



**TOWN OF WESTBROOK
ZONING BOARD OF APPEALS**

866 BOSTON POST ROAD
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MINUTES - ZBA REGULAR MEETING – 26 October 2016

The Westbrook Zoning Board of Appeals met on Wednesday, October 26, 2016, in the Multi-Media Room of the Teresa Mulvey Municipal Center located at 866 Boston Post Road, after not having met since July 2016. Chairman Bonnie Hall called the Regular Meeting to order at 8:59 p.m. after a brief recess following the close of the Public Hearing. Members present were Chairman Bonnie Hall, Vincent Neri, Devin Xenelis and Alternates Matt Diamond and Nicholas Alaimo. Absent were regular members Mark Damiani, Eve Barakos and Alternate Richard White. Also present was Recording Secretary Category I, Janet L. Aiken.

DECISIONS:

No. 16-022 – Appeal of Debra A. LeConche & Robert J. LeConche, applicants/owners; Amity Construction & Design, agent. Property located at 5 Sagamore Terrace South. Identified on Assessor's map 192 as Parcel 25. HDR zone. Variance requested from Zoning Regulations **Section No. 4.33.06(b)** side yard setback to allow 7' (house-East), 6.6' (house-East), 6' (deck steps-East), 3.6' (basement stair-East), 7.3' (house-East), 9.8' (porch -East), 9.9' (porch-East) where 10' required, **Section No. 4.33.06(b)** side yard setback to allow 4.8' (open covered porch-West), 4.4' (house-West), 3.3' (cant-West), 3.6' (house-West), 2.5' (cant-West), 4.2' (house-West), 3.7' (porch-West) where 10' required, **Section No. 2.10.06** extension/ enlargement of non-conforming structure, and **Section No. 2.10.07** replacement of nonconforming structure, to demolish existing structure and rebuild new structure. CAM required.

Board discussion included:

- New structure eliminates encroachment of property line
- Consistent with the neighborhood
- Less non-conforming
- House to the East is larger and closer to property line
- Older home – questions condition
- House built on piers
- New structure will be structurally compliant with building code
- New structure has smaller footprint

A motion was made by Devin Xenelis, seconded by Nick Alaimo, to approve the application as presented, including the CAM, because as proposed, the project overall reduces the existing nonconformities of the structure on the lot. The motion carried unanimously.

No. 16-023 – Appeal of Marianne Winslow, applicant/owner; Robert L. Doane Jr., PE LS, agent. Property located at 61 Muller Avenue. Identified on Assessor's map 193 as Parcel 129. HDR zone. Variance requested from Zoning Regulations **Section No. 4.33.06(a)** front setback to allow 23.53' to house where 25' required, **Section No. 4.33.06(c)** rear setback to allow 12.3' to stairs where 35' required, **Section No. 4.33.06(c)** rear setback to allow 16.23' to porch roof where 35' required, **Section 4.33.06(c)** rear setback to allow 20.43' to dormer where 35' required, **Section No. 4.33.06 (c) rear setback** to allow 32.5' to pergola where 35' required, **Section No. 2.10.06** extension/enlargement of non-conforming structure, **Section No. 8.00.03(a)** minimum lot size for an apartment, **Section No. 8.00.03(e)** ability of ZBA to vary accessory apartment regulations, and **Section No. 8.00.04(f)** enclosed fire escape/outside stairway to allow open uncovered fire escape/outside stairway, for construction of 2 dormers on existing roof, roof over existing deck, accessory apartment, open exterior stairway and pergola .

The public hearing on this application is held over to 11/9/16.

No. 16-024 – Appeal of Joe Boccia (Hammock Rentals LLC), applicant/owner. Property located at 306 Hammock Road North. Identified on Assessor's map 175 as Parcel 051. MDR zone. Variance requested from Zoning Regulations **Section No. 4.23.06(a)** front setback to allow 15' where 25' required, for placement of 12' by 14' shed.

Board discussion included:

- Demonstrated there's limited area available to place the shed
- Concern that shed's present location is actually 15 feet from property line/ZEO can check it
- Has already received permit to erect the shed where located
- After the fact determined lot had two front yards (corner lot)
- Unique lot with two fronts
- Wetlands in rear of property
- Lot has 4 foot downward slope
- Reserve area for septic

A motion was made by Vincent Neri, seconded by Matt Diamond, to grant the request per the issued building permit with the stipulation the current location of the shed be verified by the ZEO to being 15' off the property line. The motion carried unanimously.

No. 16-025 – Appeal of Joan Dunham, owner; Donald C. Gessick Jr, LS, applicant/agent. Properties located at 6 and 16 Brookside Avenue West. Identified on Assessor's map 182 as parcels 164 and 165. HDR zone. Regarding 6 Brookside Ave West, variance requested from Zoning Regulations **Section No. 4.33.02** minimum lot area to allow 7,010.66 square feet where 15,000 required, **Section No. 4.33.06(a)** front yard setback to allow 4.7' radial to garage where 25' required, **Section No. 4.33.06(a)** front yard setback to allow 16.5' radial to house where 25' required, **Section No. 4.33.06(a)** front yard setback to allow 21.9' radial to house where 25' required, **Section No. 4.33.6(b)** side yard setback to allow 3.5' to garage where 10' required, and **Section No. 4.33.06(b)** side yard setback to allow 6.7' to garage where 10' required. Regarding 16 Brookside Ave West, variance requested from Zoning Regulations **Section No. 4.33.02** minimum lot area to allow 4,357.96 square feet where 15,000 square feet required, **Section No. 4.33.06(a)** front yard setback to allow 16.3' to house where 25' required, **Section No. 4.33.06(b)** side yard setback North to allow 2.1' from shed where 10' required, **Section No. 4.33.06(b)** side yard setback North to allow 1.5' to shed where 10' required, **Section No. 4.33.06(b)** side yard setback South to allow 7.4' to house where 10' required and **Section No. 4.33.06(c)** rear yard setback to allow 4.8' to house where 35' required, for lot line revision.

Board discussion included:

- Shed to be moved to be compliant with Regulations from the north & south side yards
- Application makes perfect sense
- Owner did not know there were two lots
- Property line currently runs through the center of the garage

A motion was made by Bonnie Hall, seconded by Devin Xenelis, to grant as to 6 Brookside Ave West, **Section No. 4.33.6(b)** side yard setback to allow 3.5' and 6.7' to garage where 10' required, and as to 16 Brookside Ave West, **Section No. 4.33.02** minimum lot area to allow 4,357.96 square feet where 15,000 square feet required, and to move the existing shed due South to the 10' side yard lot line, acknowledging all other variance requests are unnecessary, with the stipulations that the map be filed on the Town's records showing the approved proposed shed location. Hardship has been shown in that the common property line of the two lots runs down the middle of the existing garage. The motion carried unanimously.

No. 16-026 – USE Variance request of Jennifer Scott, applicant/agent; Al Redway, owner. Property located at 174C Boston Post Road. Identified on Assessor's map 187 as Parcel 152. NCD zone. USE Variance requested from Zoning Regulations **Section No. 4.113.05(c)** prohibited uses, to allow barbershop/beauty salon.

Discussion included:

- Prior variance had been granted
- Application cut and dried
- If JP's leaves its present location, the previous variance stays with the location & not the business

Regulations silent on barbershop & beauty parlors and so are not allowed anywhere
Move is to a commercial building suited to retail

A motion was made by Matt Diamond, seconded by Bonnie Hall, to grant the use variance request as this commercial use is not allowed in any of the Town's districts thereby necessitating a use variance, and the request is consistent with the retail location. The motion carried unanimously.

MINUTES

A motion was made by Matt Diamond, seconded by Nick Alaimo, to approve the minutes of the Public Hearing and Regular Meeting of 27 July 2016. The motion carried unanimously.

BILLS

A motion was made by Vincent Neri, seconded by Nick Alaimo, to approve the bill from Janet Aiken for \$175.07 for secretarial services from 10/12/16 to 10/25/16. The motion carried unanimously.

A motion was made by Matt Diamond, seconded by Devin Xenelis, to approve the bill from Hudson and Kilby for \$1,700 for legal services in the Scott appeal. The motion carried unanimously.

A motion was made by Vincent Neri, seconded by Devin Xenelis, to approve the bill from Ciel for \$19.04 for copies in the Latvis appeal Return of Record. The motion carried unanimously.

A motion was made by Vincent Neri, seconded by Nick Alaimo, to approve the bill from Gould Larson Bennet McDonnell Quilliam & McGlinchey for \$225 for ;legal services in the Jukonski appeal. The motion carried unanimously.

Regarding bills previously approved for payment by the Chair, submitted for payment and not yet presented to the Board:

A motion was made by Matt Diamond, seconded by Nick Alaimo, to approve the bill from Shoreline Publishing for \$93.40 for advertisement of the 9/28/16 public hearing. The motion carried unanimously.

A motion was made by Matt Diamond, seconded by Nick Alaimo, to approve the bill from Janet Aiken for \$493.95 for secretarial services from 7/27/16 to 8/24/16. The motion carried unanimously.

A motion was made by Nick Alaimo, seconded by Vincent Neri, to approve the bill from Shoreline Publishing for \$148.73 for advertisement of the 7/27/16 decisions and the 8/24/16 public hearing with a credit for late charges. The motion carried unanimously.

A motion was made by Vincent Neri, seconded by Nick Alaimo, to approve the bill from Janet Aiken for \$825.33 for secretarial services from 8/25/16 to 10/6/16 including transcripts and the Return of Record in the Latvis appeal. The motion carried unanimously.

A motion was made by Matt Diamond, seconded by Devin Xenelis, to approve the bill from Shoreline Publishing for \$130.58 for advertising of the 7/27/16 public hearing. The motion carried unanimously.

A motion was made by Devin Xenelis, seconded by Matt Diamond, to approve the bill for \$280.00 from Hudson and Kilby for general representation regarding the Vitali appeal. The motion carried unanimously.

CORRESPONDENCE

Correspondence was reviewed. A letter of resignation dated 10/24/16 from Eve Barakos was sent to the Board of Selectmen and that Board accepted the resignation by letter subsequently sent to the ZBA. No action will be taken by the ZBA until January 2017. The vacated seat will be filled by a Democrat. For the record, Alternate Richard White was mentioned as being next in line to be offered the same.

ANY OTHER BUSINESS

2017 meeting schedule – A motion was made by Devin Xenelis, seconded by Vincent Neri, to accept the calendar as written. The motion carried unanimously.

The opinion letters from Board counsel Mike Wells concerning attendance and conflict of interest were distributed, reviewed and discussed.

ADJOURNMENT

A motion was made by Devin Xenelis, seconded by Vincent Neri, to adjourn. The motion carried unanimously. The time was 9:45 p.m.

Respectfully Submitted,

Janet L. Aiken

Janet L. Aiken, Recording Secretary Category I
Westbrook Zoning Board of Appeals