

ZONING BOARD OF APPEALS
WINDHAM, CT.

MINUTES

May 1, 2008

The Windham Zoning Board of Appeals held it's meeting on May 1, 2008 in Town Hall. Chairman Robert Coutu called the meeting to order at 7:00 P.M. Members present Susan Fiegel-Rapp, Robert Coutu, Charles Krich, Al Beaulieu, Jose Cruz, Jerry Hart and Renee Harris. Also present was Town Planner James Finger.

1) New Business

- a) **Jeffrey Machie, 17 Russ Drive, Willimantic** – seeking a variance from the setback restrictions to build a large addition to an existing house that is a non-conforming property.

Planner Finger's staff report dated April 25, 2008 explained that the property is a collection of three small lots created prior to zoning that does not meet the current requirements of the district. Currently the owner has a small house and a garage. He would like to have a larger home involving a 30'X30' two story addition along with a 10'X18' two-story connector to the older part of the house. The addition will almost double the size of all of the existing structures including the garage, and is proposed to come within 11 feet from the edge of the street on Russ Drive, along with crossing an internal property line. This is due in part from the owner's desire to match the alignment of the existing house, which sits at an angle to the street.

The existing house is 30 feet from the edge of the pavement of the street at its closest point. He may be able to keep the addition at a similar distance of 30 feet, and more closely meet the setback rules from the street line, but the addition would have to follow a line parallel to the street. The property is unique in that it has three sides facing a street. The setback rules for the district require 30 feet from each street line, and 20 feet from the side property line. In addition the Health Dept. will need to provide a report on this proposal, as the existing house only has a 1,000-gallon septic tank.

James Machie, father of the applicant, said his son would like to build a large addition to the existing house, which is situated at an angle. He said the addition will be closer to the road than what the setbacks allow. Chairman Bob Coutu questioned the boundaries of the property. Planner Finger said he originally thought there was a 40-foot right-of-way, but in checking the deed that the applicant supplied, as well as the land records, this is a 20' roadway. The road fits right in the right-of-way and there is nothing extra. He said there is no map on file. The only map is the one supplied by the applicant. The illustration of the

property is as close as you can get, said Finger. The garage must have come later because it is not shown on the 1954 aerial photo. He said the house sits at an angle and the applicant has requested a variance from the front setback of 30 feet. There is also an internal property line that he crosses. He owns the 3 lots and he is surrounded by 3 streets. The other houses on the street are non-conforming. In fact the whole neighborhood is non-conforming, said Finger. These houses were all built prior to zoning, he added. Mr. Machie said in order to make this aesthetically pleasing to the neighbors it has to be built in this direction.

Board member Al Beaulieu referred to the internal property line. Shouldn't that all be recorded as 1 lot, he asked. Planner Finger said we could insist and require that he eliminates the internal property lines, but that would cost him between \$300 - \$500. This board could approve the variance and insist that all the lots be consolidated into a single lot, added Finger. When he records the notice of action on the land records that will affect the consolidation of the lots. He said all the lots are on the same deed. When he goes for a mortgage the bank will want some kind of certificate stating that the property is in zoning compliance. Mr. Finger said he is not sure why the Assessor's office assigned separate lot numbers to this particular property when ordinarily they consolidate lots for their own benefit. In this case for some reason they issued separate lots numbers for these lots. He can't sell them independently because that would make his lot even more non-conforming.

Planner Finger then referred to the letter from the Health District. Board member Al Beaulieu asked by adding the addition will the 1,000 septic facility be big enough to accommodate the addition if in the future they sell it and the new buyer decides to add a couple of bedrooms and perhaps an extra bathroom.

A discussion ensued regarding positioning the addition in order to meet the 30-foot setback. At the conclusion of the discussion Planner Finger said the applicant has not shown why he needs the variance, nor has he demonstrated a hardship other than the layout and design of the building. Al Beaulieu agreed that the applicant has not shown a hardship. Mr. Machie said changing the position of the addition will make it look like a horse-shoe. Beaulieu said the addition as proposed will be too close to the road. He added there really isn't a hardship because he could turn it sideward and meet the setback requirement. Board member Charles Krich agreed that if he turned it around he would not have to be before this board.

Planner Finger said it might be good to see a floor plan. He asked Mr. Machie what kind of footings was on the porch. Mr. Machie said it is a 4-6" slab. Finger said you will have to take that off. he added that he had shown a different configuration on the connector, said Finger. It would be a little wider at the front end and pretty much the same dimension on the back end, and it might be extended a little farther. He admitted that he didn't know how the gable would

work in that situation, but it is possible that Mr. Machie could at least address the question of meeting the front yard setback on that side.

Mr. Machie said that will be 25 feet. Planner Finger said he measured from the existing house, which is shown at 30 feet. Mr. Machie referred to the porch. Planner Finger said you would have to take that out because it is not going to meet code. You can't put it on a 6-inch slab and you can't make it 2 stories. You would have to take it all out and take a line 30 feet off from the corner of the house and measure 30 feet parallel to the street. Al Beaulieu said you could meet the requirements if you turn the addition. Mr. Machie said if that is what I have to do then I will have to do it.

Planner Finger said that he might want to think about putting the garage doors to the south end. Right now you have the garage doors facing north. If you have the driveway facing the opposite direction then at least you would capture the sun on that side. Mr. Machie said the reason he configured it in this manner is because his septic is on that side and he needs to have space available in the event that he needs another septic in the future. Planner Finger said the board couldn't act on this until the applicant goes to the Health Dept. and finds out where he can put that because State law does require that you demonstrate that you can satisfy the Health Dept. rules. Even though you say you are going to have the same two bedrooms, it will be a substantially bigger house. You would have to satisfy the Health code for the size of the house. Al Beaulieu said since we can't vote on this tonight, we will have to continue the public hearing.

Planner Finger said he needs to file an application showing what he has including the septic field and the dimension of the building, the total area. He will probably have to do a perk test in the front to see whether it is suitable and then design something. I don't know whether they would require a new design, but I know this is an undersized septic tank. Mr. Machie said he would do whatever he needs to do regarding repositioning the addition and the connector to satisfy the requirements. Al Beaulieu asked whether he would have to come back to this board if he repositions the addition because he would end up with a 30-foot frontage.

Planner Finger said the 30 feet meets the regulations, but the only other problem is the internal property line. If he had his attorney revise the deeds then he wouldn't need this board to do anything. But, it is probably cheaper to get the variance with the board stipulating that he consolidates the lots. If for some reason he couldn't get through this board he could dissolve the internal property line, re-describe the property as one lot and if he satisfies the setback rules then he doesn't need the board for anything. He will probably see two attorneys - one to revise the deed description and another attorney to do the mortgage financing. This is only a modest remedy but it does resolve it. Basically the board would stipulate that we grant the variance on the internal property line because there

shouldn't be an internal property line in the first place. Mr. Machie said he will go to the Health Dept. to resolve the septic issue.

Zoning Code Enforcement Officer Matt Vertefeuille said the board has covered his concerns; the internal property line and whether to move the house back from the road.

The public hearing will be continued to the June meeting.

2) **Routine Business**

The minutes of April 3, 2008 were amended; page 4 "...grant a variance to Paul R. St. Marie/Linda **Boucher**..." Al Beaulieu made a motion to approve the minutes of April 3, 2008 as amended and Charles Krich seconded the motion. Voting in favor of the motion were Al Beaulieu, Charles Krich, Susan Fiegel-Rapp, and Jerry Hart. Bob Coutu abstained. So Voted.

The meeting was adjourned at 7:35 P.M. Motion by Beaulieu, seconded by Fiegel-Rapp. Unanimous vote to adjourn.

Respectfully submitted,

Lillian Murray, Clerk