

TOWN OF WINCHENDON



Zoning Board

(978)-297-5419

Regular Meeting - March 17, 2021

Via Zoom - Meeting ID: 968 7620 6572 Passcode: 0523818

ZBA Members Present: Bryan Vaine, Cynthia Carvill, Richard 'Erik' Stancombe, Rob Bushay, Ray Benoit
Others Present: Alison Manugian, Glenn 'Skip' Hayward

Chairwoman Cynthia Carvill called the meeting to order at 7:11 pm following a motion to do so made by R. Bushey, seconded by R. Stancombe with all present voted aye via roll call vote.

Announcements & Public Comment

- Building Placement Flyer went out to educate citizens about sheds and placements – it is going out by mail in smaller bundles and mailing will continue
- Agricultural Update – working with the Building Commissioner to suggest updates to Zoning Bylaw in general. This will be part of that effort, which will go to the Planning Board ultimately when in person meetings resume. I will share the draft language for ZBA discussion when we are ready.

Correspondence Update

- In the packet is a summary of Town meetings and decisions for local communities. More info can be provided upon request.

Minutes

- **R. Benoit motioned to approve the minutes of February 17, 2021 as presented. R. Bushey seconded the motion and all present voted aye via roll call vote.**

Business:

PUBLIC HEARING (continued) to consider an application from Glenn Hayward to obtain variances from the 10' required side property line setback and the 20' required front property line setback to erect a shed at 215 Beachview Drive (Assessors Map-Lot 12-48).

Said property is located in a R40 – Suburban Residential district within the Lake Monomonac Overlay District.

R. Bushay motioned to reopen the hearing. R. Stancombe seconded and all voted aye via roll call.

- Glenn 'Skip' Hayward joined the meeting via phone. C. Carvill swore in the applicant to tell the truth for the hearing tonight and confirmed that there are no conflicts of interest among Board members.
- G. Hayward explained his situation to date. Prior to construction he spoke with the neighbor, who had no issues. A shed this size (8'x12') requires no building permit. During construction the Building Inspector stopped and confirmed that no permit was needed. He stated that the setbacks are a problem and that he saw no concerns with the general siting.
- R. Stancombe asked if this is the only viable location on site.
- G. Hayward stated it is.
- A. Manugian inquired about the parking parcel across the street that G. Hayward also owns.

- G. Hayward explained that that used to be a separate lot. They were combined many years ago for tax purposes and he'd like to build a home on that parcel in the future. He explained that he shed matches the existing home.
- C. Carville asked if the shed could be moved 5-10' further from the edge of pavement
- G. Hayward stated that there is a tree in the way
- Discussion ensued that the tree would need to be removed which would likely require a permit from Conservation
- G. Hayward indicated he would rather keep the tree than the shed if he has to choose
- C. Carville explained that the Board is in a difficult position – an after the fact request for variances the location currently and the site specifics make this difficult. Currently the exact location in reference to the property lines isn't exactly known; the shed is a couple of feet off the site property line and right on the edge of the roadway (10' side and 20' front setbacks are required)
- G. Hayward indicated that the doors are at least 5' off the pavement and that no one has complained about the shed or placement so there is no problem.
- C. Carville asked for Board thoughts and comments
- R. Bushay asked about the distance from the roadway – stating that the appearance is of less concern, but what if the plow does damage
- G. Hayward stated that the shed has been there all winter without issue and it's 5' off the pavement
- C. Carville explained the difference between the pavement width and the roadway width (32') and that the setback is required in addition to the roadway width.
- G. Hayward stated that the roadway is a problem and his shed isn't – he would like to hold the parcel across the street for future development. He acknowledged that the shed could be moved in the future if needed.
- C. Carville asked if the shed could be turned so the 12' side is parallel to the street, which would increase the setback
- G. Hayward explained that this would make the encroachment on the neighbor more and that the doors would need to be moved. He asked if there are plans for the road to be altered.
- R. Stancombe asked if the two lots in common ownership have been combined
- G. Hayward responded that they have – what was 2 quarter acre lots is now a single half acre lot.
- C. Carville stated that this is now a single building lot.
- G. Hayward stated they are not.
- R. Bushay is looking for a solution that everyone can work with even if it's not ideal for anyone
- G. Hayward stated that the shed is back further than other structures and that it's been painted to match his home. He wants a place to store his tools and to be a good neighbor. Moving the shed would require a trailer. No one has complained and there is no issue here
- A Manugian stated that there are two concerns – variance of the side setback and variance of the front setback
- C. Carville stated that there is a problem - the shed is too close to the neighbor and to the roadway and we're looking for a compromise
- G. Hayward reiterated that he doesn't want to remove the tree
- C. Carville asked if members are ready to close the public hearing and discuss as a board.
- R. Bushay returned to the idea of placing the shed across the street
- G. Hayward reiterated that the shed matches the house and they need to stay paired
- C. Carville asked if the shed could be shifted further from the side lot line and down toward the lake into part of the driveway
- G. Hayward explained it could not as he needs that space to get a vehicle down to the lake

- C. Carvill stated that there is a current problem and the Board is trying to seek compromise
- R. Benoit stated the danger of crossing the road with equipment
- A. Manugian outlined the discussion that she and the Building Inspector had on-site with G. Hayward during construction.
- C. Carvill understand the difficulty and that there are other sheds near the road. This is a nice looking shed that matches the house. Her biggest current concern is that the shed needs to be further from the road (ideally 10') and from the neighbor (ideally 5')
- G. Hayward stated he will move the shed if this is the final decision
- C. Carvill outlined that variances are needed anywhere that the shed is not 20' from the front property line and 10' from the side property line.
- G. Hayward asked if he can get variances as the shed is placed and he can only move it a foot or two.
- R. Stancombe agreed that the side setback is less concerning than the front with the roadway
- G. Hayward indicated that the tree shouldn't be impacted by the shed, and that he could turn the shed but would need to change the doors.
- C. Carvill stated that the consensus of the Board seems to be that the shed needs to be further from the property lines or moved entirely to a new location
- R. Bushay stated that he is still looking for a middle ground compromise
- C. Carvill clarified that the Board can approve the request, deny the request or modify the request and approve with conditions
- G. Hayward stated he would like a variance
- R. Stancombe asked about the exact variance distance being requested.
- A. Manugian stated that without a survey we don't really know – the application is worded requesting side setback variance to less than 10' and front setback variance to less than 20'
- C. Carvill asked if a survey could be done
- G. Hayward stated that he shed is made of wood from his sister's old deck and that money is tough. He's a small business owner and the last 10 years have been hard.
- C. Carvill stated her willingness to entertain a motion to close the public hearing and explained to the applicant what this means

R. Stancombe made a motion to close the hearing, R. Bushay seconded and all voted aye via roll call

- Each Board member stated their current opinion
 - R. Benoit – this is silly there is no issue here
 - R. Stancombe would like clarity if the shed is within the roadway or not
 - R. Benoit stated that it's now the Government's role to back down
 - R. Bushay expressed that there are concerns about him suing the town for damage. He asked why the ZBA exists if an owner can do anything they want
- C. Carville identified that the property meets the variance requirements –
 - Size is smaller than most
 - Two combined parcels is unique
 - Topography is unique
- R. Benoit clarified that the town won't be responsible in the future if there is damage to the shed
- C. Carville pointed out that there are no members of the public here to support or speak against
- R. Bushay indicated that he still wishes the applicant could compromise
- R. Benoit indicated that the doors opening onto a hill is problematic
- R. Stancombe indicated that this could be addressed with grading and the shed is in the roadway
- B. Vaine asked about a legal mechanism to protect the town from future claims

- C. Carville reiterated the difficult position – the applicant's situation is understood but the ZBA job is to uphold the zoning

R. Stancombe made a motion, given the unique characteristics of the parcel, to grant variances allowing the shed to be no closer than 3' from the side lot line and no closer than 5' from the roadway (not the edge of pavement). R. Benoit seconded the motion.

- Discussion ensued that this hard to enforce, a denial would mean the shed needs to be removed or relocated.
- R. Bushay pointed out that there are rules to meet and that this feels like it sets a precedent that others can violate the rules in the future
- R. Benoit opined that this would be difficult if this were a permanent structure.

R. Stancombe and R. Benoit agreed to amend the motion above to include a requirement that the applicant waive any legal responsibility of the town.

C. Carville asked for a vote on the motion on the table and all voted aye via roll call.

- G. Hayward stated he's a nice guy and happy to live in Winchendon and then left the meeting

R. Bushay motioned to adjourn the meeting. R. Benoit seconded and all approved via roll call vote.

The Chair adjourned the meeting at 8:21pm.

Respectfully submitted:



Alison Manugian - Planning and Conservation Agent