

WETHERSFIELD ZONING BOARD OF APPEALS
PUBLIC HEARING
November 28, 2005

The Wethersfield Zoning Board of Appeals held a public hearing on November 28, 2005 at 7:00 PM in the Police Department Community Room, 250 Silas Deane Highway, Wethersfield, Connecticut.

PRESENT: Thomas J. Vaughan, Jr., Vice Chairman
Bruce T. Bockstael, Clerk
Gina P. DeAngelo
Matt Cholewa, Alternate
Frank Dellaripa, Alternate

ABSENT: Earle R. Munroe, Alternate

Also Present: Brian O'Connor, Chief Building & Zoning Official

Vice Chairman Vaughan, Jr. opened the meeting at 7:30PM. Before the meeting started, the public was welcomed to speak regarding anything except specific cases in the past or on the night's agenda. There was no one present who wished to speak.

APPLICATION NO. 5932-05 Garth Perri appealing the decision of the Building Official for the required side yard on the street side at 265 Wolcott Hill Road, North side, A Residence Zone (§3.7B2).

Mr. Garth Perri, 265 Wolcott Hill Road, Wethersfield, CT appeared before the Board seeking to appeal the Building Official's decision for the required side yard. He stated that this is a corner lot and that he would like to build a 12' x 20' addition; single level. He passed out hand outs to the Commissioners. He stated that he has a plot plan from Close, Jensen and Miller which identifies the building line for the side yard at 15' and a building line of 40' on the Fairview Street side yard. It indicates on that 40' building line that the building line is expired under the Multiple Real Estate Title Act. He presented copies of this Act to the Commissioners. He asked the Commissioners to turn to page 7 of the Act and see paragraph 2, which indicates that when it comes to Real Estate property and Titles anything going back past 30 years is no longer applicable if there is documentation previous to that concerning the property. In appealing the Building Officials decision he would also like to reference the Town Building regulation which is paragraph 3.7 on page 42 subsection B paragraphs 2. He stated that his property is in an A Zone, which in paragraph 2 "yards on corner lots" indicates that he has a 15' set back line. He stated that his property on the north side is currently 41' 9" from the roadway; adding that the addition that he wants to put up is only 12' which will leave him with a building line of 29' 6" from the roadway. He stated that this is why he is appealing the Building Officials decision.

Vice Chairman Vaughan, Jr. questioned Mr. O'Connor for some back ground on this decision. Mr. O'Connor stated that this was his decision. He stated that he does not feel that the intent of the new Regulation 3.7 B2 is to allow an established lot or an established building line before December 31, 1965, which is when we adopted sub-division regulations, to observe these new setbacks according to 3.7 B2 for the following reasons:

1. Fairview sub-division was an approved recorded sub-division with a recorded map, showing all the lots and the set backs at 40'. He referenced the hand out on page 3 which references 40' on both sides of Fairview which all the houses adhere to. He stated that page 5 would show that all the houses are pretty much in line.
2. He stated that his department has reviewed past sub-divisions when deciding if they should be presented before the Board for variances and in most cases most of the sub-divisions have 15' set back lines or 20' or 30' on the street side, which is included on page 4.
3. He stated that he feels the intent of the regulations is to allow people to build using the old sub-division regulations; using the old sub-division map, showing the 15', 20' or what have you. He stated that most of the houses do line up, which indicates that when they were built they had to adhere to the 40' building line.

He stated that this is what he based his decision on.

Commissioner Bockstael questioned if there was a Town legal opinion on this matter. Mr. O'Connor stated that there is nothing in writing, however, he did discuss this matter with the Town Attorney, Mr. Bradley, and he does concur with him regarding his decision.

Vice Chairman Vaughan, Jr. questioned if in a sub-division has anyone received a variance like this. Mr. O'Connor stated that he did not check that. He stated that if the Board does decide to approve the appeal they will be setting precedent that basically any corner lot before 1965 can use Section 3.7 regardless of building lines that were established, which might lead to site obstruction, however, in this case it does not.

Mr. Perri stated that if the Board turns to the last page of the photo pamphlet which he provided, it shows a picture of the north side of his home and the site line which is at 41'. He stated that you can see his neighbor's home which has encroached on that building line; therefore that building line has been more of a reference guide and not a set rule. Furthermore, he states that the map that is being referenced is from 1916 and is flawed, outdated and incorrect.

Commissioner Cholewa clarified for the record that the map that is being shown here is obviously not the sub-division plan that was submitted showing the building setback at the time but was a plot for the property. Mr. O'Connor questioned what map he was speaking of. Commissioner Cholewa stated the 1916 plan on page 3, and questioned if this plan was submitted to the Town Clerk's office perhaps showing private restrictions; he also questioned if this was a zoning regulation at the time. Mr. O'Connor stated that this building line was established through some type of zoning regulation. Commissioner Cholewa questioned if it was back in 1916. Mr. O'Connor stated that he did not know.

Vice Chairman Vaughan, Jr. verified that he is looking to add an addition. Mr. Perri stated that if you look on page 1, to the left of the house there is a single flat level sunroom, he stated that they are looking to mirror that on the other side as an addition.

Commissioner Bockstael suggested that we deal with the first application first before going to the second application.

Mr. O'Connor suggested that they go into a special public meeting after this application to see if they should hear the next application in the public hearing.

There were no further questions from the Board.

There was no one in the audience who wished to speak in favor of or in opposition to this application.

Vice Chairman Vaughan Jr. stated that all the information has been heard with regards to this application. He stated that no more comments will be accepted and they will now go into a special Public Meeting to discuss this application.

Vice Chairman Vaughan, Jr. questioned if there were any motions or any discussions on this application.

Commissioner Bockstael stated that he feels a precedent in the whole neighbor has been set. He stated that he is concerned on setting any type of precedent on a corner lot. He stated that he does not have a problem hearing a request for a variance on a corner lot, however, he does have concerns over setting precedent, which he feels this application would do.

Commissioner Cholewa stated that he feels that Mr. O'Connor's reasoning was very persuasive, however, he feels that the first thing that needs to be done is to look at the plain language of the regulation. He stated that he does not feel that this language is ambiucuous at all. He stated that he does not like where it works in practice, however, it says what it says.

There were no further comments.

Commissioner Bockstael made a motion not to accept. He stated that he is affirming the decision of the Building

Official, not to allow this to occur on a neighborhood where precedent will be set. He stated that he is moving to deny the appeal. This was seconded by Commissioner Dellaripa. By a vote of 4 to 1, with Commissioner Cholewa opposed this application was denied.

Vice Chairman Vaughan, Jr. stated that they are now going back into their regular meeting.

APPLICATION NO. 5933-05 Garth Perri seeking a variance to construct an addition having less than the required side yard set back on the street side at 265 Wolcott Hill Road, North side, A Residence Zone (§3.7).

Mr. Garth Perri and Mary Beth Maloney, 265 Wolcott Hill Road, Wethersfield, CT appeared before the Board seeking a variance to construct a single story addition going out 12' and going 20' long along the north side of the property. He stated that he has a similar structure on the opposite side which they wish to mirror on the Fairview side. He stated that this will give the house a more symmetrical look.

Commissioner Bockstael questioned if there was a particular need for this addition beside just ascetics. Mr. Perri stated that this addition will be a kitchen renovation. Commissioner Bockstael questioned if there was room in the rear yard to put this addition. Mr. Perri stated there is limited room, he stated that he has a driveway that is approximately 25 to 30 feet from the back of the house, so this would basically cut his rear yard in half and it would be more costly.

Vice Chairman Vaughan, Jr. questioned if he has spoken with his neighbors regarding this application. Mr. Perri stated that he has and they do not have a problem with this application.

There were no further questions or comments from the Board.

Mary Beth Maloney stated that Mr. Perri forgot to mention that on page 4 it shows the front of the house from the side yard. She stated that a pole was put up so that you can visualize where the addition will come from the house. She stated that it is really not that far, and it will be a flat roof so it is the same size as the sunroom.

There were no audience members who wished to speak in favor of or in opposition to this application.

APPLICATION NO. 5934-05 Nicholas Jerem seeking a use variance to permit a gift shop with a coffee bar/tea room within the shop at 7 Railroad Place, west side, B Residence Zone (§10.4.F).

Ms. Carol Kober-Narciss, 34 Griswold Road, Wethersfield, CT appeared before the Board seeking a use variance. She stated that Nicholas Jerem is the owner of the property and she is in the process of purchasing this property. She stated that this property is the old Wethersfield Bike Shop and the old Railroad Depot at 7 Railroad Place or 212 Church Street. She added that her purchasing the property is contingent on this application and her being able to have a gift shop and a small coffee area within the shop. She stated that this is a two tiered building with the larger part being the gift shop at around 832 square feet and then there are a few steps that go down with this area being a little over 300 square feet which she would like as a tea room. She stated that she would like to have three (3) tables sit down style and would be serving coffee/tea and pastry. It would not be a deli, no sandwiches would be served, it is only an amenity for the shoppers. She stated that she has already discussed this with the Building Department and Mr. O'Connor stated with the number of parking spaces that she has she can accommodate 12 patrons that is why the 3 tables with 4 chairs each. She stated that this is not a pick up a coffee and go type of place like Dunkin Donuts, etc. This will be more of a stay and have a cup of coffee after shopping type atmosphere. She stated that she has 10 parking spaces, 6 in front and one handicapped space and more spaces in back. She stated that she does not plan on doing any renovations to the outside of the building except for modifying the ramp to make it handicapped accessible. She stated that the lighting will remain the same, and the signage will change following any type of regulations that there are. She stated that she plans on improving the site by landscaping.

Ms. Kober-Narciss stated that she plans on selling local crafts and gifts, adding that the coffee bar is more of a marketing edge. The primary function of this location will be selling crafts and gifts. Vice Chairman Vaughan, Jr. stated that there is a memo stating that she must also go before the Planning and Zoning Commission. She stated that

she is aware of this.

Commissioner Bockstael stated that this property was used as a commercial use before; he questioned the reason of the variance. Mr. O'Connor stated that she needs the variance due to a change in the usage and also a mixed use. He stated that this is changed from the previous variance which was for retail use.

Commissioner Cholewa questioned if the parking requirements have changed from the previous usage. Mr. O'Connor stated it does because of the seating. He stated that they did the calculation and based on the square footage and the parking spaces she would be allowed the 3 tables with 12 seats.

Vice Chairman Vaughan, Jr. stated that there is a letter from the Fire Marshall to the Zoning Board of Appeals Commission stating that based on the type of construction and what is proposed extensive renovations shall be required to achieve code compliance and would request that all fire code and safety issues be addressed before this variance is granted and that the applicant agree to all such required work. Ms. Kober-Narciss stated that she is aware that these regulations need to be adhered to. She stated that at this point she plans on doing whatever needs to be done to be in compliance with both the Fire and Health Departments.

Vice Chairman Vaughan, Jr. stated that in the past when variances such as these were granted there would be stipulations such as hours, signage etc. Ms. Kabor-Norciss stated that she is aware of this and does not have a problem with this. She stated that as far as hours, she was planning on 10-5 with no Sunday hours and possibly also being closed on Monday. There would be no late hours.

Vice Chairman Vaughan, Jr. questioned if the seating is the maximum allowed. Mr. O'Connor stated that this is based on the parking spaces and is the maximum.

Vice Chairman Vaughan, Jr. confirmed that no food would be baked on the premises. Ms. Kabor-Norciss stated that this was correct.

There were no further questions or comments from the Board.

There was no audience member who wished to speak in favor of or in opposition to this application.

APPLICATION NO. 5935-05 Douglas Buck seeking a variance to 1) change the use of the accessory buildings from non-conforming storage rental to business use private arts academy, 2) to permit off site parking on HELCO Right-away 300' from site at 411 Hartford Avenue, west side, B Residence Zone (§10.4.F).

Commissioner Bockstael stated that according to the Regulations on page 115; prior to any action on the use variance the Zoning Board of Appeals shall submit the application for such use variance to the Planning and Zoning Commission and any report submitted by the Commission shall be read in public hearing and record of application. He questioned if the Zoning Board of Appeals has the right to hear this application without this going to Planning and Zoning. Mr. O'Connor stated that this Board has the right to hear the application, however, they cannot act on or make a decision on this application until Planning and Zoning has reviewed the application.

Commissioner Cholewa stated that what the Planning and Zoning Commission has to say needs to be read at this public hearing, therefore, this application would need to remain open until after the Planning and Zoning Commission has reviewed this application. Mr. O'Connor stated that this was correct.

Vice Chairman Vaughan, Jr. stated that this application will be heard; however, it will have to wait for Planning and Zoning Commission action before the Zoning Board of Appeals can rule on it.

Mr. Douglas Buck, 411 Hartford Avenue, Wethersfield, CT appeared before the Board seeking two variances. He stated that the area is already zoned for schools; however the regulations state that it must be a public or parochial school and they wish to open a private school. He stated that he feels this is the best way to improve the old barns on his property. He stated that these barns have been handed down for generations and that a lot of the property has been

lost due to eminent domain. He added that he would like to share these old barns with the community and felt that this is the best way of doing so.

Mr. Buck reviewed the plans with the Board showing the layout and pictures. He stated that what they wish to do is to have fine arts in three structures, they would rent office space to the artist for them to improve their craft and there would also be teaching studios. He stated that in the east building on the second floor they wish to have living quarters; this would be an apartment so that whoever lives there can watch over the property. He stated that in the largest barn they wish to have an assembly area with seating around the edge to hold 72 seats and a platform in the center. This building would be for classical performing arts, music, drama etc. He stated that the structures do need repair and they have made some improvements but would like to have approval so they can make the needed repairs.

Vice Chairman Vaughan, Jr. confirmed that the structures would be renovated. Mr. Buck stated that this was correct.

Mr. Buck stated that the plot plan, created by Close, Jensen and Miller, shows the barns, their property over to the left, and the proposed parking area on their property which can hold 18 parking spaces and 3 handicapped parking spaces. It also can hold another 2 parking spaces to the north of the barn. He stated that if the assembly area is approved, they would need the parking area to the north.

Commissioner Cholewa questioned when the barns were built. Mr. Buck stated that he believes they were built back in 1730. He stated that his family purchased them back in 1739. Commissioner Cholewa questioned if the Historical Society has any interest in this. Mr. Buck stated that they are; and they have spoken to them off and on and they wish for this application to proceed. Commissioner Cholewa questioned what the barns are used for currently. Mr. Buck stated that currently they are basically used just for storage.

Commissioner Cholewa questioned why he is requesting a variance in use change instead of going before the Planning and Zoning Commission to get the zone changed. Mr. Buck stated that he did this because he does not want this to become commercial property and possibly become anything different down the road. Commissioner Cholewa confirmed that he only wants this property to be used for this specific use and not anything else. Mr. Buck stated that this was correct.

Vice Chairman Vaughan, Jr. questioned if he has spoken to any of his neighbors. Mr. Buck stated that he has and a few did have some concerns which they tried to address and he knows that some of his neighbors are here tonight.

Commissioner Bockstael questioned if he is aware of the Building Inspector and Fire Marshal requirements. Mr. Buck stated that he is aware of these regulations, and he would like to proceed one building at a time and make sure they are right before proceeding to the next building.

Commissioner Cholewa questioned that if the use was to stay as storage would the historic buildings be able to be maintained and if not are there any other alternate uses being considered. Mr. Buck stated that he does not think they would be able to maintain it as storage use and no other uses have been considered. He stated that his wife has directed two schools so she knows the business and it is in her heart and they really feel that they have something here that can really benefit the community.

Mr. Buck submitted letters from neighbors in favor of this application from:

1. Mrs. Carl E. Anderson, 399 Hartford Avenue, Wethersfield, CT
2. Caesar and Irma Bobadilla , 486 Hartford Avenue, Wethersfield, CT
3. Merritt Baldwin, 30 Jordan Lane, Wethersfield, CT
4. Steve and Sheila Wells, 336 Hartford Avenue, Wethersfield CT

Vice Chairman Vaughan, Jr. explained to the audience that normal procedure would be that this would have been heard at Planning and Zoning first and then be heard by this Board, however, because of scheduling conflict this was heard at this Board first. Therefore everyone can speak with regards to this application but a ruling cannot be made until after it is heard by the Planning and Zoning Commission.

Mr. O'Connor stated that Mr. Buck will not personally be going before Planning and Zoning Commission at this time, however, the application will be reviewed and they will make any comments and at that time this application will be back before this Board.

Commissioner Cholewa informed the audience that because the public hearing is being left open, any audience member can come back after hearing the Planning and Zoning report.

There were no further questions or comments from the Board.

The following audience members wished to speak in favor of this application:

1. Mr. Steve Wells, 266 Hartford Avenue, Wethersfield, CT - stated that he thinks this is a great idea.
2. Ms. Jan Zisk, 411 Hartford Avenue, Wethersfield, CT - stated that she is a local artist and loves this idea and feels it will get a lot of use.
3. Ms. Virginia Buck, 411 Hartford Avenue, Wethersfield, CT - stated that this has been a dream of hers for a long time. She stated that the Historical Society is also excited about this project. She stated that this is a great way to preserve the barns.
4. Mr. Neil Walsh, 49 Woodland Street, Wethersfield, CT - stated that he feels this is an ambitious project and feels this is a good idea.
5. Mr. Jim Arnold, 446 Hartford Avenue, Wethersfield, CT - stated that he thinks this is a great idea; however, he does have some concerns regarding lighting and where the lighting will be facing. He stated that he is definitely not against this application but at the same time he also hopes that his concerns will be addressed.

Commissioner Cholewa questioned if this application were approved what would need to be done in terms of site plans, etc. Mr. O'Connor stated that there would be a design review where they would look at parking layout, lighting, etc. and then there would be another hearing where you can look at all that and voice your concerns.

The following audience members were opposed to this application:

1. Mr. William Holmes, 408 Hartford Avenue, Wethersfield, CT - he stated that he feels a lot like Mr. Arnold, he feels this is a very creative idea, however, he lives kitty corner to this property so he is concerned about the lighting. He would want to make sure that this would be used just for this specific use and not become a commercial property.
2. Mr. Charles Stuart, 416 Hartford Avenue, Wethersfield, CT - he stated that he lives directly across the street from the property. He would like the barns to be preserved, however he is concerned by the number of suites being used in each building.
3. Mr. Mark DiMattia, 456 Hartford Avenue, Wethersfield, CT - he stated that he is in favor of the idea of renovating the barn and keeping the area the way it is. He stated that he has concerns about the rezoning and if this property down the road can be used for other uses if the property is sold. He stated that he is also concerned about the parking lot, adding that a lot of cars park there at night. He would like to know how this would be maintained.

Commissioner Cholewa stated that this is why he questioned Mr. Buck as to why he was seeking a variance as opposed to changing the zone. Commissioner Cholewa stated that by seeking the variance this would only allow the property to be a school.

Commissioner Bockstael stated that these parking concerns would need to be addressed and there certainly are options and stipulations that can be made.

4. Dr. Rachel Leclerc - 434 Hartford Avenue, Wethersfield, CT - she stated that she has been there since 1987. She stated that she has many concerns about the project. She stated that like her other neighbors she would like the barns to be preserved; however, she has a hard time understanding the concept of a school, she stated that she feels there are more offices than classrooms. She stated that she is concerned about the amount of traffic that this can generate and the parking issue. Adding that Hartford Avenue is a residential neighborhood and she wants to make sure that it stays as a residential neighborhood.

- Ms. Doris Leclerc - 434 Hartford Avenue, Wethersfield, CT - she stated that she wants to make sure that this is a residential area. She stated that the cost to do this is about a half a million dollars, she questioned who is funding this and how. She is also concerned as to how long this will take to complete; concerned if there will be construction in this area for the next five years.

APPLICATION NO. 5936-05 United Methodist Church Nursery School seeking a variance to operate a nursery school in a residential zone (renewal) at 150 Prospect Street, south side, A-1 Residence Zone (§3.2).

This application was withdrawn.

WETHERSFIELD ZONING BOARD OF APPEALS
VICE CHAIRMAN VAUGHAN, JR.

Commissioner Bockstael, Clerk

**WETHERSFIELD ZONING BOARD OF APPEALS
PUBLIC MEETING
November 28, 2005**

The Wethersfield Zoning Board of Appeals held a public hearing on November 28, 2005 at 7:00 PM in the Police Department Community Room, 250 Silas Deane Highway, Wethersfield, Connecticut.

PRESENT: Thomas J. Vaughan, Jr., Vice Chairman
Bruce T. Bockstael, Clerk
Gina P. DeAngelo
Matt Cholewa, Alternate
Frank Dellaripa, Alternate

ABSENT: Earle R. Munroe, Alternate

Also Present: Brian O'Connor, Chief Building & Zoning Official

DECISIONS FROM PUBLIC HEARING

APPLICATION NO. 5932-05 Garth Perri appealing the decision of the Building Official for the required side yard on the street side at 265 Wolcott Hill Road, North side, A Residence Zone (§3.7B2).

Upon motion made by Commissioner Bockstael, seconded by Commissioner Dellaripa and a poll of the Board it was voted by a vote of 4-1, with Commissioner Cholewa opposed that this application **BE DENIED**.

APPLICATION NO. 5933-05 Garth Perri seeking a variance to construct an addition having less than the required side yard set back on the street side at 265 Wolcott Hill Road, North side, A Residence Zone (§3.7).

Upon motion made by Commissioner Bockstael seconded by Commissioner Cholewa and a poll of the Board it was unanimously voted that the above application **BE APPROVED** with the following stipulation:

- a 12' variance is approved.

APPLICATION NO. 5934-05 Nicholas Jerem seeking a use variance to permit a gift shop with a coffee bar/tea room within the shop at 7 Railroad Place, west side, B Residence Zone (§10.4.F).

Upon motion made by Commissioner Bockstael, seconded by Commissioner Cholewa and a poll of the Board it was unanimously voted that the above application **BE APPROVED** with the following stipulations:

1. Seating limited to 12.
2. Approval from Building Official, Fire Marshall, Historic District and Health Department.
3. Coffees Bar hours are to be Monday to Saturday 10AM - 7PM.

APPLICATION NO. 5935-05 Douglas Buck seeking a variance to 1) change the use of the accessory buildings from non-conforming storage rental to business use private arts academy, 2) to permit off site parking on HELCO Right-away 300' from site at 411 Hartford Avenue, west side, B Residence Zone (§10.4.F).

Application is tabled until next month.

APPLICATION NO. 5936-05 United Methodist Church Nursery School seeking a variance to operate a nursery school in a residential zone (renewal) at 150 Prospect Street, south side, A-1 Residence Zone (§3.2).

Application withdrawn.

APPROVAL OF MINUTES

Upon motion made by Commissioner DeAngelo seconded by Commissioner Dellaripa, and a poll of the Board it was unanimously voted that [the minutes of October 24, 2005](#) **BE APPROVED** with the following change: Please note that Commissioner Cholewa did not participate in the public hearing on his own application.

ADJOURNMENT

The meeting was adjourned at 8:55 PM.

WETHERSFIELD ZONING BOARD OF APPEALS
VICE CHAIRMAN VAUGHAN, JR.

Commissioner Bockstael, Clerk