

Zoning Board of Appeals
Windham, CT

Minutes

December 6, 2007

The Zoning Board of Appeals held its meeting on December 6, 2007 at 7:00 P.M. in the Meeting Room, Town Hall. Members present were Al Beaulieu, Robert Coutu, Charles Krich, Jerry Hart, Jose Cruz and new members Susan Fiegel Rapp and Renee Harris. Also present was Town Planner James Finger.

- 1) Election of Officers
Nominations were opened.

Chairman – Robert Coutu nominated by Al Beaulieu, seconded by Jerry Hart.
Vice-Chairman – Al Beaulieu nominated by Jerry Hart and seconded by Susan Fiegel-Rapp.

As both nominations had the unanimous vote of the Board, nominations were closed.

Bob Coutu accepted the nomination to serve as Chairman.
Al Beaulieu accepted the nomination to serve as Vice-chairman.

- 2) **Eastern Valley, LLC – two Special Exception** applications for property identified on Assessor's Map 7-10, block 254, lot 26. Town Planner Finger explained that these applications involve a reconfiguration of three different parcels that have been consolidated and now are to be divided into two building lots.

- a) **Autumn Ridge** – non standard lot under Section 3.3.2 for frontage reduction.

- b) **Mullen Hill Road** – rear lot Section 78.2 both in Windham Center

Wes Wentworth, Civil Engineer from Lebanon, said he did place the placards advertising the public hearing as required. He said he placed one at the end of Autumn Ridge and one at the frontage of Mullen Hill Road. He said before the board this evening there are two applications for Special Exceptions. He gave a brief history of the properties. The two parcels were acquired by Eastern Valley, LLC. The eastern portion of the property was owned by Deptula and the western portion of the parcel was owned by Plaska. The Deptula parcel extended all the

way through to Indian Hollow Road and the other parcel goes all the way out to the frontage on Jerusalem Road and its frontage also extended down to Indian Hollow. Out of the two frontages combined on Indian Hollow, a subdivision of 10 lots, the Indian Hollow Subdivision, was approved last year by the Planning Commission. What we have now is the remainder of the two parcels of land which we would like to develop into two building lots. One lot will be a rear lot which is allowed by Special Exception by this board and secondly this lot needs a reduction in frontage. He then went on to describe the rear lot. The lot is 8 acres and will have one single family dwelling with onsite septic and onsite wells. There is 101 feet of frontage along the frontage of Mullen Hill Road. The zone line comes right through. The frontage, which is the 101 foot access strip, is in the R-3 Zone and the remainder of the parcel is in the R-1 Zone. Therefore we have only 101feet of frontage and we are asking for a Special Exception for the rear lot. Planner Finger said the technicality is that when the substantial portion of the lot is in the larger zoning lot requirement, then the larger lot requirements are applicable. In this case they are applying for a Special Exception for the rear lot on Mullen Hill Road, where the smaller lot requirements are a possibility for a frontage lot. This one doesn't have enough lot area in that zone to meet the lot requirements, but certainly has enough frontage to meet the rear lot requirements of 50 feet, so they qualify. It doesn't require a variance. There is no hardship test on either of these applications.

Mr. Wentworth said the second parcel has 157 feet of frontage. This was left on Autumn Ridge Drive when this subdivision was put in and the road constructed. The frontage requirement is 175 feet so we are asking for a Special Exception for an irregular shape lot, which is allowed up to a 20% reduction in either frontage or area. We obviously have plenty of area; 18 acres in size for this building lot. However, we do need an 11% reduction, or 157 feet rather than the 175 feet to allow for this lot. This is an existing condition. As to the piece that was left, I don't know the history of why that was done like that, but that is what was left and how the parcel was acquired by Eastern Valley. This is for construction of a single family dwelling with onsite septic and onsite well. As proposed, we don't feel there is any adverse impact to the health, welfare of safety as a result of this development.

Bob Coutu said he noticed from the map that there are wetlands. If you drive to the very edge of the cul-de-sac and you look into the woods there is always water visible. Mr. Wentworth said there s a man-made pond in here. He said as well as being an engineer, I am also a soils scientist and I have delineated the wetlands soils here. Basically the cul-de-sac was built in a fill area and the tone of the slope and even some old stock piling was left as a result of that construction, and that is what actually defines the edge of the wetlands in this area. We are just skirting in on the edge of the wetlands with our driveway entrance with minimal activity in the wetlands and upland area. All house, septic, and well areas will be constructed outside the upland review area. Al Beaulieu asked if the application has been approved by the Inland Wetlands Commission. Mr. Wentworth said we

are currently before the Inland Wetlands Commission. We submitted an application to them in November and we are going back before them on Thursday. Don't they have to have Wetlands approval before we can act on it, asked Beaulieu? Planner Finger said that is correct. Any hearing before any land use agency, if there is an application before Wetlands then the board is barred from closing the public hearing or acting on the application until the Wetlands Commission issues its ruling. Mr. Beaulieu said we will have to postpone acting on this application until it has gone before the Wetlands Commission. Planner Finger said since you have a hearing and you have people here I would urge that you allow members of the audience to comment on the applications.

Audience comments: 1) Donald Chanski referred to an AT&T right-of-way that goes down through there and it is not shown on the map where it intercepts this property. It goes through the back of our property, but it doesn't indicate how it affects what is there. My other concern is if the properties are approved as shown here, will there be any chance that in the future pieces of this property could be sold off, or is this going to be it. Can it be subdivided again or sold off, like a piece for a road etc. Planner Finger said yes, there is always the possibility that they could deed off some of the land to an adjacent property owner either for conservation purposes, for agricultural purposes or to go through the process to create a new lot. The only area where I can imagine they might be able to do that would be off Mullen Hill Road because they have 101 feet, but in that case they would have to apply back to this board for another lot split. I can't imagine why they would do that later when they have the opportunity to do it now. The owner would have to answer that. I am only telling you that anything is possible, and those are three possibilities I know of what could happen. You would have to ask the owner, Mr. Randazzo, what his future plans are. Mr. Chanski said is it true then if you have a piece of property that is divided into two, a subdivision is not required, but if you have a division into three pieces it becomes a subdivision? Planner Finger said this will be a subdivision. It will go to the Planning Commission after it goes through these other two boards. Assuming they get the approvals they need and I imagine it is possible and likely that they will get approval if they qualify. But, it is up to the boards to approve each of those applications, Wetlands approval and now here for the Special Exceptions. Then they will have to go before the Planning Commission for further approval. Mr. Chanski said the elevation for the top of the foundations is given as 328 feet yet the entire septic tank field seems like it is in the 326 contour line. That is only a 2 foot difference. It doesn't seem that this is satisfactory. Planner Finger said that will be subject to the Health Dept. regulations. This board wouldn't have anything to say about that, said Finger. 2) Stan Hale, property owner adjacent to the first proposal asked if the driveway that is coming down by his stone wall will be about 20 feet. What is the width of driveway? The other question is I see on the other property coming off the cul-de-sac for Autumn Ridge that it is going over the 18 foot easement. I would like some clarification about these easements. My understanding is that you can have a driveway come over that sort of an easement, but you can't build any structure on it. My third question is does Mr.

Randazzo foresee any other subdivision of these areas, particularly in that first 8 acre parcel because you have that AT&T line in the back part of that and there is a contour to the south of that and I want to know if anything else will be proposed or considered in the future.

Mr. Wentworth responded to the questions posed by Mr. Chanski and Dr. Hale. There is an AT&T line that bisects this property going east to west. It is correct that no structures can be built within that 18 foot line, but we do have a driveway crossing in this area. Mr. Wentworth said regarding future subdivision or property line adjustment potential, basically this is the portion of the property that we are building on. We are here requesting the Special Exceptions for the developments shown. As far as the frontage for this rear lot there is enough frontage to have two rear lots. There is enough area; however by the time you get back across this AT&T line it is mostly wetlands to the rear of the property. He said he did soils testing within this area where the house is shown and a good deal of the uplands soil is outside of both the wetlands and the Wetlands review areas. Test pits showed there isn't much soil there. There is about 2 inches of top soil and you get right down to the hard pan soil and there are a lot of trees in there. There must have been a major kind of excavation there where they leveled this part of the land off. There must have been some sort of a knoll there and they excavated it out and left it barren and planted some trees on it. There is a pine grove in there. However, a large part of the area is not suitable soil for septic. I think, in my opinion, this is what you will see as far as a maximum yield of this property. Mr. Wentworth referred to Mr. Chanski's question about septic elevations on the parcel coming in off of Autumn Ridge. It will be an engineered septic system and I think it is possible to get a gravity type septic system here. Based on where they want to place the house, they may have to put in a pump chamber and pump system. It is suitable either way. It is up to the person who builds the house based on how they want the grade. It is just a matter of choice. Mr. Wentworth concluded his comments by saying he doesn't feel there is any other potential to further subdivide this parcel based on the existing zoning regulations. There is remaining land of Eastern Valley that goes out to Jerusalem Road and that does have the potential to be further developed. We are just discussing the two parcels consisting of 26 acres. In my professional opinion, I feel this is all the property can yield. 3) Chris _____, who owns 12 Autumn Ridge, where the driveway will be next to, said the reason I bought that property was so that I could be in a cul-de-sac and not have people behind me. That is the whole reason I ended up buying where I bought. One house might not be that big of a deal, but later on there could be more. Al Beaulieu said Mr. Randazzo did stipulate that there wouldn't be anymore subdividing other than that particular piece of property. Planner Finger said there is not much chance, other than if global warming forces us into a drought for an extended period of time, that we change the wetlands regulations at the state level. But I think in the more immediate future we can say that it is probably unlikely. Joe Randazzo, owner of the property, clarified that the owners of Eastern Valley have no intention of further subdividing that property from what you see. The only thing we cannot

attest to is what somebody else might do in the future, but our intentions are what you see.

Al Beaulieu made a motion to continue the public hearing until the next meeting because the Wetlands Commission has yet to rule on the application.

3) Forrest N. Burke III, 18 Jaynes Avenue, Willimantic Camp Meeting Association property –variance to enlarge non-conforming property.

Planner Finger's staff report dated November 27, 2007 explained this is an application for a variance from Section 3.10 to build an addition to a non-conforming property. Part of the building has been demolished because of serious deterioration. The dwelling is located in the Willimantic Camp Meeting Association property, which was originally used as a summer retreat.

With the increasing costs of housing, many owners of these cottages are now converting them to year round use. Given that many of the homes and the streets are all non-conforming as to code, each addition requires a variance that the Board has routinely granted due to the unique configuration of the property and ownership. The subject home has a more generous space between the two buildings on either side; and the addition will not affect any other neighboring homeowner. He said staff has no objections to granting the variance.

He added that just about everything in the Campground is non-conforming. It was originally devised as a seasonal ground and some of the dwellings have been converted to year round use. Mr. Burke found his building in a dilapidated condition and needed to demolish part of the structure. Now he wants to rebuild it, and unfortunately I don't have the authority to approve that reconstruction, because he is rebuilding more than what was there. He is now before you seeking a variance.

Mr. Forrest Burke submitted signatures of abutting property owners as required. He said he is not expanding on the foundation; he is adding a second story (approximately 270 square feet). It was originally a 2-bedroom home. There were two small bedrooms and I would like to put a master bedroom up on the second floor, he said. I also plan to add a couple of baths, replace the plumbing and the electrical wiring to get it up to code. He said he has his own septic system which has been recently repaired and found to be in good working condition. He said he submitted the plan to the Trustees Committee of the Camp Meeting Association, and they approved the plan.

As there were no other comments from the board or from the public the hearing was closed.

Al Beaulieu made a motion to grant Forrest Burke, 118 Jaynes Avenue, Willimantic Camp Meeting Association property a variance to enlarge non-

conforming property as presented and Jerry Hart seconded the motion. The motion carried unanimously.

4) Approval of the minutes of November 1, 2007 was deferred to the next meeting.

5) Correspondence

Letter of resignation received from Donald Potter. It was necessary to resign from the ZBA because he will serving on another town board. The board thanked Mr. Potter for his time and service on the board.

Bob Coutu also extended the board's thanks to Ernest Eldridge for his service to the board and for acting as chairman of the ZBA.

6) The Zoning Board of Appeals will continue to meet on the first Thursday of each month.

As there was no other business to come before it, the meeting was adjourned

Respectfully submitted,

Lillian Murray, Clerk