

ZONING BOARD OF APPEALS
April 4, 2016 Meeting Minutes

Board Members Present: Howard Aspinwall, Shane O'Connor, Daniel Flanagan,
Douglas Hamilton and Ronald King

Town Staff Present: Jennifer Rodriguez, Town Planner

The meeting was called to order at 7:02 pm

Board roll call was taken.

MINUTES:

Chairman O'Connor referred to the November 2, 2015 and March 7, 2016 meeting minutes and asked for any corrections or changes. Mr. King referred to the March 7, 2016 meeting minutes and stated that paragraph 2 on page 3 should read "Attorney Flynn noted that the application concerned eleven of the units in Phase Two" not ten units. Mr. King then moved to approve the November 2, 2015 meeting minutes, as published, and the March 7, 2016 meeting minutes as amended. Mr. Flanagan seconded the motion. All were in favor. The vote was 3 – 0 (Mr. Hamilton and Mr. Aspinwall abstained), the motion was approved.

BILLS & CORRESPONDENCE:

None

OLD BUSINESS:

None

NEW BUSINESS:

a. DMV Applications

There were none.

b. Public Hearings

- 1. Public hearing on Application #FY15-16-08, Owner/Applicant: John Norris for a variance for the property located at 151 South Center Street to reduce the front yard setback on Marion Street to 25 feet, where 40 feet are required and to reduce the side yard setback to 5 feet, where 12 are required and where a variance has previously been granted to reduce to 7 feet.**

John Norris and his wife were both present for the meeting. Mr. Norris stated that the Board had previously approved a variance to reduce the side yard setback to 7 feet for their property. He explained that he had put "40 feet from the road" on his previous application and had thought that that was what had been approved, but that when he

went to get his building permit he found out that that was not the case. He went on to say that that was why they were requesting the new variance.

Mr. Norris stated that they had had a surveyor come in to locate and mark their property line. He went on to say that they could work with the existing 7 foot variance for the garage, but that a 5 foot variance would be better. He then explained that they had an existing 2 car wide driveway and that with only a 7 foot variance the garage would not be centered on the existing driveway, but that with a 5 foot variance it would be centered.

Mr. Norris noted that there was also an existing pool and an old wood stockade fence on the property. He went on to say that they had put on their application that they wanted to remove and replace the fence with a new vinyl stockade fence, but that that had not been included in the legal notice. Mr. Norris questioned whether they would have to do another application for the fence.

Chairman O'Connor stated that, because of the legalities, the Board would have to table the fence issue. He then asked Ms. Rodriguez for any comments. Ms. Rodriguez verified that Mr. Norris had stated the situation correctly. She then noted that she had sent an explanation to all of the Board members regarding her take on what had happened.

Ms. Rodriguez commented that, if it were appealed, and there was no mention of the fence in the legal notice then there could be an issue. She then stated that she had passed along to the Board the applicant's request that the fee be waived because of the error in the legal notice.

Chairman O'Connor asked the Board members for any questions. There were none.

Mr. Norris pointed out that they had an existing 16x16 foot concrete pad on the property and, if they went by the 40 feet, the garage would have to be built where the existing pad was located. He then stated that they would prefer not to have to take up the existing pad in order to put the garage in. Mr. Norris went on to say that they already had an existing shed on the property that was closer than the 40 feet as well as an existing pool and fence that were closer than the proposed garage would be.

Ms. Rodriguez referred to the existing structures and stated that there was a Statute that protected structures that had already been there without any action taken by the Town for three years or more. She went on to say that there was recently clarifying legislation that listed what "structure" could include unless the municipality's regulations further clarified. Ms. Rodriguez noted that Windsor Locks' regulation did clarify that fences were not considered structures and, therefore, would not be protected (if removed they could not be replaced in a nonconforming way or height). She went on to say that the other structures, the shed and pool, were protected.

Mr. Norris clarified that the existing shed would qualify, but the fence would not. Chairman O'Connor stated that that was correct.

Mr. Flanagan asked if the existing shed was at least three years old. Mr. Norris replied that he had owned the property for two years and that the shed had to be at least ten years old.

Mr. Hamilton asked what the square footage of the shed was. Mr. Norris replied that it was 12x10 feet.

Mr. Hamilton asked the applicant if he was requesting that the existing 7 foot variance be changed to 5 feet. Mr. Norris replied that that was correct. He went on to say that that was what had been written up. He then pointed out that, if they went with the 7 foot variance, the proposed garage would not be centered on the existing driveway.

Mr. Flanagan clarified that they would be going from a 7 foot variance to a 5 foot variance from Marion Street; the applicant wanted to go closer to Marion Street. Chairman O'Connor stated that the 5 foot variance would not be from Marion Street. A brief discussion followed clarifying that the requested 5 foot variance would be for the side yard.

Mr. Hamilton commented that the applicant was proposing a two car garage with two 9 foot wide doors. Mr. Norris stated that they were looking to install a garage that was 22 feet wide outside facing the driveway and 28 feet long. Mr. Hamilton pointed out that the applicant had initially talked about a 22x22 foot garage. He went on to say that if the doors were 8 feet wide (which was the standard size for a two car garage), then they could pick up 2 feet.

Mr. Norris commented that they could go with a 20 foot wide garage, but due to the size of their vehicles they would prefer a wider garage. He went on to say that a 22 foot wide garage would be better for pulling two vehicles in. He then noted that if they went with the 7 foot variance they could make it work, but that aesthetically it would not match up to the driveway.

Mr. Flanagan asked what the hardship was. Mr. Norris replied that the hardship was that if they were to move the proposed garage back the 40 feet they would have to tear up the existing concrete pad and the expense involved with having to do so.

Chairman O'Connor asked if that was what they had anticipated before the survey was done. Mr. Norris replied that once surveyed he had gone out with a measuring tape and saw that a 5 foot variance would allow them to line up the proposed garage with the driveway better. Chairman O'Connor clarified that originally the applicant

had wanted their driveway to line up with the proposed garage and that they thought that it would with the 7 foot variance, but then they had the survey done and realized that it wouldn't. Mr. Norris stated that that was correct.

Mr. Hamilton asked the applicant if he had the surveyor's report. Mr. Norris replied that he did not have a report from the surveyor. He went on to say that the surveyor located the property line and put the stakes in place, but that the surveyor had not given him a formal report.

Mr. Flanagan asked the applicant if they proposing a single floor garage with nothing on top. Mr. Norris stated that that was correct.

Mr. Hamilton asked what the hardship was. Mr. Norris replied that it was same as it was for the previous variance that the Board had approved. He then explained that it was a cost thing and location issue. He went on to say that he would have to extend his driveway and the garage would sit in the middle of where their existing patio was currently located.

Chairman O'Connor asked the Board for any questions. Mr. King asked if the applicant was planning on updating the fence. Mr. Norris replied that they would eventually. Mr. Hamilton pointed out that the fence was not part of the evening's discussion.

Mr. Hamilton commented that he had a problem with the hardship part of the application. He went on to say that although it would increase the value of the property in question, he was not sure that it would do so for the neighboring property. Mr. Hamilton stated that he questioned giving a variance based upon a financial hardship.

Mr. Norris pointed out that if they were to build the proposed garage without the variance, they would essentially be walling off their neighbor. He went on to say that aesthetically it would look nicer if they could receive the requested variance.

Chairman O'Connor commented that it was difficult having a corner lot, with the layout of the land the way it was.

Chairman O'Connor asked for a motion regarding Application #FY 15-16-08. Mr. Aspinwall moved to approve Application #FY15-16-08, Owner/Applicant: John Norris for a variance for the property located at 151 South Center Street to reduce the front yard setback on Marion Street to 25 feet, where 40 feet are required and to reduce the side yard setback to 5 feet, where 12 are required and where a variance has previously been granted to reduce to 7 feet. The granting of this variance is for the improvements proposed in this application only, permitting an exception to the requirements of the Zoning Regulations. The

hardship upon which this decision is based is that the concrete pad is preventing the garage from being built further back on the property and aesthetically to have the existing driveway line-up with the proposed garage. Changes to this site plan may require a return to this Board. This variance is not a permit to construct the garage. See the Building Department for permit requirements. Mr. King seconded the motion. Mr. Hamilton asked Mr. Aspinwall to repeat the hardship. Mr. Aspinwall did so. Chairman O'Connor noted that there were no members of the public present, therefore there had been no public input. There was no further discussion. Mr. Flanagan and Mr. Hamilton voted against and Mr. King voted for the application. Chairman O'Connor explained that at least four votes in favor were needed to approve the application. The motion was denied.

Ms. Rodriguez noted that the previously approved 7 foot variance remained in effect.

c. Discussion with Town Attorney

The Town Attorney was not present at the meeting, therefore no discussion took place.

Mr. Hamilton moved to adjourn the meeting. Mr. King seconded the motion. All were in favor. The vote was 5 – 0, the meeting was adjourned at 7:43 pm

Respectfully submitted,

Diane Ferrari
Recording Secretary

THIS IS A DRAFT

Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.