



**TOWN OF WESTBROOK  
ZONING BOARD OF APPEALS**

866 BOSTON POST ROAD  
WESTBROOK, CONNECTICUT 06498  
(860) 399-3046 • FAX (860) 399-3092

**MINUTES - ZBA PUBLIC HEARING – 27 July 2016**

The Westbrook Zoning Board of Appeals met on Wednesday, July 27, 2016 in the Multi-Media Room of the Teresa Mulvey Municipal Center located at 866 Boston Post Road. Legal Notice of the Public Hearing was published in *The Harbor News* on 14 July 2016 and 21 July 2016.

Chairman Bonnie Hall called the Public Hearing to order at 7:30 p.m. and introduced Board members to the public in attendance. Members present were Mark Damiani, Eve Barakos and Alternates Matt Diamond, Richard White and Nick Alaimo. Absent were regular members Vincent Neri and Devin Xenelis. Also present was Recording Secretary Category I, Janet L. Aiken and ZEO Nancy Rudek.

Chairman Hall read the procedures to be followed at the Hearing into the record.

**No. 16-017** – Appeal of Diane A. Latvis, applicant/owner. Property located at 98 Old Mail Trail. Identified on Assessor's map 195 as Parcel 033. HDR zone. Variance requested from Zoning Regulations **Section No. 4.33.06(b)** side yard setback to allow 7'6" East and 4'10" West where 10' required, and **Section 2.10.06** extension/ enlargement of non-conforming structure, to allow two dormers on front of house to remain as is. OPENING OF PUBLIC HEARING HELD OVER FROM 6/22/16.

Alternates Matt Diamond and Nick Alaimo were seated to hear and vote on this application.

Alternate Richard White recused himself citing a conflict of interest and left the hearing.

Dr. and Mrs. Latvis were present for presentation of the application. They explained that the front dormers in question do not extend any further out than the building envelope. They also stated that the improvement was consistent with what existed in the neighborhood.

With their previous application for a rear dormer approved in March, construction began in April/May. The builder came to them during construction stating an unstable situation had been created and suggested one of two ways to stabilize the roof: the first was to build two front dormers with 2" x 10"s, and the second was to shore up and reinforce what was there using additional 2" x 6"s. After contact with Land Use at Town Hall and the Building Official referring them to Zoning, the ZEO purportedly stated that as long as they had 25' frontage it was okay to build without an additional variance. The Latvis' decided to go with the first choice of two additional dormers using 2" x 10's as well as putting on a new roof. The Building Official requested that the new drawings be submitted. At that time, the Building Official told the applicants they needed to go to ZBA and a stop work order was placed on the house. It was thought at first that perhaps a different address had been mixed up with theirs or that it was a miscommunication between departments and staff. The ZEO explained she didn't know the side yards off hand and had nothing in front of her when she spoke to them on the phone as far as the necessity to go to ZBA.

Chairman Hall noted that when they appeared before the Board in March to ask for side yard variances for the rear dormer, it was stated that no other request was needed, and that if they had known at that time plans were being made for the front, that all the requests should have been made at the same time. Dr. Latvis stated he had hoped all the construction would have been completed by April/May and that a lot of renters had been lost for the season. Other questions from the Board included why didn't the builder know that if a variance was needed for the rear that one was needed

for the front, why the applicants didn't realize that if a variance was needed for the rear that one was also needed for the front, whether the builder does work in Westbrook (no, comes from Bristol), what the square footage was for each dormer (35 sq. ft.), if they encroach into the side yard setbacks (yes), and if additional rooms were created (no). No architect had been used.

From the audience in favor:

John Rossi, 35 Mohawk Road

Two letters in favor of the application were read into the record – (1) dated 7/25/16 from Jim Brault, 8 Pequot Road, and (2) 7/25/16 from Daniel Hamernik, 58 Uncas Road East.

From the audience opposed:

Jennifer Wynn and Ashkan Samadzadeh, 128 Menunketesuck Road, the applicants closest neighbor. An undated letter read into the Record by Ms. Wynn, with color photos had been submitted and included in the file, showing the dormers in relation to their home, the outdoor shower, the shed, retaining wall and back deck. Ms. Wynn noted that the houses were so close together you could pass salt from window to window.

Dr. Latvis readdressed the Board stating the shed was placed 5 feet off the property line and was 96 square feet and that tar outdoor shower had been relocated to its present location from the middle of the rear outside wall of the house. He noted that the deck was not connected to the house and was raised 6 inches off the ground. He further noted that the wall and shower were under 6 feet in height.

ZEO Rudek indicated that a permit was necessary for the shed and deck. Board Chairman Hall stated that the shed could not be located within the setback areas.

The hearing closed at 8:05 p.m.

**No. 16-018** – Appeal of Guy and Cynthia Vitagliano Watson, owners/applicants; Attorney David M. Royston, agent. Property located at 127 Seaside Avenue. Identified on Assessor's map 183 as Parcel 90. HDR zone. Variance requested from Zoning Regulations **Section No. 4.33.06(a)** front yard setback to allow 10.6' (South) and 11.8' (North) where 25' required, **Section 4.33.06( c )** rear yard setback to allow 11.8', 11.0', 5.5', 10.0' and 10.7' (North to South) where 35' required, **Section 2.10.06** extension/ enlargement of non-conforming structure and **Section No. 2.10.07** replacement of nonconforming structure, for construction of a replacement single family residence. CAM required. **OPENING OF PUBLIC HEARING HELD OVER FROM 6/22/16.**

Alternate Richard White returned to the meeting.

Alternate Nick Alaimo recused himself citing a conflict of interest and left the meeting.

Alternates Matt Diamond and Richard White were seated to hear and vote on this application.

Attorney Royston was present for the applicants as well as the applicants themselves, their builder and their neighbor directly to the West, Mr. LePage. The house on the lot, a carriage house built at the turn of the century when there was no zoning, has already been demolished. In the 1960's a lot was cut out of the property and the Right-Of-Way developed presently used by two residents (Watson and LePage). In 1984 a variance was granted for the East side yard. **Exhibit 1**, 3/23/84 ZBA minutes, 2/4/84 application for a building permit, and the building permit was entered into the Record. In 2015 the Watson's purchased the property, closing in 2016, from the estate of the then owner. A survey of the property was done, a wetlands permit as well as a septic permit was given, the surveyor drew a plan locating the new house facing the ROW in full compliance with the regulations, a demolition permit was applied for and asbestos removal was done. In April 2016 the zoning permit was denied due to interpretation of the existing regulations. See **Exhibit 2**, page 3, 5/6/16 letter from Branse & Willis LLC to ZEO Rudek. The interpretation created a very small building envelope. **Exhibit 3** site plan revised through 6/23/16 was submitted. (Attorney Royston signed off the file copy showing a reduction of one of the requested variances). Hardship for the requests is the uniqueness of the lot, the regulations, the placement of the proposed structure has no larger an encroachment

than the old structure, and the requested relief is consistent with zoning.

Attorney Royston read three letters in favor into the Record: (1) 5/22/16 letter from Kim Beck, 23 Apogee Lane, (2) 5/23/16 letter from DeMarco, 43 Apogee Lane and (3) undated letter from Bruce and Deborah Anderson, 29 Apogee Lane.

Questions from the Board included the size of the proposed structure as opposed to the previous house (3,000 +/- square feet proposed, 1,500 +/- square feet previously, with the footprint is less than what existed previously), and is there a basement (no).

The CAM was reviewed. Coastal resources are not in jeopardy, development in upland shore lands and no inconsistencies with the Act. A 1 ½% increase in impervious surface cover is proposed mainly due to the driveway and house.

From the audience in favor of the application was Bill LePage of 129 Seaside Avenue. No one spoke in opposition.

The hearing closed at 8:45 p.m.

Alternate Nick Alaimo returned to the meeting.

**No. 16-021** – Appeal of Danny Stebbins, owner/applicant. Property located at 83 Sagamore Terrace East. Identified on Assessor's map 193 as Parcel 159. HDR zone. Variance requested from Zoning Regulations **Section No. 4.33.06(b)** side yard setback to allow 7' where 10' required, to install a 12' x 14' pergola over existing stone patio.

Regular member Eve Barakos recused herself citing a conflict of interest.

Alternates Nick Alaimo and Richard White were seated to hear and vote on the application.

Thomas Elliott AIA presented the applicant's request. **Exhibit 1**, an overview of the application, was entered into the Record. The residence is a year round house and the applicants will also be living there year round. The house is the fourth structure from Long Island Sound. There are Association restrictions which limit construction. The lot is nonconforming. A previously granted variance on the property was briefly reviewed. **Exhibit 2** photo of the proposed pergola location was entered into the Record. The large hedgerow in the picture delineates the property line. Letters in favor of the application were read into the Record from (1) Evie and Jim Young, 91 Sagamore Terrace East dated 7/20/16 and (2) Shirley Coffey, 94 Sagamore Terrace East, dated 7/18/16.

Questions from the Board included how far away from the house steps will it be located (a file copy of the location photo has marks on it where the footings will be located), how high is it (6'8" plus riser), gazebo or pergola (pergola – open structure that provides shade), use (shade, hanging plants, vines), and do any of the other neighbors have a pergola (have designed some in the area).

Mr. Elliott explained that the pergola will be fully installed on the patio and that it will be anchored.

No one spoke for or against the application from the audience.

ZEO Rudek explained she doesn't consider a pergola a structure but rather a garden accessory.

Speaking from the audience expressing concern was Richard Peterson of 55 Sagamore Terrace Road East regarding future use and changes to the pergola such as enclosure, heating, et cetera.

The hearing closed at 9:10 p.m.

Respectfully Submitted,

*Janet L. Aiken*

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