

**ZONING BOARD OF APPEALS**  
**WINDHAM, CT**

**MINUTES**

**July 2, 2009**

The Zoning Board of Appeals held it's meeting on July 2, 2009 in the Police Classroom, Meadow Street, Willimantic. Chairman Robert Coutu called the meeting to order at 7:03 P.M. Members present were: Al Beaulieu, Maryann Daily, Steven Edelman, Jerry Hart, Renee Harris, Bob Coutu and Town Planner James Finger. Voting members are: Bob Coutu, Al Beaulieu, Steven Edelman, Maryann Dailey and Renee Harris. Jerry Hart was not present for the first part of the meeting.

**D) Otto R. Hain Trust, 79 Myers Road, Windham, Center** – application for a Special Exception to create an isolated rear lot.

Planner Finger's staff report explained the applicant is seeking a Special Exception to create an isolated rear lot. He said the Board has authority to approve this request, and there is no hardship test required.

Joseph Boucher, P.E. with Towne Engineering, said this is a 32-acre tract of land on the end of Myers Road. The proposal is to cut the house off the farm and keep the remaining land as is. He said no further development is planned at this time. They have built a new house on Jerusalem Road down by the brook and they are planning to move there. They want to cut the house off the farm and sell the 4.4-acre lot which has 50' frontage on Myers Road, said Boucher.

Mr. Boucher then presented a revised plan. He said one of the abutters questioned where the end of Myers Road was. Mr. Boucher said the Town of Windham accepted Myers Road (2200 feet from Jerusalem Road) in October 1955. Several of the Myers family conveyed an easement to the Town of Windham in 1956. This proposal leaves (with the 32 acres) 314.59 feet of frontage which will remain with that parcel, said Boucher.

Chairman Bob Coutu asked if there is a designated area that the Town can utilize for Town equipment. Mr. Boucher said he met with Brad Wojick of the Public Works Dept. and he said he doesn't want anymore than what is there now. He said all he needs is an easement to back his trucks in and turn around. Mr. Boucher agreed to convey that to the Town. The remaining land will also retain an easement over the 50-foot square, as well as the easement that is there now. There is no change proposed for the driveways that are there as they are in good condition. Mr. Boucher said the North Central District Health Dept has approved the plan. The approval states that the proposed plan is in compliance with applicable regulations as contained in the Public Health Code.

Board member Al Beaulieu said he visited the site and said everything is clearly marked on the map. He said this is a great piece of property, and he doesn't foresee a problem with separating this lot from the remaining property.

As there was no one in the audience to speak for or against this application, and since Board members had no further questions or comments, the public hearing was closed. Al Beaulieu made a motion to **approve** the Special Exception from Section 78.2 of the Zoning Regulations to create an isolated rear lot as proposed. Steven Edelman seconded the motion. The motion carried unanimously.

**2) Kingdom Life Christian Church, 280 Jackson Street, Willimantic** – application for variances from Section 33.5 on building setback lines to build an addition on an existing non-conforming building for a new Church in a B-3 District. Voting members on this application are Jerry Hart, Steven Edelman, Al Beaulieu, Bob Coutu and Renee Harris. This is a continuation of the public hearing from the June meeting.

Planner Finger's staff report dated June 26, 2009 explained that at the last meeting, the Board was concerned about the effect of the second floor addition, as it would encroach on the privacy of neighboring properties. He said Board members conducted a site walk on June 13<sup>th</sup> to examine the existing conditions. He asked members who attended the site walk to report their observations for the record.

Planner Finger said the applicant has submitted a revised floor plan, and has removed the second floor addition from consideration. The plan before the Board is simply to construct an addition in front of the garage area in the same alignment with the main building. They are now asking for a variance on the addition to the front of the garage building, which does encroach on two setback lines the Miner property and the Cote property.

Tom Probert, speaking for the Church, said it is their desire to bring the building forward toward the Miner residence approximately 10.10 feet. This will require reconstructing approximately half the roof in order to hold up the existing rafters, and to add a new rafter over the structure.

Board member Steven Edelman asked why they are scaling back the plan.

Jim Hasheem, Kingdom Life Christian Church, said we looked at our requirements for the next two years, and if we can get the plan that is before you approved it will satisfy our needs for the next two years. At that point, if we need additional space we will come back to you and see what we can do about building out towards Jackson Street with an addition in the front of the building.

Board member Steven Edelman said I know the application belongs to you, but if you have a future plan for moving the Church closer to Jackson Street you might want to consider it now. In two years you don't know how a different board will view a future plan to move out to Jackson Street. Mr. Hasheem said we sensed this Board had

concerns with the former plan at the last meeting, so we decided to scale back the plan. He said this would satisfy our needs for right now. Mr. Edelman said you might find another Board less willing to work with you. Mr. Hasheem said moving out towards Jackson Street at this time is not included on this drawing. Mr. Edelman said if you have a proposal that includes a future move closer to Jackson Street you might want to move it forward now. The prior plan was presented not too long ago, and if you sensed this Board had concerns, we could take a preliminary poll, and if you need to modify your plan at that point you could do so. This way you would not be boxing yourself into a corner, said Edelman.

Chairman Coutu agreed with Edelman. He said if you think that you will need the additional room later on, you should be considering it now. Mr. Probert said we thought it would be asking for too much.

Mr. Hasheem said we wanted to get this part done, to show you that we are good neighbors, to show you how we are going to fix up the property, and to show you the impact I think we can have on the community. We felt that if we came back before the Board in two years, we might have a better chance to get our entire plan approved. Mr. Edelman said he senses that if the construction were to be moved out towards Jackson Street rather than towards the rear of the property, the Board might have a more favorable view of the project. Mr. Hasheem said if we felt we could get your approval to do both pieces now, then absolutely we would want to proceed. But, we definitely would like to get this small section approved first, and if we could do the front as well...

A lengthy discussion ensued. Chairman Coutu referred to an encroachment on the right-of-way. Mr. Hasheem said we have discussed this with Mr. Miner and I think he is okay with it. Mr. Edelman said in looking at your previous proposal if the property were to be moved closer to Jackson Street, I wouldn't have a problem to build out the second floor as well. In the rear section you would have to do some work with the existing walls and foundation because they are not very good, said Edelman. If you are going to pare it down, then my suggestion would be to start fresh and ask for approval on both. I am just mentioning that as a possibility because you stated that you have certain needs. Mr. Probert said we do have special needs, but we don't want to put the money into the building towards the front of the property just yet. Mr. Edelman said you don't need to.

Planner Finger said there is a problem with granting a variance unless they have a definitive plan of when they want to start construction, because variances have time requirements. You have to act on the variance within one year; otherwise the variance becomes null and void. He said he doesn't have a problem with their flipping the addition, as the front side might be a better layout. The back building is in pretty rough shape. If you are unable to start construction within one year, you could ask the Board for an extension for however long it is willing to entertain an extension, but you need to move diligently on this. You could identify a phasing plan within a time sequence whereby you would identify when you would complete the project, but it cannot exceed five years. He said there is another procedural problem. When the Pastor brought in the plan they were too close to the front line, and we hadn't advertised the variance on the

front setback, said Finger. There is a different rule on the front part. You can build up to 20 feet from the street line, and their plan shows 15 feet. If the applicants want to revise the plan I would ask that you continue the public hearing and allow them the opportunity to submit revised plans because it's not fair to the neighbors who were unaware there were any changes to the plan. In fact this plan came in rather late. Ideally the application should be on file with all the plans by the date that the hearing is announced and advertised. When you mail notices to the neighbors they should be able to come in and review the plan that is being proposed. He said I don't want to discourage the Board from considering whatever they want to consider, but I just want to make sure that we have it properly documented.

Finger said I understand your concerns from the discussion at the last meeting, as well as the comments from the neighbors, and I feel that scaling back the plan is probably a good thing. If you want to add an addition, putting it in the front might work better because you have more room. If you have room to go back, you could have a utility room and a conference/ meeting room in the lower level, which wouldn't disturb the upper level. You could take out the floor in the front part because it is in pretty bad condition, and then bring it up to the same level.

Mr. Hasheem said we are under the time situation also in that we are in the Middle School building right now. The front part will allow us to get into the building and do it fairly quickly. And, two years from now... Mr. Edelman said if you want to do it in phases, that's fine. You could present it now stating exactly what you want to do. Right now you have the addition in the original location. Mr. Hasheem said I think you convinced us not to put two floors where the garage is now. We would like to renovate the garage and when we need additional space go towards the front with a ground level and a one story. We would like to have the use of both square footages, he said. We would like to renovate where the garage is now, and potentially 2-3 years from now have a new addition along the front of the building. Several architectural people said because of the slope of the land we would put a foundation in for the first floor, as well as a basement.

Al Beaulieu reported on the site walk. I have no problem going out to the front on Jackson Street. My only problem is that you have 1 1/2 feet here, and 1 1/2 feet here on the back side. We will be creating another problem. You are going to be 13 feet from the Miner property. I realize he has said that he has no problem with that, but I do. You are taking something that is non-conforming and making it more non-conforming which is against what we are here for. That is my concern. In looking at the structure of the garage I realize you can put extra beams in to bump this out, but from what I saw it looked pretty bad. The wall is cracked. I could see right through the masonry wall. I believe the masonry wall is cinder block. You would almost have to drag that whole section out. I can't see spending the money to do that. I would rather see you take it down, and that will give you a yard area for the children. You could bump this out and go to two levels, but you might have to do it at a later date. I don't know if your intentions are to buy this piece of property in the future and add it to the rest. If that is the case, then that is a horse of a different color. But, until that happens... Mr. Hasheem

said we have been in conversations with Mr. Miner. Jointly we are going out to have the property assessed. Mr. Hasheem said these two pieces of property should be one. Mr. Edelman agreed that the Board is charged with reducing non-conformities. Mr. Beaulieu said they have not demonstrated a hardship because they could go out towards the front. Mr. Edelman said if the opportunity exists to make it less non-conforming, the Board needs to look at that.

Mr. Hasheem said what I am hearing is that you are negative on granting the bump out on the garage. I am seeing some consensus around the table that if we went to the front and bumped out the front then that would be more acceptable.

Planner Finger said if it is only up to 20 feet away from the street line you wouldn't need a variance on that side. You would only need one variance from one property line. It would not harm your neighbor's property as much as the back portion. If you go to the front you would only need one variance where here you would need two variances for the addition. And, as the Board pointed out, you have not demonstrated a unique hardship. Mr. Edelman added that under the alternative plan the Church would gain some area for a playground etc.

Public Comments: Planner Finger urged the neighbors to comment on the idea of changing the variance and moving the building addition to the front.

1) Ted Swol seemed more receptive to the alternate plan. 2) Mr. Miner said as much as I don't think encroaching is the best alternative; I understand that they need to refurbish the site.

The discussion continued.

Planner Finger said if you choose to continue the public hearing the applicant would have to grant a continuance in writing. I think it would be wise to poll the members on this request. Mr. Edelman said in regards to the area in the back, the Church could use the area as it is, or it could improve it. Planner Finger suggested the applicant give some consideration to the rehabilitation of the front addition because it is not at the same level as the main building. It is an untidy area showing some bug infestation. And, standing on the cinder block and looking towards the front it appears there is a sag in the floor. He said you may want to have that all ripped out and rehab it, and if you do you might find it useful to bring it up to the same elevation. You may find that you have a whole new area that could be expanded to a utility area. Mr. Edelman pointed out that if the rear section were demolished, that would reduce some of the non-conformity. Mr. Hasheem said I can see how the vote is going. He said if we tear down the garage it appears that the Board would be more agreeable to go out front. Planner Finger said it appears the Board seems to be less favorably inclined to the request that is on the table, and they are willing to work with you to develop a better plan. Mr. Edelman asked the applicant, if you devise a plan to go out toward Jackson Street with the addition, would you still need the second floor? Mr. Hasheem said no. They would only need the basement and the first floor. Mr. Probert asked, should we propose two stories now even if we can't do it all

now? Planner Finger said the project would have to be started within 5 years. Mr. Probert said the applicant agrees to extend the public hearing another 30 days.

Al Beaulieu made a motion to continue the public hearing for an additional 30 days to allow the applicant the opportunity to return with another set of prints showing the footprint to the front of the building, the height and elevations including the basement and the first floor, and any future expansion to a second floor. Renee Harris seconded the motion. The motion carried unanimously.

3) The minutes of June 4, 2009 were amended as follows: page 3, para 5, line 8 Mr. Edelman said we, as a board, **are obligated to minimize non-conformities**. This certainly imposes **illegal standards for the Board**, said Edelman. Page 4, para 5 Mr. Edelman **had reservations with regard to designing the connecting wall** for possibly dismantling in the future.

Al Beaulieu made a motion to approve the minutes of June 4, 2009 as amended and Jerry Hart seconded the motion. The motion carried unanimously.

4) Planner Finger reported that the ZBA's comments regarding proposed changes to the Zoning Regulations were presented to the Zoning Commission at their last meeting. He said they were not keen about absentee owner properties. They prefer to have the owner reside on the property. The Zoning Commission approved the proposed revisions as presented and made the change effective October 1, 2009, concluded Finger.

As there was no further business, the meeting was adjourned at 9:10 P.M. Motion by Al Beaulieu and seconded by Renee Harris. So voted.

Respectfully submitted,

Lillian Murray, Clerk