

**THESE MINUTES ARE SUBJECT TO BOARD APPROVAL AT THE NEXT ZONING BOARD  
OF APPEALS MEETING**

**Westbrook Zoning Board of Appeals PUBLIC HEARING MEETING MINUTES  
Wednesday, January 23, 2019 at 7:30pm  
Mulvey Municipal Center – Multi Media Room  
866 Boston Post Road**

The Westbrook Zoning Board of Appeals met on Wednesday, January 23, 2019 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 January 10, 2019 and January 17, 2019.

**Members Present**

Chairman Bonnie Hall, John Bech, Vincent Neri, Devin Xenelis, Alternate Nick Alaimo and Alternate Matt Schenck. Also present was Substitute Recording Secretary, Kelley Frazier.

**Absent:**

**Town Hall Staff Present:**

Eric Knapp, Zoning and Planning

**Call to Order:**

Chairman Hall called the meeting to order at 7:40pm. The procedures to be followed at the Public Hearing were read into the record.

**No. 18-023** Location Approval of Gary Widlitz, owner; Gerardo Santiago, D/B/A Jerry's Place II, applicant/agent. Property located at 816 Boston Post Road, further identified on Assessor's Map 184 as Parcel 003. NCD Zone. Location Approval needed for General Repair.

Alternate Matt Schenck was seated to hear and vote on this Appeal.

**Discussion**

Chairman Hall explained to the Board that there are four classifications of motor vehicle operations and she went over what each classification was: New Car Dealer, Used Car Dealer, General Repair and Limited Repair. She said that since this is not a variance but a Location Approval, the Board needs find if the Location is Suitable. Location Approval is required for licensing.

Chairman Hall discussed compiled research of the property which she gave to Mr. Knapp. Two parcels are owned by the owner at 816 Boston Post Road and 790 Boston Post Road as a new car dealership. Approval for 225 vehicles was given. This includes trailers. This business has been in this location since the 1920's.

The applicant addressed the Board. Mr. Santiago introduced himself to the Board. They spoke about the parcel and how this property has been found suitable since before zoning.

Mr. Xenelis asked for verification of location.

There were no additional questions from Board members.

Chairman Hall went over the Stipulations with the applicant:

**Stipulation Discussion:**

1. All Loading and unloading of trailers and vehicles will be done on the property
2. Lighting will be shield and directed onto property
3. Hours of operation will be M-F 8am-5pm and Sat 8am-2pm. Closed on Sunday
4. Employee parking will be on property
5. Total number of cars both properties (790 Boston Post Road and 816 Boston Post Road) shall not exceed 225 including trailers
6. No partially dismantled cars visible from street
7. No outside loudspeaker
8. All repair will be done inside building
9. Will follow State, DEEP and motor vehicle stipulations

**Public Comment**

No Comment from the Public.

The Public Hearing was closed at 7:57 p.m.

Chairman Hall recessed the Public Hearing to open the Regular Meeting in order to make a decision on this appeal.

**Decisions**

**No. 18-023** – Location Approval of Gary Widlitz, owner; Gerardo Santiago, D/B/A Jerry's Place II, applicant/agent. Property located at 816 Boston Post Road, further identified on Assessor's Map 184 as Parcel 003, NCD Zone. Location Approval needed for General Repair.

**Discussion**

Mr. Xenelis noted that this has been operating on this site for many years therefore the use does not change. It has been found suitable for a car dealership. All members agreed.

A **MOTION** made by D. Xenelis and seconded by J. Bech to GRANT the Location Approval as presented with the Stipulations. The motion passed unanimously.

The Public Hearing was opened at 7:59pm.

**No. 18-025** – Appeal of Jim Marconi, applicant; Joe Wren, agent. Property located at 324 Pond Meadow Road, further identified on Assessor's Map 161 as Parcel 92, MDR zone. Variances

requested from Zoning Regulations **Section No. 2.40.03 Accessory Building** Required A detached building, other than a farm building, which is incidental and subordinate in both use and scale, to the principal building and that shall not have a gross floor area greater than the gross floor area of the principal building nor have a height greater than the height of the principal building, and which is in character with the neighborhood and which is on the same lot with such principal building; Requested to allow a detached accessory building that exceeds gross floor area of principal building; **Section No. 8.00.03(b) Accessory Apartment** Required The accessory apartment shall be located within the primary residence or attached garage; Requested to allow detached accessory apartment; **Section No. 8.00.03(c) Accessory Apartment** Required that Only one accessory apartment shall be allowed on a lot; Requested to allow two accessory apartments on a lot; **Section No. 8.00.03(g) Accessory Apartment** Required The primary structure and the accessory apartment shall be served by a single electrical meter. Separate meters may be allowed where the applicant demonstrates a legitimate need for such a separate meter; Requested to allow separate meter for detached accessory building; **Section No. 8.00.04(a) Accessory Apartment** Required The maximum gross floor area of the accessory apartment shall not exceed 1,000 square feet or 30% of the total floor area of the principal dwelling within which it is located, whichever is less; Requested to allow maximum square footage and percentage requirements. Variances needed to construct an outbuilding for the parking of up to four vehicles, with two residential housing units to be located above the garage/barn. New structure to be located on southerly boundary of the parcel, accessed separately from main residential dwelling.

Alternate Nick Alaimo was seated to hear and vote on this appeal.

Mr. Joe Wren, P.E., was present and representing applicant Jim Marconi. Mr. Wren noted that there are several parts to this appeal. The property is 10 acres which are used by family members. This is an operating farm with horses, goats, dogs, cats and rescue animals. Presently on the property, there are horse corrals, a barn for horses, six buildings, riding trails and the principal single family resident. The plans for the building to be erected were discussed. It will have multiple garage bay on the bottom with possible storage for farm equipment, feed or hay. Above the garage bays there will be 2 one bedroom apartments. The structure is 68' x 30' each unit is 30x34 or approximately 1,020 square feet. There is a well and septic to serve the primary residence. No driveway is needed to be constructed. This property is in the MDR zone. Mr. Wren discussed the zoning regulations. This application is on the same lot as the primary residence but it is larger than the principal residence and the height is taller. The primary structure will have one meter and both apartments will each have their own meter.

Summary of variances were discussed.

2.40.03 Requesting the detached accessory apartment which exceeds gross floor area of principal building

8.00.03b Requesting the accessory apartment will be detached from primary residence

8.00.03c Requesting two accessory apartments

8.00.03g Requesting separate meter for detached accessory building

8.00.04a Accessory apartments will exceed maximum square footage and percentage requirements

Hardship was discussed.

The existing property is 10 acres. A building with 4 garage bays and two one bedroom apartments for farm relatives or farm employees is needed. According to the applicant, it is not practical to have the building attached because of the location of the wells and septic and a historic corn crib. Discussion held regarding a similar residence on 63 Pond Meadow which is  $\frac{3}{4}$  acre and has received approval for a similar building. It was noted that the exhibit for 63 Pond Meadow Road was for a Use Variance and this application before the Board is not. Exhibit A, B, C accepted into record regarding the variance requested for this property.

### **Questions from Board**

Chairman Hall asked the size of the barn. It is 36x48 and it has 6 horse stalls, a tack room and grain area. The farm equipment housed will be tractor, plow and a trailer along with other attachments for the tractor. After questions from the Board, the applicant stated a truck and a sports car would also be housed. There is one employee part time. Another person would be employed and live in the proposed apartment. Currently three stalls are being used and another rescue animal is expected next week. The goats have a separate house. The land is not in Public Act 490 because this is not a farm to make a profit. The owner also owns the TEAM business. The garage doors measure 10 wide by 9 feet high. Two bathrooms are proposed in the barn. Mr. Marconi stated this is for convenience. The septic and wells on the main house could be expanded. This would use grazing areas for the horses, according to the applicant. Discussion ensued regarding the possibility of expanding the principal residence. The septic is behind the house as well as a horse corral. There is also a historic corn crib. Mr. Marconi noted that he feels there is no way to attach to the existing building.

Chairman Hall asked how close this proposed building is to the well on the neighboring property at 268 Pond Meadow. Exhibit D was submitted which is an aerial view of the property. No other variances are required for zoning and setback.

Mr. Neri asked about having the addition on 324 Pond Meadow. It could be done. Could the existing garage be added to? According to the applicant, the historic corn crib is there; the garage does not meet the existing building codes and the septic would be affected. Also, he said, the existing corrals have been there since the 1960's would have to be moved. The lot has been split. Mr. Marconi stated that it would be a hardship to do this because the existing corrals would have to be moved. There is a possibility to divide the land and to build 3 duplexes. The owner does not want to divide the land again.

Mr. Xenelis asked about replacing the well. The application states that a new well and septic would have to be put in. This is not impactful. He is struggling with the hardship.

Mr. Bech asked for clarification of the number animals on the property. Chairman Hall stated that he has less in his zone than he could have according to the Zoning Regulations.

Mr. Alaimo addressed the Chairman and the ZEO to ask if property could be subdivided. This is possible and variances would not be necessary. Zoning regulates accessory apartments because

they are subordinate to the main house so if you separate it, it is two independent structures. Zoning only allows for one primary use.

Mr. Schenck asked who would be housed in the apartments? Who runs the daily operations of the farm? The daughters of the owners run the farm. They live on separate parcels. The mother only lives on the discussed property. Mr. Marconi has family that would like to live in the apartments.

Mr. Bech said that apartments for family members should be considered, but non family is questionable.

**Comments in Favor of Application:**

None

**Comments in Opposition of Application:**

None

**Comments Not for or Against:**

Kim Bennett, 268 Pond Meadow Road, is an abutting neighbor. Her concern is the proximity to back yard and possible water issues which could flood her basement. She is asking how this will impact drainage onto her property.

Mr. Wren noted that the site where testing was done had good drainage. He does not feel there would be increased run off. The gutters could drain in an easterly direction rather than a southerly direction which would be away from her property. This would be a stipulation

The elevations could require storm water infiltration to the site. If Zoning and Wetland approval is received, they may suggest that run off from the roof would go into an infiltration gallery. There is a potential for decks to be added later. The position of the building would not require additional variances.

Mr. Xenelis noted that the garage does not look like it would be used for the repair of farm equipment. The garage looks like a residential lay out to service the house above. Mr. Wren stated that regulations ask that accessory buildings look residential.

**Rebuttal**

According to Mr. Wren, the variance used for 63 Pond Meadow Road should also be considered for this application. They also requested two residences on a much smaller lot. If the lot were divided, variances would then not be required. Mr. Wren asked the board to give input as to how to proceed.

The Public Hearing was closed at 9:21pm.

Respectfully Submitted,

Kelley Frazier

**THESE MINUTES ARE SUBJECT TO BOARD APPROVAL AT THE NEXT ZONING BOARD  
OF APPEALS MEETING**

**Westbrook Zoning Board of Appeals REGULAR MEETING MINUTES  
Wednesday, January 23, 2019 immediately following Public Hearing  
Mulvey Municipal Center – Multi Media Room  
866 Boston Post Road**

The Westbrook Zoning Board of Appeals met on Wednesday, January 23, 2019 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 January 10, 2019 and January 17, 2019.

**Members Present**

Chairman Bonnie Hall, John Bech, Vincent Neri, Devin Xenelis, Alternate Nick Alaimo and Alternate Matt Schenck. Also present was Substitute Recording Secretary, Kelley Frazier.

**Absent:**

**Call to Order:**

Chairman Hall called the meeting to order at 7:58pm.

The regular meeting opened at 9:21pm.

**No. 18-025** – Appeal of Jim Marconi, applicant; Joe Wren, agent. Property located at 324 Pond Meadow Road, further identified on Assessor's Map 161 as Parcel 92, MDR zone. Variances requested from Zoning Regulations **Section No. 2.40.03 Accessory Building** Required A detached building, other than a farm building, which is incidental and subordinate in both use and scale, to the principal building and that shall not have a gross floor area greater than the gross floor area of the principal building nor have a height greater than the height of the principal building, and which is in character with the neighborhood and which is on the same lot with such principal building; Requested to allow a detached accessory building that exceeds gross floor area of principal building; **Section No. 8.00.03(b) Accessory Apartment** Required The accessory apartment shall be located within the primary residence or attached garage; Requested to allow detached accessory apartment; **Section No. 8.00.03(c) Accessory Apartment** Required that Only one accessory apartment shall be allowed on a lot; Requested to allow two accessory apartments on a lot; **Section No. 8.00.03(g) Accessory Apartment** Required The primary structure and the accessory apartment shall be served by a single electrical meter. Separate meters may be allowed where the applicant demonstrates a legitimate need for such a separate meter; Requested to allow separate meter for detached accessory building; **Section No. 8.00.04(a) Accessory Apartment** Required The maximum gross floor area of the accessory apartment shall not exceed 1,000 square feet or 30% of the total floor area of the

principal dwelling within which it is located, whichever is less; Requested to allow maximum square footage and percentage requirements. Variances needed to construct an outbuilding for the parking of up to four vehicles, with two residential housing units to be located above the garage/barn. New structure to be located on southerly boundary of the parcel, accessed separately from main residential dwelling.

**Discussion:**

Chairman Hall cautioned the Board that since no one was who is presently on this Board was seated on ZBA when the Use Variance for 63 Pond Meadow Road was granted, as presented by the applicant. She felt in the appeal before them tonight that the hardship is not because of the land. This is a self-created hardship. She stated that on paper it looks like an apartment building with commercial use.

Mr. Xenelis stated that he understands the reasons why the applicant is requesting this but none are related to hardships with the land. The property could stay intact if you added on to the primary house. There would not be any variances needed.

Mr. Neri noted that hardship has not been shown.

Mr. Alaimo stated that if the land was subdivided they would not have to come before this Board. The Board prefers a clear path to the hardship. One owner can own both properties and give easements to each other. This would keep the property intact. The Board does not know what the hardship was for the use variance for 63 Pond Meadow Road.

Mr. Xenelis is concerned about setting a precedence with two primary properties on one property.

Mr. Bech stated he felt this application could be approved with stipulations. He feels this is more for convenience, but not hardship with the land.

Mr. Neri stated that if you can put it on the back of the primary residence, there is no hardship. There is 10 acres of land.

Chairman Hall noted that that there has to be 75 feet from the property line to house animals.

Mr. Knapp stated you could have two primary use residences. If you subdivide, variances are not required. This is an accessory use of the overall farm because it is a unified farm purpose.

Mr. Xenelis stated that the primary function is to house equipment. The primary purpose is not for farming.

Mr. Alaimo said that in his opinion, you make a hardship based on the land and the regulations we have. They can accomplish what they need without the variances. You can claim a hardship on those regulations. Ms. Hall respectfully disagrees.

A MOTION made by V. Neri and seconded by D. Xenelis to DENY the application due to lack of hardship. During testimony there could be an opportunity to place the structures adjacent to

the house which would not require a variance. Ayes: V. Neri, B. Hall, D. Xenelis. Opposed: J. Bech and N. Alaimo. Vote was 3-2.

### **Minutes**

A motion made by D. Xenelis and seconded by J. Bech to accept the Public Hearing minutes from December 12, 2018 as amended.

Amendments:

18-21 Last sentence stated that no members of the public was present. Changed to say that no one spoke in opposition. Signature of clerk was also included.

A motion made by J. Bech and seconded by D. Xenelis to accept the Regular Meeting minutes from December 12, 2018 as amended.

December 12, 2018 Regular Meeting

Amendments:

Signature of clerk was also included.

### **Bills:**

Shore Publishing for November and December legal notices \$119.00

A motion made by J. Bech and seconded by M. Schneck the Westbrook Zoning Board of Appeals unanimously VOTED to approve payment to Shore Publishing

Clerk Meeting Billing for December 2018 and Ink Cartridge \$407.36

A motion made by J. Bech and seconded by D. Xenelis the Westbrook Zoning Board of Appeals unanimously VOTED to approve payment to M. Moskowitz in the amount of \$407.36.

### **Correspondence**

A welcome letter to Matt Schenck was discussed. The December Zoning minutes, January IWWC minutes, December IWWC minutes and the Rock fall Chronical was received.

Mr. Knapp discussed the application for 38 Uncas West #17-012. The Proposal was for a winterization of a building. They sides of the building were taken down because it was not structurally sound. The original flooring remained. Neighbors are complaining that this is a new structure. Mr. Knapp asked if this was different than the variance approved. Chairman Hall feels that the applicant does not need to come before ZBA again. Older homes may require sound structure. It is in the approved footprint. ZEO will require that amended plans be submitted. Mr. Xenelis and Mr. Bech agree that this does not require review by ZBA.

### **Any Other Business**

None

### **Adjournment**

A motion made by V. Neri and seconded by J. Bech to adjourn the meeting at 9:50pm until the next regularly scheduled meeting of the Zoning Board of Appeals which will be held on February 23, 2019 in the Mulvey Center, 866 Boston Post Road. The motion carried unanimously.

Respectfully Submitted,

Kelley Frazier, Recording Clerk