

**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

May 4, 2021

**APPROVED:** 6/1/21

**AGENDA:** 21SPX03 - SPECIAL EXCEPTION: JOSEPH BOUCHER LIVING TRUST, 505 Wulamat Rd, #103-027  
21VAR03 - VARIANCE: DANIEL & MELISSA WILLIAMS, 9 Hector Ln, #104-056  
MOTION FOR REHEARING - 21VAR02: STEHEN COLE, 181 Holiday Hills Dr, #110-026  
ZBA BY-LAWS AND BROCHURE

**ATTENDING:** Alan DeStefano (Chair), Richard LaFlamme (Vice Chair, Zoom and phone), Lorraine Bohmiller, Larry Denton, Melody Mansur (Zoom)

**ABSENT:** Ashley Dolloff (alternate), Jackie Elliott (alternate)

**OTHER:** Christina Goodwin (Land Use Manager), Applicants & public

Mr. DeStefano stated that the Governor's Emergency Orders allow for meetings to be held both in-person and electronically due to the pandemic. Members of the Board and public are attending in-person, via video or via telephone conference. The meeting opened at 6:00 pm by roll call vote 5-0 with a quorum.

**MINUTES OF APRIL 6, 2021:**

L. Bohmiller made a motion, second by L. Denton, to approve the minutes as written. The motion carried via roll call vote 5-0.

**SPECIAL EXCEPTION: JOSEPH BOUCHER LIVING TRUST, 505 Wulamat Rd, #103-027**

Ms. Goodwin read the application, abutters notified, where the hearing was advertised, and stated that there were no comments received from the public or Department Heads.

L. Bohmiller made a motion, second by L. Denton, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED via roll call vote 5-0.

Mr. Fleming, representative for the Boucher Living Trust, explained that this lot is the last of Turner Cottages and the owner wishes to increase the height. Ms. Mansur asked if this is to be in the current footprint and was told it would be as existing. Mr. Denton expressed that the plan is hard to read, and Ms. Mansur asked if the present footprint is smaller. Mr. Fleming stated that it is similar. The owner will keep the corners in the setback the same as now. Ms. Goodwin added that they cannot further encroach in the setback. Ms. Mansur asked about the lot to building ratio. Mr. Denton asked if they expand the footprint at all, will they still be grandfathered. Ms. Goodwin reported that they can expand away from the setback. Mr. DeStefano pointed out that it is angled so as not to interfere with the neighbor's view.

The Special Exception criteria was addressed:

2. Appropriate location and size: They plan to convert "in kind" and optimize views and easements.

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**SPECIAL EXCEPTION continued:**

3. Will not adversely affect the character of the area: It will be in the same area to optimize the neighbor's view. All the neighbors have 2-story houses.
4. No nuisance or hazard to vehicles or pedestrians: The location will benefit access to the right-of-way.
5. It will not place undue burden on Town services or facilities: They are replacing "in kind".
6. No affect on public health, safety, and general welfare of the neighborhood: It is not in the right-of-way and is placed for the neighbor's view.

Mr. DeStefano stated that it the proposal, is well situated for the people behind's view, which is the primary purpose of the Special Exception. At this time, he opened the hearing to the public.

Kathy Vassil, Wulamat Road, stated that she is in Favor. Debra Richert, Wulamat Rd., felt it is "in kind" but with a larger footprint. She was okay with the plan after Mr. Fleming explained that the larger part was towards Turner Cottages and is only 1-story. Mr. Fleming showed the 2 ½ stories in back and the 2-stories on the roadside as the property slopes. Ms. Richert asked about enforcement for the right-of-way and Mr. Fleming pointed out the area and said that the intent is to keep it open.

There were no comments in opposition and no further questions from the Board. Mr. DeStefano stated that the footprint in the setback remains the same. He closed the public portion of the hearing.

L. Denton made a MOTION, second by M. Mansur, to VOTE THIS CASE AS ONE VOTE. The motion CARRIED via roll call vote 5-0.

L. Denton made a MOTION, second by L. Bohmiller, to APPROVE THE SPECIAL EXCEPTION. The motion CARRIED via roll call vote 5-0 and Mr. DeStefano explained that there is a 30-day appeal period.

**VARIANCE: DANIEL & MELISSA WILLIAMS, 9 Hector Ln, #104-056**

Ms. Goodwin read the application, abutters notified, where the hearing was advertised and stated that she received one phone call from the public that was in favor and no Department Head comments.

R. LaFlamme made a MOTION, second by L. Denton, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED via roll call vote 5-0.

Mr. Williams stated that the proposed addition would be a 24 x 24 two car garage, which will enclose the existing stairway and use the existing driveway. The second floor will have a 22 x 24 master bedroom with bath. One existing bedroom would be converted to a hallway to access the addition with an office nook. It will be located on the back corner of the lot and will exceed setbacks by 1.2 feet on the northwest and 1.9 feet on the opposite side of the same wall. It will remain a 3-bedroom home.

Mr. Denton asked if the home was all out of the setback now and was told that the property owner got a Variance for the deck 10 years ago. Ms. Mansur asked why he needs it to be 24 x 24 when a 20 x 20 would fit. Mr. Williams answered that they took a standard garage and need to enclose the stairway. They will also store the snowblower and a trash can inside. Mr. DeStefano asked why keep the existing stairs and

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#### **WILLIAMS VARIANCE continued:**

was told that the snow comes down on it now, so they wish to enclose it and it is their secondary egress. When asked about the snow coming down on the garage, Mr. Williams pointed out the slope on the garage roof to handle that.

The criteria of the Variance were addressed, and Mr. DeStefano mentioned that the applicant must meet all of these to get the Variance.

1. Not contrary to public interest: It will not impede views to the Lake and the overall appearance of the property would improve with the storage of items which are now in the yard and would shield others. It will not affect the school system.

2. Spirit of the Ordinance: The implicated setbacks are in the rear corner of the property. Does not encroach on present structures or restrict any improvements or land usage on abutters.

3. Substantial Justice: It would allow the use as a permanent retirement residence.

4ai. No fair and substantial relationship between the general public purposes of the ordinance provision of the property: There are no rights-of-way, and it would not limit access of fire services to abutters.

4aii and B: Reasonable use and hardship due to special conditions of the property: They wish to make it their full-time retirement residence. Snow falling on the stairway is difficult to keep clear and is hazardous. The proposal would enclose the stairs. Clearing cars from snow is not practical for retirement. Performing car maintenance in the yard is unsightly and difficult. The garage will store items like yard maintenance equipment and tools.

Ms. Goodwin apologized as she had not seen that the applicant had combined the last two (2) criteria. Mr. DeStefano felt that it does not answer criteria B. Mr. Williams stated that ii and B are combined. Ms. Mansur stated that she wished that the proper form had been used. The rest of the Board agreed. Ms. Goodwin said that, in the future, she will see that this is done. He then opened the hearing to the public.

Mr. Scott, an abutter, stated that he is in favor. There were no other comments for or against. The public portion of the hearing was closed.

Mr. Denton stated that the stairway is a hardship, but the Variance is asking for use in the setbacks. Mr. Williams mentioned that they need the larger bedroom to accommodate their furniture. There is no hardship to the abutters. It is a corner lot, and the 1999 septic system is on the other side. Mr. DeStefano stated that the challenge is the 24 x 24 size. Maybe he could make it 22 x 24, and it could fit. Mr. Denton suggested 20 x 26 and go deeper to allow for storage. Mr. Williams thought that that recommendation would encroach more on the setback. A discussion followed. Mr. Denton said that the hardship is the size of the lot, but the impact would be little to the abutters. Mr. Williams added that this would only cover 20% of the lot.

Mr. Denton felt that hardship is hard to accept. Ms. Bohmiller stated that a 22 x 22 garage would fit. Mrs. Williams asked how that would affect the roof pitch. The Board felt that it would not. Mrs. Williams then said that they spend all that money and still cannot cover the equipment. She was told that the Board cannot look at any financial issues related to the case. They are very careful about meeting the criteria.

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#### **WILLIAMS VARIANCE continued:**

At this time, the Board made a couple of suggestions as to where they could move the stairway access. Mr. Williams felt that they would still be in the setback.

Mr. DeStefano felt that they should take each of the criteria one by one.

1. Not contrary to Public interest: L. Denton made a MOTION, second by L. Bohmiller, that CRITERIA #1 MEETS THIS. Mr. Denton stated that the applicant is trying to put everything in the back. The motion CARRIED by roll call vote 5-0.

2. Spirit of the Ordinance: L. Bohmiller made a MOTION, second by R. LaFlamme, that CRITERIA #2 MEETS THIS. The motion CARRIED by roll call vote 3-2.

3. Substantial Justice: R. LaFlamme made a MOTION, second by L. Bohmiller, that CRITERIA #3 HAS BEEN MET. The motion CARRIED by roll call vote 5-0.

4. Values to surrounding properties: L. Denton made a MOTION, second by L. Bohmiller, that CRITERIA #4 HAS BEEN MET. The motion CARRIED via roll call vote 5-0.

5ai. Substantial relationship: L. Denton made a MOTION, second by L. Bohmiller, that CRITERIA 4ai HAS NOT BEEN MET. Mr. Denton stated that the Variance for relief is for the setback, but the extra room in the addition is more for storage. There could be another plan that would keep them within the setback limits. The motion CARRIED by roll call vote 5-0 and the criteria did not pass.

5aii. Reasonable use: L. Denton made a MOTION, second by L. Bohmiller, that CRITERIA 4aii WAS MET. Mr. Denton felt that it is a reasonable use. The motion CARRIED by roll call vote 5-0.

5B. Hardship: L. Bohmiller made a MOTION, second by M. Mansur, that CRITERIA 5B WAS NOT MET. Ms. Bohmiller felt that there were other ways of doing this and Ms. Mansur agreed. Mr. DeStefano added that they could cut off the corners so that they are not in the setback. The motion CARRIED by a roll call vote 5-0 and the criteria did not pass.

L. Denton made a motion, SECOND BY I. Bohmiller, to DENY THE VARIANCE FOR DANIEL & MELISSA WILLIAMS. The motion CARRIED by roll call vote 5-0 and the Variance was denied.

Mr. DeStefano explained the 30-day right to appeal period.

#### **MOTION FOR REHEARING: STEPHEN COLE**

A Motion for Rehearing has not been submitted yet, but the applicant has until May 7, 2021 to submit.

**COMMUNICATIONS:** None received.

#### **BY-LAWS:**

The Board reviewed the updated attorney feedback on the by-laws. Especially noted were:

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#### **BY-LAWS continued:**

- VIII. If there is a no-show, do not deny but continue the case once. If there is still no show, the case could be considered withdrawn.
- X. Put on the application form: the procedure for the Notice of Decision. A discussion as to whether to e-mail the decision or to mail occurred. It was felt that it was best to do both to be sure the applicant gets it.
- Ms. Goodwin stated that she took out the appendix and changed the wording. The Board agreed to all changes.

The updates will be made and prepared for a Board vote for their next meeting.

#### **BROCHURE:**

The Zoning Board brochure was reviewed. It was suggested to add the allowed membership of five (5) members and five (5) alternates. The e-mail contact will be changed. Photos are to be different than the ones for the Planning Board brochure. Once these changes are made, it is okay to print them in color and distribute them. It was suggested that some go to the Shop N Save brochure rack.

#### **NEXT MEETING:**

The next meeting will be held June 1, 2021 at 6:00pm. Applicants have until May 14 to apply. The Board may have the motion for rehearing.

With no other business before the Board, A. DeStefano made a motion, second by L. Denton, to adjourn at 7:53pm. The motion carried 5-0.

Respectfully submitted,  
Jan Laferriere  
Land Use Associate