



**TOWN OF WESTBROOK  
ZONING BOARD OF APPEALS**

866 BOSTON POST ROAD  
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**REVISED MINUTES - ZBA REGULAR MEETING - 23 May 2012**

The Westbrook Zoning Board of Appeals met on Wednesday, May 23, 2012, in the Multi-Media Room of the Teresa Mulvey Municipal Center located at 866 Boston Post Road. Chairman Mark Damiani called the Regular Meeting to order at 7:33 p.m. following a recess from the Public Hearing. Members present were Mark Damiani, John Boehme, Bonnie Hall, Vincent Neri and Alternates Richard White and Devin Xenelis. Also present was ZEO Nancy Rudek and Recording Secretary Category I, Janet L. Aiken.

**DECISIONS:**

**No. 12-05** - Appeal of 316 Essex Road LLC, owner/applicant; Eve Barakos, agent. Property located at 316 Essex Road. Identified on Assessor's map 166 as Parcel 27. MDR/LDR zone. Variance requested from Zoning Regulations Section No. 10.03.05 access drive width, to allow 16' where 24' is required, and, a Use Variance for use as professional office space. CAM exempt. Public Hearing closed; Decision Continued from 4/25/2012.

Alternate Richard White was seated for the application.

Review of Board counsel Michael Wells' comments as requested at the last meeting was done. Board member comments included referral to the minutes of the last meeting, which restrictions would be reasonable and allowable and not arbitrary, what restrictions would be acceptable to the neighboring homeowners' association, building appearance and location in the event of a cataclysmic event necessitating rebuilding of the structure, the philosophy behind a granting of a variance, future change of use, and the need for the applicant to go to the Zoning Commission for site plan approval.

A motion was made Richard White, seconded by Bonnie Hall, to grant the variance as presented, with the following restrictions consistent with Exhibit 6 submitted by the applicant:

1. The professional office size is to be a maximum of 1,182 square feet and to be limited to the existing building footprint;
2. The professional office is for a nutritional consulting food system planning service only. This office use is more compatible with the MDR zone than other types of professional offices as defined in the Westbrook Zoning Regulations;
3. The professional office will be occupied by a single tenant at any given time
4. There are special circumstances applying to this structure, due to its age and historic significance, peculiar to it and not generally applicable in the neighborhood;
5. The property is unique and not like other properties in the zone because it is among the oldest structures in the town. As such, it is a historic resource that contributes to the character of the town and warrants preservation;
6. A strict application of the regulations would result in exceptional difficulty and unusual hardship because the house can be preserved and used as an office without destroying its historic features;
7. Approving this application is consistent with Section 12.22.03 of the Zoning Regulations governing use variances because the professional office use serves the

public interest in this location by preserving the Spencer homestead. Preservation of the historic structure is made possible by allowing a commercial use that does not involve renovations that would radically change the features of the house;

8. Granting the variance will be in harmony with the purpose and intent of the zoning regulations and nor injurious to the neighborhood.

Discussion of the motion included the “back to basics” professional use proposed in a rural setting, evoking times past and that this site is more conducive than others in town due to its historical nature. Further discussion was undertaken at the end of which the maker of the motion withdrew his motion from the floor, with the second agreeing.

A motion was made Richard White, seconded by Bonnie Hall, to grant the variances as presented, with the following restrictions:

1. The professional office size is to be a maximum of 1,182 square feet and to be limited to the existing building footprint;
2. The professional office is for a nutritional consulting food system planning service only. This office use is more compatible with the MDR zone than other types of professional offices as defined in the Westbrook Zoning Regulations;
3. The professional office will be occupied by a single tenant at any given time;
4. The proposed driveway width of 16 feet is in keeping with the residential and historic character of the structure in which the professional office use would be located and is beneficial because it reduces impact to the wetland buffer;
5. The Use variance is only applicable to the 2.1 acres of the 6.3 acres located in the MDR zone as presented;
6. Parking on the site will be limited to five (5) spaces – 4 on the side and the garage accounting for the fifth.

Discussion of the motion included the ZEO’s input that Zoning Commission approval would be necessary for site plan approval including number of parking spaces. The Chairman noted that there was an existing driveway versus a new driveway cut necessitating DOT’s review and permitting. Assurance was made that the variances only applied to the MDR portion of the property being 2.1 acres and the members agreed that the application had been subscribed by the agent of the applicant so inclusion of a restriction stating the variance applied to the MDR portion of the site was not necessary. Also, it was noted the Zoning Commission would be reviewing the site plan including number and location of parking spaces as on the submitted plans.

Regarding the finding of hardship, the Board found that adequate hardship exists for this property, based upon (a) the location and characteristics of the property; (b) the location and characteristics of the improvements located on said property; and, ( c ) that the hardship is different from that generally affecting other properties in the MDR zone and arose from circumstances and conditions beyond the control of the applicant. The Use variance is in harmony with the comprehensive plan of zoning and with the purposes and intent of the Westbrook Zoning Regulations and that the public interest will best be served by permitting such use at the proposed location.

On the motion: The motion carried unanimously.

A motion was made by Mark Damiani, seconded by Bonnie Hall, to resume the Public Hearing. The motion carried unanimously.

The Public Hearing resumed at 8:30 p.m. and closed at 9:20 p.m.

The Regular Meeting resumed at 9:20 p.m.

**No. 12-07** – Appeal of Dawn & Michael Riccio, owner/applicant. Property located at 193 Seaside Avenue. Identified on Assessor’s map 183 as Parcel 082. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06 (b) sideyard setback (East side), to allow 4’ where 10’ is required, and Section No. 4.33.06 (b) sideyard setback (West side), to allow 8’ where 10’ required, to build a non-

enclosed deck off second floor at the rear of the structure. CAM exempt.

After brief discussion, a motion was made by Mark Damiani, seconded by Bonnie Hall, to approve the variances as presented. The motion carried unanimously.

**No. 12-08** – Appeal of Joan Ireland, owner/applicant; Thomas Elliott AIA, agent. Property located at 151 Old Mail Trail. Identified on Assessor’s map 195 as Parcel 078. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06 ( c ) rear yard setback, to allow 8’ where 35’ required, Section No. 4.33.06 (b) sideyard setback (East side), to allow 4.3’ where 10’ required, Section No. 4.33.06 (b) sideyard setback (West side), to allow 7’ where 10’ required, and Section No. 2.10.7 replacement of non-conforming structure, to remove existing structure and rebuild on existing footprint with new entry. CAM required. CONTINUED to 6/27/12

**No. 12-09** – Appeal of Manuel (Manny) Pires, owner/applicant. Property located at 148 Salt Island Road. Identified on Assessor’s map 182 as Parcel 84. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(a) front setback, to allow 7.87’ where 25’ required, Section No. 4.33.06 ( c ) rearyard setback) to allow 30.44’ where 35’ required, and Section No. 4.33.06 (b) rearyard setback, to allow 2.52’ where 10’ required, to expand second floor over existing first floor foundation to enlarge existing 3 bedrooms, and adding 1 bath plus laundry room. CAM exempt.

Discussion included the expansion of the second floor, use of the same footprint, the existence of the lot prior to zoning, and fire hazards in the existing structure.

A motion was made by Bonnie Hall, seconded by Devin Xenelis, to approve as presented. The motion carried unanimously.

#### **Minutes:**

A motion was made by Bonnie Hall, seconded by Mark Damiani, to approve the minutes of the 4/27/12 public hearing as amended. The motion carried unanimously

A motion was made by Mark Damiani, seconded by Bonnie Hall, to approve the minutes of the 4/27/12 regular meeting. The motion carried unanimously.

#### **Bills:**

A motion was made by Mark Damiani, seconded by Devin Xenelis, to approve the bill from the Hartford Courant for \$271.36. The motion carried unanimously.

A motion was made by Mark Damiani, seconded by Devin Xenelis, to approve the bill from Janet Aiken for \$302.50. The motion carried unanimously.

A motion was made by Marl Damiani, seconded by Richard White, to approve the bill from Gould, Larson, Bennet, Wells & McDonnell PC for \$750.00. The motion carried unanimously.

#### **Correspondence:**

Proposed regulation changes were reviewed and discussed, and note was made that Board counsel Michael Wells was comfortable with the proposals.

**Other Business:**

Discussion was undertaken as to the need to purchase a digital recorder to replace the micro cassette recorder currently used. The phase out of micro cassettes is necessitating the **purchase. It** was decided by the members to go with the same equipment other boards and commissions have purchased.

A motion was made by Mark Damiani, seconded by Bonnie Hall, to adjourn. The motion passed unanimously.

The regular meeting adjourned at 9:50 p.m.

Respectfully Submitted,

*Janet L. Aiken*

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

(THREE (3) micro cassette tapes were recorded for the 5/23/12 Public Hearing & Regular Meeting and filed with the Town Clerk's Office).

Janet L. Aiken  
Janet L. Aiken, Recording Secretary Category I

5/23/12  
Date Submitted