't see why they can't convert closets to elevators. There are creative alternatives. Maybe they will lose a room.

Atty. Ceneviva noted that they have looked at other options. The issue is not just the elevator but the required waiting area. The 3.27 ft will be imperceptible.

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

**Mr. Rys: Motion to approve application #22-030 Choate Rosemary Hall/245 North Main Street for a Variance Request for a front yard of 26 ft. to construct an accessible addition including an elevator and ramps at 245 North Main Street as shown on Choate Rosemary Hall, Victorian Inn Renovation, site plan dated 7/8/2022 and submitted exterior elevation plan dated 7/7/2022.**

**Ms. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve, and Chairman Rusczek – yes to approve.**

The application is approved

3. #22-031 – Variance Requests/Anastasio/43 Algonquin Drive
4. #22-032 – Special Exception Request/Anastasio/43 Algonquin Drive

Ms. Harris read the staff comments into the record. The application is for a side yard of 4.4 ft. where 30 ft. is required and building coverage of 12% where a maximum of 10% is permitted to construct 792 sq. ft. of additions to the detached garage at 43 Algonquin Drive in an RU-40 District. A companion Special Exception Request for the additional garage area follows. The proposed garage additions are for 576 sq. ft. to the rear of the existing garage and 216 sq. ft. to the northern side. The existing detached garage was erroneously located 3.6 ft. from the side boundary and therefore expanding the non-conformity requires variance approval. This office cannot discern a method of vehicular access to the new 576 sq. ft. garage space based on the survey and one page of depicted elevations that were submitted. The additional garage area requested brings the total garage area on the parcel to greater than the footprint of the dwelling as well as creating the need to seek a building coverage variance. The Board should consider whether the use of the additional 792 sq. ft. of garage area is for vehicular and other storage or otherwise.

Christopher Juliano, licensed land surveyor and professional engineer, Juliano Associates, 405 Main Street, Yalesville, represented the owner. The side yard and area variances are for an addition to the rear of the existing garage. The purpose is to store classic vehicles. The owner builds, shows, and tinkers with classic cars. The access will be through the existing garage doors. The house was built around 1960 and a zoning change made it non-conforming. None of the lots in the area conform with the R-40 zone. They are more in common with the R-18 district. So the hardship is that the zone doesn't match the lot size. The side yard is more of a survey issue. Surveys were done between 1955 and 1960 resulting in three different maps. As a result, they are closer to the property line than they thought. They looked at doing a second detached garage or offsetting it.

Chairman Rusczek clarified that this will be for storage of old cars, not for commercial use. He asked what the workshop is on the plan. Mr. Juliano replied that it is a woodworking shop and the owner thought it made sense to do both at the same time.

Ms. Torre stated that the workshop was not originally included, but since it is part of the garage it is okay to add it. She stated that the application needs to be clear on what the structure will look like. She added that according to the records the garage was built in 1985 when the 5 ft. setback was applied and is only a 3.5 ft. Mr. Juliano stated that the elevation is incorrect since there will be some sort of door on the side. He doesn't know why an overhead door was noted. He stated that he didn't prepare the elevations.

Mr. Gross asked if the current owner built the garage. Mr. Juliano replied the current owner purchased the property in 2001, so no. Regarding permitting, he stated that he didn't see anything on the property card. He added that he can't say when the sunroom was done. Mr. Gross noted it's 3.5 ft for 45 feet. He noted that we don't want to continue nonconformities. Ms. Torre noted that we didn't require surveys for building permits until 2009. She explained that it is a variance because they want to expand the non-conformity. We don't ask them to correct it. She noted that this application has no bearing on the sunroom. They are looking for 4.4 ft. when need 5 ft. She added that they are over their building coverage and noted that the special exception likely should have been reviewed first. She noted that this area is an RU-40 but originally was R-18.

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

Mr. Conroy stated that he understands the special exception and that they don't agree with the current zoning. He stated that he doesn't think it should be approved because it is really a zoning issue. He stated that he can't support approval.

**Mr. Rys: Motion to approve application #22-031/Anastasio/43 Algonquin Drive for a Variance Request for a side yard of 4.4 sq. ft. to construct an addition to the detached garage at 43 Algonquin Drive as shown on Limited Property/Boundary Survey, Land of Christopher A. Anastasio, #43 Algonquin Drive, dated 6/5/2022, revision date 7/11/2022 and submitted plan received 7/14/2022.**

**Ms. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – no to approve; Harris – yes to approve; Rys – yes to approve, and Chairman Rusczek – yes to approve.**

The variance request is denied.

**Mr. Rys: Motion to approve application #22-031/Anastasio/43 Algonquin Drive for a Variance Request for building coverage of 12% to construct an addition to the detached garage at 43 Algonquin Drive as shown on Limited Property/Boundary Survey, Land of Christopher A. Anastasio, #43 Algonquin Drive, dated 6/5/2022, revision date 7/11/2022 and submitted plan received 7/14/2022.**

**Ms. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – no to approve; Harris – yes to approve; Rys – yes to approve, and Chairman Rusczek – yes to approve.**

The variance request is denied.

**Mr. Rys: Motion to approve application #22-032/Anastasio/43 Algonquin Drive for a Special Exception Request for a total garage area of 1,368 sq. ft. to construct a 792 sq. ft. addition to a detached garage at 43 Algonquin Drive as shown on Limited Property/Boundary Survey, Land of Christopher A. Anastasio, #43 Algonquin Drive, dated 6/5/2022, revision date 7/11/2022 and submitted plan received 7/14/2022.**

**Ms. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – no to approve; Harris – yes to approve; Rys – yes to approve, and Chairman Rusczek – yes to approve.**

The application is denied.

**5. #22-033 – Variance Request/Mark Development, LLC/1107 Northrop Road**

Ms. Harris read the staff comments into the record. The Applicant requests a front yard/height variance of 60 ft. of front yard and 38 ft. in height where 38 ft. in height requires a 100 ft. front yard to construct a 130,016 sq. ft. warehouse, 23,679 sq. ft. of which is within the town of Wallingford and the remaining 106,337 sq. ft. in the City of Meriden at 1107 Northrop Road in an IX District. Bulk Standard Regulations in the IX District require all setbacks to be increased by 5 ft. for each ft. of height requested over 30 ft. Therefore, 38 ft. of building height would require an additional 40 ft. of the front yard, requiring 100 ft. vs. 60 ft. for this proposal. The 60 ft. front yard request pertains only to the minimum point of setback at the southwest corner of the proposed structure. The Board is tasked with determination as it applies to the front yard requirement and corresponding height requirement only. The applicant is



simultaneously applying to the City of Meriden and will be following the ZBA determination with a Site Plan to the Planning and Zoning Commission.

Dennis Ceneviva, of the Ceneviva Law Firm, 721 Broad Street, Meriden, introduced the applicant, John Orsini, and Jim Cassidy, Project Engineer, of Hallisey, Pearson & Cassidy Engineering Associates. He explained that this property has 6.36 acres in Wallingford and 42 Acres in Meriden. The property has significant wetlands features and grade restrictions. Atty. Ceneviva stated that the proposed building has a height of 38 feet.

Mr. Cassidy explained the site. It has a 467 ft. frontage on Northrop Road. The property is extremely restricted by wetlands. He noted that on the plans the side facing Northrop will be 38 feet at its peak and the two eaves will be 34 feet. So the mean height will be 36 ft.

Atty. Ceneviva noted the IX zone has a maximum height of 30 ft. The normal height for industrial buildings is 38 ft. He noted that Meriden does not have similar height requirements. The regulations will require Mr. Orsini to push this building back 100 ft from the road. He noted that only the southwest corner doesn't comply. The wetlands limit the location of the building. If we use the 36 ft as the height, the building would only need to be 90 ft from the road and most of the building would be compliant.

Mr. Cassidy showed where the building is skewed so it doesn't impact the wetlands. The front corner is 60.06 ft. and the southeast corner is 158.6 ft. To get the building that meets the program that they are looking for, we need a certain depth. He stated they did get wetlands approval to have activities in the upland review area with no direct impact on the wetlands.

Atty. Ceneviva stated that if the building will sit below the roadway. He noted that it may be possible to notch the building back at that corner.

Chairman Rusczek asked if the 38 ft peak is in Meriden. Atty. Ceneviva replied vast majority of it is.

Mr. Conroy asked if the corner can be moved without impacting the wetlands. Mr. Cassidy replied no. The permit in Meriden is to be 10 ft. off the wetlands with a retaining wall. The building is as tight as it can get on the site.

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

**Mr. Rys: Motion to approve application #22-033, Mark Development, LLC, 1107 Northrop Road for a Variance Request for a front yard of 60 ft. where 100 ft. is required for a building height of 38 ft. to construct a warehouse/distribution center at 1107 Northrop Road as shown on Zoning Improvement Location Survey prepared for Mark Development, LLC & John Orsini, property located at 1107 Northrop Road, Meriden, and Wallingford, CT, dated May 3, 2022, revision dated August 5, 2022, and submitted elevations received August 5, 2022.**

**Ms. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve, and Chairman Rusczek – yes to approve.**

The application is approved.

7. **#22-035 – Variance Requests/Greenwood/29 Pleasant Street**

Ms. Harris read the staff comments into the record. The applicant requests a front yard of 32 ft. where 40 ft. is required and a side yard of 14.21 ft. where 20 ft is required to construct a vertical addition (dormer) on the front of the dwelling at 29 Pleasant Street in an R-18 District. The dormer has already been constructed without building or zoning permits. The Building Department issued a “Stop Work Order” on July 12, 2022, as a result of a site visit. As a result of this referral, the property is currently in a Zoning Violation. The applicant is seeking Variance Approvals to rectify construction and obtain the necessary zoning approval and building permits to allow. The existing building was non-conforming concerning both front and side yard setbacks and the vertical addition constitutes an expansion of these non-conformities. There is also a letter from the Town of Wallingford to Ms. Levatino dated July 12, 2022.

Frank Erba, Central Connecticut Property Services, general contractor, 347 Jones Hollow Rd, Marlborough, presented. He explained that it was a simple error on his part with filing paperwork. He has been in business for 20 years. He filed 7 permits on the same day in three different towns. He’s one of three employees and is hands-on all day as a carpenter. He does his paperwork at night and on weekends. He had been going back and forth with the owner for several months. He had a similar project nearby that he filed on the same day. When the owner’s father pulled a permit to do work in the bathroom, he discovered he had never filed the permit. He asked the Board not to punish the homeowner for his error. The house was built in the 40s and is non-conforming. The dormer is 12-15 inches in from the eaves of the side. They have not altered the overall ridge height. They raised the front wall to approx. 96 inches above the sight lines of the structure and are not encroaching on any property lines. The project is roofed, framed, and sided. They stopped work about 10 days before the Stop Work Order.

Ms. Torre noted that the applicant acknowledged the error and demonstrated remorse.

Mr. Conroy noted that there is no excuse for not displaying the permit on the building. Mr. Erba stated that he does typically display the permit and but it’s in the pile on his desk. His is a very busy small business. He stated that he has never made this mistake before.

Stephanie Greenwood, 29 Pleasant Street, stated that Frank is a reputable contractor and that mistakes happen. In this case, the homeowner is affected.

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

**Mr. Rys: Motion to approve application #22-035, Greenwood, 29 Pleasant Street for a Variance Request for a front yard of 32 ft. to construct a vertical addition at 29 Pleasant Street as shown on Proposed Plot Plan, Land of Stephanie M. Levatino, 29 Pleasant Street, dated August 9, 2022, and submitted plans/photos received 8/12/22.**

**Ms. Harris: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve, and Chairman Rusczek – yes to approve.**

**Mr. Rys: Motion to approve application #22-035, Greenwood, 29 Pleasant Street for a Variance Request for a side yard of 14.21 ft. to construct a vertical addition at 29 Pleasant Street as shown on Proposed Plot Plan, Land of Stephanie M. Levatino, 29 Pleasant Street, dated August 9, 2022, and submitted plans/photos received 8/12/22.**

**Ms. Harris: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve, and Chairman Rusczek – yes to approve.**

The application is approved.

**8. #22-036 – Variance Requests/Ranciato/91 Thorpe Avenue**

Ms. Harris read the staff comments into the record. The applicant requests front yards of 42.54 ft. and 47.09 ft. where 100 ft. is required to construct 2-story additions to the residence at 91 Thorpe Avenue in a WI District. The parcel is a corner lot with an existing residential use in a Watershed Interchange District. The Watershed Interchange District was recently modified, in April 2022, to best protect the Town's public drinking water supply resources while allowing low-intensity uses and emerging technological development. Existing residential uses are considered conforming and preserved, yet the bulk standards are designed primarily for other than the existing residential uses, and as such the setbacks are far greater than in current residential zones. Despite the limitations and two front yards of a corner lot, this parcel would be compliant in a comparable residential zone requiring 40 ft. front setbacks, yet the entire existing dwelling is located in the required 100 ft. front yards of the WI District. As such, no modifications could be made without requesting Variance Approval.

Paul Buckley Reynolds, Professional Land Surveyor with Stonewall Boundaries, 8 Osage Drive, Peter Ranciato Contractor at 108 Montowese Trail, and Stephanie Peterson, of 91 Thorpe Avenue presented. Mr. Buckley Reynolds explained that there was a fire at the property in January of 2022. The owners decided to invest in the property and do the second-floor and front additions. When they pulled the permit they found that the zone is now WI with a 100 ft. setback from Thorpe and Slater streets. This setback would not allow the existing house to comply. The variance request is due to the current zoning.

Chairman Rusczek clarified that the existing house is still on the existing footprint and the new part is the 16 x 24 addition on the south side. He asked if the zone change was the issue.

Mr. Torre noted that the zone didn't change, it was renamed. She explained the error on the legal notice. Existing residential uses are allowed in the WI zone. The Bulk Standards are not intended for residential. One of the variance requests is not necessary. She clarified that there are still two front yard setback requests.

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

**Mr. Rys: Motion to approve application #22-036, Ranciato, 91 Thorpe Avenue for a Variance Request for a front yard of 42.54 ft. (Thorpe Avenue) where 100 ft. is required to construct a two-story addition at 91 Thorpe Avenue as shown on Proposed Plot Plan, land of Randy K. and Stephanie Marie Peterson, 91 Thorpe Avenue, dated August 11, 2022.**

**Ms. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve, and Chairman Rusczek – yes to approve.**

**Mr. Rys: Motion to approve application #22-036, Ranciato, 91 Thorpe Avenue for a Variance Request for a front yard of 47.09 ft. (Slater Lane) where 100 ft. is required to construct a two-story addition at 91 Thorpe Avenue as shown on Proposed Plot Plan, land of Randy K. and Stephanie Marie Peterson, 91 Thorpe Avenue, dated August 11, 2022.**

**Ms. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve, and Chairman Rusczek – yes to approve.**

The application is approved.

**9. #22-037 – Variance Requests/Martindale/36 Forest Road**

Ms. Harris read the staff comments into the record. The applicant seeks a front yard of 39.26 ft. where 40 ft. is required and a side yard of 12.52 ft. where 20 ft is required to construct a 12 ft. x 24 ft. attached carport at 36 Forest Road in an R-18 District. The parcel is an under-sized lot for the zone with no existing garage area. Should the applicant either locate the carport 9 inches to the rear or reduce the depth by 9 inches from the front (East) the front yard Variance could be eliminated and as such this office cannot support the granting of the front yard setback request.

Paul Buckley Reynolds, Stonewall Boundaries, 8 Osage Drive, represented the owners. He explained that they have owned the property since 1971 and have had damage from the hillside behind the house. They want to add a carport over the paved driveway. The roof line will match the existing house. Currently, the front of the house is 24.97 feet from the street line.

Chairman Rusczek noted that most of the carports and garages in this neighborhood are set back. Mr. Buckley Reynolds replied that due to the hillside beginning right at the back of the house they want to keep it where it is, over the existing driveway. The entrance will stay where it is.

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

**Mr. Rys: Motion to approve application #22-037, Martindale, 36 Forest Road for a Variance Request for a front yard of 39.26 ft. where 40 ft. is required to construct an attached carport as shown on Proposed Plot Plan, land of Edward J. & Mary Ann Martindale, 36 Forest Road, dated August 8, 2022, and submitted plans received 8/12/2022.**

**Ms. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – yes to approve; Harris – no to approve; Rys – no to approve, and Chairman Rusczek – no to approve.**

**Mr. Rys: Motion to approve application #22-037, Martindale, 36 Forest Road for a Variance Request for a side yard of 12.52 ft. where 20 ft. is required to construct an attached carport as shown on**

**Proposed Plot Plan, land of Edward J. & Mary Ann Martindale, 36 Forest Road, dated August 8, 2022, and submitted plans received 8/12/2022.**

**Ms. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – no to approve, and Chairman Rusczyk – yes to approve.**

The application is denied.

**10. #22-038 – Special Exception Request/Pasquini & Gideon/32 Mohican Lane**

Ms. Harris read the staff comments into the record. The applicant seeks a Special Exception Approval for 1,104 sq. ft. of garage area to erect a 720 sq. ft. detached garage at 32 Mohican Lane in an R-18 District. In early August of 2022, the applicant applied for a building permit to erect a 720 sq. ft. detached garage. As a result of reviewing plans for P&Z sign-off, it was discovered that the total garage area exceeded the maximum permitted by at least 168 sq. ft. The applicant was advised on August 3, 2022, that either a Special Exception Request would be required to allow all of the garage area or the removal of the existing garage area (conversion to living space of attached garage) and no Special Exception Request would be required. The applicant opted to proceed by removing the existing garage and a conditional zoning permit was issued as sign-off to the Building Department to allow construction on two conditions; conversion of the existing garage to living space to be complete by November 4, 2022, and immediate removal of carport structure in the front setback before commencing construction of the new detached garage. Construction commenced, with no removal of the carport, and the applicant decided to pursue ZBA Special Exception Approval with the August 15, 2022 application to keep the existing garage rather than convert it. A site visit was done on September 8, 2022, with the Chief Building Official to inspect the construction progress and confirm the removal of the carport. The carport remains as does a similar 'temporary' structure in the rear yard (confirmed for more than 6 years) and the shed remains which was represented on the survey 'to be removed'. A Variance Approval (not sought) for exceeding the building coverage maximum would be required to keep any of the accessory structures. The property is in Violation due to the carport in the front setback remaining and confirmed on September 8, 2022, while construction moves forward. A Violation Notice was sent to the applicant for the same. The detached garage is located in a compliant location and within height regulations. The Board should consider the representations of the applicant and all current conditions for the building permit not being met as impacting rendering an approval with any, or more conditions. Correspondence included a Conditional Zoning Permit for Ronald Gideon, dated August 3, 2022; a Notice of Violation for Ronald Gideon dated September 8, 2022; an email from Maria Papa dated September 18, 2022, and a letter from Maria Papa to Amy Torre dated September 18, 2022.

Karen Pasquini and Ronald Gideon, 32 Mohican Lane, presented their request to keep the attached garage and not convert it. They announced that the carport is down and the other structure behind the house is down. The shed on the property shouldn't be an issue since it won't affect the coverage.

Ms. Torre confirmed that the carport is down and the extra structure had been removed. She stated that she agreed that they can keep the shed as it is not in violation at the moment. She noted that all structures count even if there are no walls. The Board should maintain all the other proposed conditions of approval.

Ms. Pasquini stated that they plan to remove the shed eventually but not this year. Mr. Gideon clarified that there is a one-car attached garage and a two-car detached garage. He explained that the new garage will be used for utility vehicles and a workshop. There will be no commercial use.

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

**Mr. Rys: Motion to approve application #22-038, Pasquini & Gideon, 32 Mohican Lane for a Special Exception Request for a total garage area of 1,104 sq. ft. to construct a 720 sq. ft. detached garage as shown on Plot Plan Property Survey, land now or formerly Ronald W. Gideon and Karen M. Pasquini, 32 Mohican Lane, dated July 28, 2022, subject to:**

- 1. Remediation of all open Zoning Violations;**
- 2. Removal of the carport structure in the front setback;**
- 3. Removal of the 'temporary' canvas storage building from the rear yard;**
- 4. Garage height not to exceed 15 ft.; and**
- 5. Second driveway and related curb cut to be permitted by the Town Engineer or removed.**

**Ms. Harris: Second**

**Vote: Conroy – no to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve, and Chairman Rusczek – yes to approve.**

The application is approved.

#### **CONSIDERATION OF MINUTES**

11. July 18, 2022

**Chairman Rusczek: Motion to approve the July 18, 2022, Zoning Board of Appeals Minutes as written.**

**Mr. Wolfer: Second**

**Vote: Unanimous to approve**

#### **ELECTION OF OFFICERS**

**Chairman Rusczek: Motion to nominate Karen Harris as Secretary of the Zoning Board of Appeals.**

**Mr. Rys: Second**

**Vote: Unanimous to approve**

#### **ADJOURNMENT**

**Chairman Rusczek: Motion to adjourn at 9:50 pm.**

**Mr. Wolfer: Second**

**Vote: Unanimous to approve**

Respectfully submitted,  
Cheryl-Ann Tubby  
Recording Secretary