

ZONING BOARD OF APPEALS
WINDHAM, CT

MINUTES

May 7, 2009

The Windham Zoning Board of Appeals held its meeting on May 7, 2009 in the Police Classroom. Chairman Robert Coutu called the meeting to order at 7:07 P.M. Members present were Susan Fiegel-Rapp, Renee Harris, Steven Edelman, Al Beaulieu, Jerry Hart and Robert Coutu. Also present was Town Planner James Finger.

- 1) **Perception Programs, Inc. 215 & 219 Valley Street, Willimantic** – seeking a variance from building setback regulations to connect existing structures on both properties together.

Planner Finger's staff report dated April 30, 2009 explained that they also intend to build an enclosed walkway from the main building at 219 Valley Street within the setback area along the adjoining property line.

He said the purpose is to convert one of the structures, used as a garage and storage building, to create a larger meeting and counseling area for the residents occupying both properties. Both properties are non-conforming because of their maximum lot coverage, lack of parking, and intensity of use.

A narrative submitted by the applicant described the existing activities at both locations:

215 Valley Street is a women's work release, half-way house funded by the ST of CT Department of Correction. Currently there are 18 residents in the house and the space to conduct counseling groups is limited. More counseling space is needed to run education and support groups.

219 Valley Street is a three quarter house funded by the ST of CT Department of Mental Health & Addiction Services that has space in the garage.

Perception Programs, Inc. is requesting a variance to connect the existing counseling center at 215 Valley Street to the two-bay garage at 219 Valley Street. The variance is needed because the two properties do not meet the set back regulations from neighboring and adjoining properties, and joining the two structures crosses boundary lines. The additional counseling space is needed for the clients of Perception Programs and no additional parking will be required.

Also requested is an enclosed walkway to enter the expanded counseling space from 215 Valley Street in order to eliminate having to go outside to enter the structure in inclement weather. The walkway comes within the 10' set back rule.

David Fowler, CFO of Perception Programs, said he notified adjoining property owners as required.

A lengthy discussion ensued. Board member Al Beaulieu asked, by attaching the two buildings and removing the divider will the two properties remain separate, or will they be joined on one deed? My concern is if in the future you decide to move to a much larger facility, will you take apart all the work that you did in order to join the two properties, so that they can be sold as separate lots, or are you going to leave them as one lot with two buildings. Right now you have two separate deeds to the property. By joining them together you would no longer have boundary lines; you would have two buildings on one piece of property.

Planner Finger explained that both properties are non-conforming, and he had the impression they were different programs. He said he did not know that one program was funded by the ST of CT Dept. of Correction, and the other by the CT Dept. of Mental Health & Addiction Services. Mr. Fowler said funding comes from the two State agencies, but they don't own the properties. We own the properties and they give us money to run the programs.

Al Beaulieu said by joining the two buildings with a connecting wall, and adding the covered walkway, they no longer are separate buildings. If in the future they need to get a larger facility, and they want to sell this property, the buildings are joined.

Planner Finger said that is not insurmountable because they could simply remove the connection. Since the two properties are non-conforming they would not be able to separate the lots once they merged them, he added. The lot on the corner is probably in excess of the maximum lot coverage. It is non-conforming in many respects in terms of the existing buildings being too close to the property lines, and maximum lot coverage, so ultimately they need the variance. With respect to the fact that they have a connector between the two properties, they could have an easement, and you could stipulate that if the property is to be sold separately, the connecting structure would have to be removed. Arguably they could set it up similar to a condominium. They do have some legitimate issues, said Finger. The advantage of allowing them to make the connection is that the residents who occupy the premises now would avoid having to travel somewhere else. If they were able to accommodate these residents in a facility that was large enough and met code, they could simply go out the back door. It would be convenient, he said. They would not have to travel.

Mr. Finger said, you already have one doorway going into the garage, could you have a drop off at the end of the ramp and add another doorway to the front of the garage? Could another doorway be put in to go into the 219 Valley Street without joining them together, or do you need the two tied together to make that one room.

Mr. Fowler said our purpose is to make it so we can have everything together. By having one large room, programs and discussions can be attended by both groups instead of duplicating the program in separate rooms. Adding the walkway would make it more convenient because at the present time they have to leave one building in order to come into the other building.

Al Beaulieu asked if you decide to go to a larger building, are you willing to take that apart so that it can revert back to two properties, because once you join the two properties you can't separate them. You would not be able to sell them separately, said Beaulieu.

Planner Finger said perhaps when you construct this it could be constructed with the idea that you might want to take it apart at a later date. He said they would not meet the minimum requirements so if they were to sell they would have to sell both properties. Mr. Fowler said we have no plans to separate the programs that presently exist.

Mr. Beaulieu asked, what is the other ½ of the garage being used for? Mr. Fowler said it is used for storage. Mr. Beaulieu asked why can't you take ½ of the garage (two stalls) and make one big room in there. You could have your ramp come down, step off and come into a door that is right on the corner. Mr. Fowler said that would be less practical. Beaulieu said my concern is that if they join them together then it becomes one piece of property and you can't separate them later.

Planner Finger explained that 1) they could join the buildings, but not merge the properties. They could keep the properties separate and then have an easement, and 2) they could combine the lots into one single property, but they would still have to meet the maximum lot coverage and proximity to the neighbor's property line. Mr. Beaulieu said if they are going to join the properties into one then there would be no problem. Planner Finger said they would still need a variance to do this because of the maximum lot coverage and proximity to the neighbor's property line.

Board member Steven Edelman said once the buildings are joined it would be difficult to separate them. It would probably cost more to take them apart than to join them. Rick Fiddler, speaking on behalf of the applicant, said he doesn't see the financial end of it as a problem. Mr. Edelman said this seems to have a lot of challenges associated with it. Planner Finger said it is possible for them to do it. They could design it, and create a panel to connect both sides such as in a modular home.

Board member Susan Fiegel-Rapp said since you are funded by two State agencies will it be a problem if one of the agencies goes private. Would that affect you being able to keep the two properties in terms of the lost funding? Mr. Fowler said it could, but we have just renegotiated our contract with the Dept. of Corrections for 5 years, but after 5 years they certainly could decide to go private.

Planner Finger said the other option to consider (as suggested by Al Beaulieu) is to convert part of the garage building by moving or making the storage area smaller. Rick, speaking for the applicant, said we have just completed doing this area over. He suggested having their builder come before the board and review the plan and to answer any questions the board may have. It is not as much work as you might think it is, he added.

Planner Finger suggested that perhaps it would be beneficial for the board to conduct a site walk of the property. He said he is not too worried about the internal property line. Even though they own both properties, they are two separate parcels. They currently have joint

use of the properties - they have functions that overlap. They are telling you that they are willing to meet any hurdles if they have to separate the properties at a later date. I can see where you could construct a modular connector panel and then you have a way to remove the connectors whatever they are. They could design this in anticipation of having to separate these buildings in the future, he added. You wouldn't have to worry about that because it would be designed so that it could be separated again.

Chairman Coutu asked if it is within the authority of the board, if it is favorably inclined to granting the variance, to consider an easement, and if the properties were sold in the future it would no longer be considered one property. Planner Finger said the board could condition its approval that in order to accomplish this they would need to have an easement to cover the joint use of the property as separate parcels. And, if they choose to sell off either of these properties then it would be necessary to undo the connector. I urge you to go and look at the properties, added Finger.

Public comments: 1) Dennis Galipeau, 85 Walnut Street, Willimantic asked if they are changing the nature of the program or the size of the program. If the size and nature of the program are staying the same, and if there is not going to be an increase in usage or parking, he is fine with the proposal. 2) An unidentifiable member of the audience (neighbor on north side) said the proposed plan will have less disruptions and she sees no problem with it.

The board agreed to conduct a site walk on May 12, 2009 at 7:00 P.M.

Al Beaulieu made a motion to continue the public hearing to the next meeting on June 4, 2009. Susan Fiegel-Rapp seconded the motion. The motion carried unanimously.

- 2) The minutes of April 2, 2009 were approved. Motion by Al Beaulieu and seconded by Susan Fiegel-Rapp. The motion carried unanimously.
- 3) Miscellaneous

The board reviewed its letter addressed to the Windham Zoning Commission outlining some of their concerns with the proposed amendments, especially Section 21.3. They were in agreement to modify the letter to explain that since the rural part of Windham sends a smaller number of students to the schools, increasing the lot sizes in this part of town will not accomplish the objective of reducing school expense.

The meeting was adjourned at 8:40 P.M. Motion by Susan Fiegel-Rapp and seconded by Renee Harris. The motion carried unanimously.

Respectfully submitted,

Lillian Murray, Clerk.