

Approved 9/19/18

TOWN OF WINCHENDON



Zoning Board of Appeals

297-5414

Telephone (978)

Zoning Board of Appeals Minutes May 3, 2017 2nd Floor Auditorium

Present: Chairman Cynthia Carvill, Vice Chairman Mary Chace, Ray Benoit, Richard Stancombe, Doneen Durling Secretary/Alternate.
Tracy Murphy planning Director
Bryan Day, applicant

Materials: Agenda May 3, 2017
Public Hearing Notice 35 Island Rd.
Denial letter from building inspector
Lot map of Island Rd.
Petition for modification
Petition for hearing
Letter of reason for variances
Build plan

Zoning Bylaws for review.

Call to Order; 7:05

Chairman Carvill called for a motion to open the public hearing for a special permit issued to Brian Day.

Chace moved to open the hearing/second by Benoit

Chace (Y) Stancombe (Y) Benoit (Y) Durling (Y) Carvill (Y)

Chace read the legal notice for the hearing on a request to modify the special permit 16-13 issued to Bryan Day of 35 Island Rd. for an addition more than 50% of the footprint as afforded by Article 6 section 2.3A for property located at 35 Island Road assessors Map M2 parcel 10 to hear an application for a variance from the

side and front setback dimensional requirements as outlines in Article 7.2 of the Winchendon Zoning Bylaw for construction of a garage. Property is located in an R40 zone, suburban residential.

The chairman asked if any board member had a conflict with hearing the appeal. Hearing there were none,
Bryan Day was sworn in to testify.

Day said that after the last variances approved by the ZBA, through the winter there were issues with the septic system. They were forced to have that repaired, and it was approved by the BOH and Conservation. In the process of doing that they were able to move the tank a little so they could put the garage where they wanted it built in the first place, which was attached directly to the house. By doing that they create a much smaller footprint. Before they were almost at 15% of the total lot size, and with the new plan would be down to 13.6%.

Carvill said the board was back to square one because it is a totally new modification. Day said before there was a setback from the road at 35 feet. The requirement was 50 feet. They were 4 ½ feet from the neighbor's driveway. With the new plan they would be 54 feet away from the road and 7 feet in from the abutting driveway.

The Chairman said the Days have been before the board twice before. She said the paperwork makes it seem more complicated than it really is. She read through the letter from the building inspector and said that he denied the modification this time because the submitted plot plan is 8.6 feet and 7.8 feet respectively representing the measurement along the side of the garage. Previously the board approved 4.5 feet. The front and rear setbacks conform, but the building dimensions indicate there is more than what is set for impervious limitations on the lot. It is limited to 15% and what is proposed would be in excess of 50%.

Carvill asked if the board missed the 15% versus the 50% in the last hearing.

Day said that the addition is 50% of the existing structure. The 15% means the total footprint has to be less than 15% of the total lot. I'm at 13.6% now. Before we were at 14.9%

Carvill said she was confused about the building inspector's wording in the letter.

Benoit said it looked as though the building inspector was denying it because it has violations. He said the board would have to decide on something the building inspector had no power to approve.

Chace said 1,956 square feet is what is being covered. The total structure is not 13.6% of the whole lot size. The house and garage are being calculated together.

Carvill said that in other words Day is increasing lot coverage by 13.6%

Benoit said no, the total lot coverage would be 13.6%.

Day agreed.

Chace said he would only be increasing coverage by 5.4%. The whole thing would be 13.6% of the total lot.

Carvill said that was under the 15%, but the garage is 450% of the existing structure, plus he would need a side setback.

Day said the 54 Ft. setback is from the front of the garage to the road. He said that from the lake it was well over 100 feet.

Stancombe asked if at a prior meeting it was approved for a side setback.

Day said yes, for 4 ½ feet. Now they are back to 7 feet.

Benoit said it was approved, but since there was a change, the approval does not matter. Maps were viewed.

Day said it was condensed from the previous plan. Less of an impact. Even more conforming.

Carvill asked if there were questions for the applicant. Hearing none, she said that with variances, things that needed consideration were the size, shape, and topography of the lot, whether it is in harmony with the neighborhood, and whether it is a unique situation in the zoning district overall. She said it had been discussed previously, and nothing has changed about the lot. She said it definitely was unique in shape, long and slender, sloping down to the lake. She said there was no impact on the neighbors. She noted there were no abutters present.

Stancombe asked if Day had approached any of the neighbors.

Day said it was the third time he has appeared for this particular modification.

Carvill said all the neighbors received mailings telling them there was an appeal. There were no return correspondence from neighbors.

She called for a motion to close the hearing.

Benoit moved to close/Chace second

Chace (Y) Stancombe (Y) Benoit (Y) Durling (Y) Carvill (Y)

The Chairman asked if there was enough information to take a vote.

The chairman noted the modification of the special permit was for more than 50%, and the variance was for the setback of the garage.

Chace moved to grant the special permit and zoning variance to Bryan Day at 35 Island Rd. according to plans submitted to the Town of Winchendon/ Second by Benoit

Chace (Y) Stancombe (Y) Benoit (Y) Durling (Y) Carvill (Y)

Carvill noted the variance goes to the property while a special permit goes to the applicant. She said the board found that the plans for the existing structure covered more than 50% of the footprint for the lot, so the changes consist of the reconfiguration of the garage in the lot. The previous decision proposed a 76% increase of the footprint. The second modification requested 84%. We are now down to 66%. So we are good. Those numbers match up with the information we have. We also discussed the fact that the modification is keeping with the existing characteristics and harmony of the neighborhood and does not substantially derogate from the intent of the zoning district. There were no objections.

Tracy Murphy asked if there were any conditions.

The chairman told her it was just a finding. She there were standard conditions, nothing extenuating. Build per plan submitted. Must meet requirements of the town.

Murphy said she just wanted that stated in the public meeting. She said when the draft was presented, standard conditions would be included.
Carvill said there would be no added conditions to surprise anybody.

ZONING UPDATE

Murphy asked if the board would like to sign a signature page and avoid coming to sign later.
Carvill said she would rather sign the full decision. The rest of the board agreed.
Murphy said she would respect that.
Carvill said the last decision was one the board needed to be careful on because there were so many numbers.

Murphy came to talk about the zoning update proposed. She said the office made each member a zoning bylaw revision book. She said the planning board is embarking on doing zoning revisions. They would like input from the ZBA. She said the ZBA enforces things and knows the purpose and intent of the bylaw. She said it would take all summer and fall. She said the hope is to have revisions on the spring town warrant. Her hope was to have a couple of joint meetings between the ZBA and Planning. They have applied for a grant the Montachusett Regional Planning to look at zoning. The MRPC focus will be on commercial zoning. She said there are plenty of other areas to be looked at. Murphy said the ZBA should be seeing special permits but not a lot of variances. She noted there is scrap paper in between sections in each notebook handed to the board. She said they are the board's to write on and take notes. She said they are looking for comprehensive zoning revision.

Murphy talked about rezoning areas that are currently inaccessible as industrial property since the railway disappeared. Things change, and it is time to revisit it. Key is existing use.

Carvill said there is a concern for housing.

Chace said Lake Monomonac is where 98% of the variances come from.

They spoke of lake-overlay districts.

Murphy said definitions are a huge problem. Definitions are subjective.

MEETING DISCUSSION

Murphy asked if the board only wished to meet once a month.

Benoit said that Chantelle prepares as if there are two meetings a month. He said he only wants to get notification when there is a hearing.

Carvill said there could possibly be a meeting on the first or third Wednesday if there is a need, but it is not a "scheduled" meeting.

Murphy agreed that when the notice for a hearing is sent to the newspapers, members of the board would also receive the notice and prepare accordingly. The first and third would be considered the traditional meeting.

Murphy said she would get badges.

Carvill said she was the only one with a badge.

MINUTES MARCH 15, 2017

The board reviewed said it was okay.

Stancombe said there was a misprint of footage at 220 feet. Corrected to 200 (Page 5).

Chace moved to approve with the changes/second by Benoit.

Chace (Y) Stancombe (A) Benoit (Y) Durling (Y) Carvill (Y)

Chace moved to adjourn/second by Stancombe

Chace (Y) Stancombe (Y) Benoit (Y) Durling (Y) Carvill (Y)

ADJOURNED: 8:03