

**ZONING BOARD OF APPEALS  
WINDHAM, CT**

**MINUTES**

**August 5, 2010**

The Windham Zoning Board of Appeals held its regular meeting on August 5, 2010 in the Meeting Room, Town Hall. Vice-chairman Joseph Al Beaulieu called the meeting to order at 7:00 P.M. Members present were Andrew Gibson, Robert Wolf, Al Beaulieu and Jose Cruz. Mary Ann Daley arrived late. Also present were Town Planner James Finger and Code Enforcement Officer Matt Vertefeuille. Robert Coutu was excused.

**I) Public Hearings**

**a) Nancy Worthington, 82 South Windham Road, South Windham** – Seeking a Special Exception as allowed in Sec. 3.10.7 in order to permit a larger replacement mobile home.

Planner Finger's staff report dated July 29, 2010 explained the 1.41-acre lot has three buildings on it, and is classified as being non-conforming. The town's zoning regulations only allow one dwelling per lot, and do not permit single section mobile homes, unless they are existing dwellings. As it happens, the existing mobile home is old, and the owner would like to replace it in kind, but slightly larger. She is handicapped, and is anticipating the need for a mobilized wheel chair soon. The Health Department has confirmed that a new septic system has been installed, and could accommodate the new home.

Nancy Worthington explained that because of medical issues she requires a larger living area on one floor. She said she would like to replace the single-wide mobile home with a larger single-wide mobile home. She said she needs something wider in order to accommodate an electric wheelchair. She referred to the photo, which was included in the packet supplied to ZBA members. She said although the photo shows a well on the property, the well is no longer there. I am now on city water, she said.

She said her doctor has advised her that she needs to be on one floor because of congestive heart failure. At the present time, her living area includes stairs and one bathroom, which is located on the second floor. In addition, her C.O.P.D. issues require her to be in an area that has the least amount of allergens. She said a new trailer will have less allergen than an old trailer.

She said she is also asking for a 5-year approval opposed to a 1-year approval because of health issues. She said in one year's time she may decline to the point where she cannot attend a future meeting to request an additional approval. Barring any more health issues or any more trips to the hospital, everything should be done in a short matter of time. She said she just wants to make allowances in case it goes on longer than she expects.

Code Enforcement Officer Matt Vertefeuille said the reason she is here tonight is because this property is a non-conforming lot with three structures, including the house she lives in. There is also a garage, he said. Our zoning regulations only allow one structure per property. It has been a non-conforming property for quite a while. If Mrs. Worthington was just doing a swap - one trailer for another, (same size), it wouldn't be necessary for her to be here tonight. But, you can't

get trailers that size anymore. They don't make them that narrow. As she has said she needs something bigger to accommodate her wheelchair and walker.

Board member Robert Wolf asked how much bigger is the new trailer opposed to the older mobile home. Planner Finger said her current home is 12X65', and the new home is 16X74'. Mr. Wolf referred to Section 3.10.7.4, which states that the increase cannot be greater than 25%. I believe this is 50% greater, he said.

Planner Finger said he thought the increase fell within the 25% margin. He said an alternative to the Special Exception is to consider a variance, but she would have to prove a hardship.

Mr. Wolf asked if this is non-conforming to begin with, does that restrain our ability to act. Planner Finger said there are special rules that authorize you to consider the expansion of a non-conforming use. The zoning officer is not empowered to do that, but this board is. The Special Exception rule allows the expansion of a non-conforming property as long as it is not more than 25%. Since you have determined that it is more than 25%, I would urge you to consider a variance.

Acting Chairman Al Beaulieu asked if the application could be changed to read a variance and not a special Exception, or does she have to reapply. Planner Finger said the board could decline the Special Exception and grant a variance. The board concurred that she shouldn't have to reapply.

Mr. Wolf asked if she had any close neighbors. Mrs. Worthington said she approached all four neighbors, and they did not have any objections to her request for the larger trailer.

Mr. Wolf recommended that the application be changed from Special Exception to variance.

Andrew Gibson made a motion to close the public hearing and Robert Wolf seconded the motion. The motion carried unanimously.

Robert Wolf made a motion to reclassify Mrs. Worthington's application from Special Exception to variance, and further moved that the variance be granted with a condition that she complete the replacement within 5 years. Andrew Gibson seconded the motion.

Discussion on the motion: the Board determined that there are practical difficulties for which the Board has authority to consider granting a variance, and among those is the unique configuration of the property, and that there will be no substantial harm to the town or to the neighborhood by granting this variance. Voting in favor of the motion were Robert Wolf, Andrew Gibson, Jose Cruz and Al Beaulieu. No one was opposed. The motion carried.

Acting Chairman Al Beaulieu announced that Mary Ann Daley will participate in the following applications.

**b) Lucy Lincoln, 68 Wesley Circle in the Willimantic Camp Meeting Association property with a property address of 453 Windham Road, Willimantic – seeking a Special Exception as allowed in Section 3.10.7 in order to permit an enlargement of a cottage at the Camp Ground.**

Planner Finger's staff report indicated that originally these cottages were used as a summer retreat, but over the years many of them have been converted to year round use. All of the homes on the property are non-conforming as to code, and any additions require approval from the Board. The subject cottage has a more generous space between the two buildings on the side where the addition will occur; and the addition is designed so that it is not anticipated to have an affect on any neighboring homeowner. He said the staff has no objections to granting the Special Exception.

Pat Marble, representing the applicant, presented a letter from Mrs. Lincoln outlining her reasons for the variance. Her present dining space is only 4' x 9'; this is insufficient for guests to get around her 6-person dining table. An expansion into the porch area would allow a space of 10' x 9'. Secondly, there is no coat closet or storage area. The entry expansion would allow for a coat closet and also a shallow (about 4' high) attic space above, where she could store seasonal items etc. The clerk read the letter into the record (attached).

Planner Finger said Mrs. Lincoln notified the three adjoining property owners, and they did not offer any objection. Mr. Finger said a letter was also received from the Health District, signed by Richard Zulick, approving the request.

Al Beaulieu referred to photos of the property. He said the side porch has a cement slab, and the addition would be placed on the slab. He said a dormer will be added on the small front section roof, and she will be closing in the side porch. He added that the property itself is very close to the side line, but where she is proposing the expansion, she has plenty of room. Mr. Beaulieu added that the Board of Trustees of the Camp Meeting Association has approved the expansion.

Code Enforcement Officer Matt Vertefeuille said the reason she is before the Board seeking a Special Exception is because the property has several houses on it and falls outside of our regulations. Robert Wolf said it appears to exceed the 25%, but not by much. This will not exceed the existing footprint; what was an open porch becomes a closed in porch.

As there was no one in the audience to speak for or against the application and there were no further questions by Board members, the public hearing was closed. Motion was made by Robert Wolf and seconded by Mary Ann Daley. The motion carried unanimously.

Robert Wolf made a motion to approve the Special Exception on the grounds that the footprint will not increase and the neighbors have no objections. It appears that there will be no material consequences in terms of appearance, open space etc. Mary Ann Daley seconded the motion. The motion carried unanimously.

**c) Michael Haddad, 75 Bridge Street Rear, Willimantic** – application for Certificate of location for used motor vehicle dealer's license.

Planner Finger's report explained that the owner was issued a license approximately 14 years ago, and then he moved the operation to Stripling Motors on Main Street, where the new Cumberland Farms is now located. The property has sufficient room, and is part of River Plaza Shopping Plaza together with Jonathan's Restaurant. Mr. Haddad said the restaurant isn't doing much business lately, so he has limited hours that shouldn't conflict with other businesses in the Plaza.

Michael Haddad of 75 Bridge Street, Willimantic explained his request. He said, originally in 1993 he opened up a service garage and used car dealership in the Plaza. He said they were at the same location for approximately 6 years. He then moved to Stripling Motors on Main Street, which then became Cumberland Farms. He said he went from a little garage to one that was too big. He sold the big garage. He said he would like to reinstate his license there on a small basis again. With the economy the way it is we don't need a big garage, he added. He said he still takes in used cars and has been for the last 40 years in Willimantic. This will be my fourth license in Willimantic, he said.

Mr. Wolf asked about parking. Mr. Haddad said the economy is so bad that we have no parking problems whatsoever. We close Jonathan's Pub, which is adjacent to where the garage already is, at night.

Code enforcement Officer Matt Vertefeulle said he is not anticipating any parking issues. He has between 40 to 50 parking spaces that are empty in that lot. Mr. Haddad said the parking has been utilized by the Railroad Museum, the Chamber of Commerce as well as all of his tenants, and the parking lot has never been full.

Robert Wolf asked if there would be any trash or storage problems and Mr. Haddad responded no. There will be nothing outside the building, he said. He said he has a good track record of keeping his properties, as well as his garages, well maintained.

Mr. Wolf asked about fire protection measures. Mr. Haddad said the bays will be fully sprinkled. Matt Vertefeulle said he also has fire protection in between the two businesses as well.

Mr. Wolf referred to signage and lighting. Mr. Haddad said there will be a sign in front of the garage itself and a little tag on his sign pole out front. Mr. Vertefeulle said any additional signs would have to come to him for approval. As far as lighting, the parking lot is very well lit. Matt Vertefeulle said he has the best fully lit parking lot in town.

Acting Chairman Al Beaulieu said he inspected the property and all the bays are fully sprinkled. There are no floor drains, and he has an oil-reclaiming tank on the premises.

As there were no further comments, the public hearing was closed on a motion by Robert Wolf and seconded by Andrew Gibson. The motion carried unanimously.

Andrew Gibson made a motion to grant Mr. Haddad a Certificate of location for a used motor vehicle dealer's license and Robert Wolf seconded the motion. The motion carried unanimously.

## **II) Routine Business**

a) The minutes of March 4, 2010 were approved on a motion by Andrew Gibson, and seconded by Robert wolf. The motion carried unanimously.

The meeting was adjourned at 7:35 P.M. Motion by Robert Wolf and seconded by Jose Cruz. So voted.

Respectfully submitted,            Lillian Murray, Clerk