

**ZONING BOARD OF APPEALS
REGULAR MEETING – MINUTES
AUGUST 27, 2013 –7:00PM
NEW HARTFORD TOWN HALL- 530 MAIN STREET**

PRESENT: Chairman Mary Lou Rayno, Bert Brander, Scott Goff, Paul Griffin; Alternates Lew Chappel and John Wilhelm; Zoning Enforcement Officer Rista Malanca, CZEO.

ABSENT: John Rouleau.

Chairman Mary Lou Rayno called the meeting to order at 7:00PM. Mr. Brander arrived to the meeting at 7:45PM. The entire proceedings were recorded digitally and are available in the Town Hall.

1. PUBLIC HEARINGS CONTINUED:

A. Eric Budney, 634 West Hill Road – Special Exceptions per New Hartford Zoning Regulations Article 7, Section 7.1C for 0.27 Floor Area Ratio and per Article 7, Section 7.1B to Increase Size of Nonconforming Structure.

Ms. Rayno noted for the record that she, Mr. Goff, Mr. Griffin, and Mr. Wilhelm were the only Board members present who had been present or listened to the recording of the June 25, 2013 public hearing. Mr. Brander had listened to the recording of the June 25th public hearing; however, he was not yet present. As Mr. Budney had expressed a desire at the original public hearing for 5 members of the Board to be present and participate in voting on this matter, the Board needed one more member to be present. She stated that she expected Mr. Brander to attend the meeting, and the Board agreed to table this matter until Mr. Brander's arrival.

2. PUBLIC HEARINGS:

Ms. Rayno read into the record the legal notice for both public hearings.

A. Steven Florio, 146 Camp Workcoeman Road – Special Exception per Article 7, Section 7.1C of the New Hartford Zoning Regulations for 0.12 Floor Area Ratio to Demolish and Rebuild Single Family Dwelling & Garage.

Thomas Beecher, attorney for the applicant, addressed the Board explaining that the applicant's engineer had not yet arrived to the meeting. The Board then agreed to table this matter until the arrival of the applicant's engineer.

B. Wesley & Barbara Marsh, 624 Niles Road – Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations to Increase Size of Nonconforming Structure (Construct Garage/Breezeway Addition within the Front Yard Setback).

Ms. Rayno verified that proof of notice to abutting neighbors was present in the file. Wesley Marsh then addressed the Board regarding this matter. Mr. Marsh explained that he wanted to build a garage and mudroom/breezeway addition, and he reviewed with the Board his site plan. He stated that his existing house was located within the front yard setback, and the proposed garage and breezeway would be located 53 feet from the road. Mr. Marsh then distributed pictures of other homes in his neighborhood which were also located within the front yard setback. He stated that they had chosen to build the addition on an area of their property that they believed was least obtrusive and would cause the least disturbance to their neighbors. The Board then reviewed sketches of the proposed addition that were included in the file for this application. Mr. Marsh explained that they planned to use the exact same siding on the addition as they had used on the house.

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Ms. Malanca questioned how large the property was, and Mr. Marsh stated that it was 6.14 acres. Mr. Griffin asked whether the addition would have an attic, and Mr. Marsh explained that it would have a storage area. He explained that the garage would be attached to the house via a 10-foot wide breezeway. Ms. Malanca informed the Board that the house was 36 feet high, and the proposed garage would be 32 feet high; the garage was therefore 4 feet smaller than the house. Mr. Goff questioned whether Farmington Valley Health District approval had been obtained, and Mr. Marsh responded affirmatively. Ms. Malanca stated that there were no wetlands or watercourses near the area proposed, so no Inland Wetlands permits were needed. She also noted that the garage was one foot further back from the road than the house. Ms. Malanca also stated that, if this application was approved, an as-built plan would be necessary once the foundation was poured.

Ms. Rayno opened the floor to public comment; however, no one present expressed a desire to speak.

MOTION Mr. Chappel, second Mr. Griffin, to close the public hearing in the matter of **Wesley & Barbara Marsh, 624 Niles Road – Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations to Increase Size of Nonconforming Structure (Construct Garage/Breezeway Addition within the Front Yard Setback)**; unanimously approved.

MOTION Mr. Chappel, second Mr. Griffin, to amend the agenda to discuss item 3C first and then return to items 1A and 2A; unanimously approved.

3. PENDING APPLICATIONS:

C. Wesley & Barbara Marsh, 624 Niles Road – Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations to Increase Size of Nonconforming Structure (Construct Garage/Breezeway Addition within the Front Yard Setback).

Mr. Goff stated that he believed the proposed addition would be in character with the neighborhood. Several members of the Board concurred.

MOTION Mr. Griffin, second Mr. Chappel, to approve the application in the matter of **Wesley & Barbara Marsh, 624 Niles Road – Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations to Increase Size of Nonconforming Structure (Construct Garage/Breezeway Addition within the Front Yard Setback)** as per all oral and written testimony with the condition that an As-Built Survey must be submitted to the Land Use Office once the foundation is installed in order to show compliance with the plans submitted; unanimously approved.

As Mr. Brander had not yet arrived to the meeting, the Board and the applicant agreed to table discussion of item 1A. The Board then continued on to item 2A.

2. PUBLIC HEARINGS:

A. Steven Florio, 146 Camp Workcoeman Road – Special Exception per Article 7, Section 7.1C of the New Hartford Zoning Regulations for 0.12 Floor Area Ratio to Demolish and Rebuild Single Family Dwelling & Garage.

Noting the arrival of the applicant's engineer, the Board agreed to proceed on this matter. Thomas Beecher, attorney for the applicant, addressed the Board and submitted proof of

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notice to abutting neighbors. Mr. Beecher stated that he was also the abutting neighbor on the west side. He explained that the existing cottage onsite was constructed in the 1920s, and it only had an outhouse. He explained that Mr. Florio wished to tear down this cottage and replace it with a single-story ranch-style home with walkout basement and septic system. Mr. Beecher stated that the lot was 0.7 acres, and the proposed new home met all zoning requirements except for Floor Area Ratio. Mr. Beecher then reviewed with the Board the floor area of each area of the proposed home, explaining that the total would be 3447 square feet with a floor area ratio of 12%, which was only 2% over that which was required in Section 3.4D of the Zoning Regulations.

David Whitney, PE, engineer for the applicant, next addressed the Board. Mr. Whitney reviewed with the Board the maps and plans for this proposal. He explained that the lot was located across the street from the Camp Workcoeman parking lot; the abutting property on the eastern side was also owner by the Connecticut Rivers Council of the Boy Scouts and was used for drainage of the Camp Workcoeman parking lot. Mr. Whitney explained that the existing house was nonconforming as it was located within the eastern side yard setback. This existing house, the separate garage structure, and the existing outhouse would be demolished as a part of this project. A septic tank and pump-up system would be constructed with leaching fields at the front of the property; the leaching fields would be located approximately 200 feet from the lake. Mr. Whitney stated that the Farmington Valley Health District (FVHD) had approved a 3-bedroom septic system for this property.

Mr. Whitney then explained that a grass drainage swale was proposed along each side of the property, and a raingarden was planned at the eastern side of the property approximately 55 feet from the lake; water from roof leaders would drain into the raingarden. He then briefly reviewed the sedimentation and erosion control measures for this project. He also explained that the proposed basement/cellar of the proposed structure was four feet above the 100-year flood line. Mr. Whitney stated that both the Town's engineering and planning consultants had reviewed the project and recommended approval. He then informed the Board that the maps and plans for the proposed project had been submitted to the Connecticut Rivers Council, owners of the Camp Workcoeman property abutting Mr. Florio's lot. Steven Smith, Scout Executive, had written a letter dated March 27, 2013 stating that they had reviewed the application and had no issues with Mr. Florio's proposal; a copy of the letter was in the file for Mr. Florio's Inland Wetlands application and approval. Mr. Beecher then stated that, as an abutting neighbor, he had no objection to this proposal. He also stated that he had spoken with Peter Mangin and Lynn Festa, owners of nearby properties, and they had no objections to the project.

Ms. Rayno asked where the well for the house was located, and Mr. Whitney reviewed the plans with Board. He pointed out that they had ensured that their proposal did not adversely impact any existing or proposed well or septic locations for any of the adjacent property owners. Mr. Goff questioned where the septic reserve area was located, and Mr. Whitney explained that none was required by the FVHD as this was considered a repair of an existing system. Mr. Goff then questioned whether any other nonconforming structures were located on the lot, noting a shed located within the setback area on the southwest side of the property. Mr. Whitney stated that this was going to be removed in order to make from for the septic tank.

Mr. Beecher again addressed the Board to explain that there were 20 homes on Camp Workcoeman Road, and he detailed the square footage and number of stories of several of these properties. All of the houses mentioned by Mr. Beecher had higher total square

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footage than Mr. Florio's, and all appeared to be 2-1/2 to 3-1/2 stories when viewed from the lake. The house proposed by Mr. Florio had only one story with a walkout basement; there would be no second story or high attic. When viewed from the road, the house would appear to blend in with the slope of the lot. As the house proposed by Mr. Florio was a smaller total square footage, and his home had fewer stories, Mr. Beecher asserted that Mr. Florio's proposal was in character with the neighborhood. He then reviewed with the Board the architectural drawings for the proposed house. Mr. Beecher stated that there would be no attic storage, only trusses.

Hearing no further comments or questions from the Board, Ms. Rayno opened the floor to public comment. No one present expressed a desire to speak.

Mr. Goff then questioned the size of the existing structure. Mr. Whitney stated that it was 22' by 34'. The Board then reviewed pictures of the existing house. Ms. Malanca stated that she had done a site walk, and she believed that the application was complete and the project was appropriate for the site.

MOTION Mr. Griffin, second Mr. Wilhelm, to close the public hearing in the matter of **Steven Florio, 146 Camp Workcoeman Road – Special Exception per Article 7, Section 7.1C of the New Hartford Zoning Regulations for 0.12 Floor Area Ratio to Demolish and Rebuild Single Family Dwelling & Garage**; unanimously approved.

MOTION Mr. Chappel, second Mr. Griffin, to amend the agenda to discuss item 3B first and then return to item 1A; unanimously approved.

3. PENDING APPLICATIONS:

B. Steven Florio, 146 Camp Workcoeman Road – Special Exception per Article 7, Section 7.1C of the New Hartford Zoning Regulations for 0.12 Floor Area Ratio to Demolish and Rebuild Single Family Dwelling & Garage.

Mr. Goff stated that he believed the application was complete, and the proposal appeared to be in character with the neighborhood. Several members of the Board concurred.

MOTION Mr. Griffin, second Mr. Goff, to approve the application in the matter of **Steven Florio, 146 Camp Workcoeman Road – Special Exception per Article 7, Section 7.1C of the New Hartford Zoning Regulations for 0.12 Floor Area Ratio to Demolish and Rebuild Single Family Dwelling & Garage** as per all oral and written testimony; unanimously approved.

The Board took a brief recess at this time and reconvened at 7:45PM, at which time Mr. Brander entered the meeting and was seated for the remainder of the evening.

1. PUBLIC HEARINGS CONTINUED:

A. Eric Budney, 634 West Hill Road – Special Exceptions per New Hartford Zoning Regulations Article 7, Section 7.1C for 0.27 Floor Area Ratio and per Article 7, Section 7.1B to Increase Size of Nonconforming Structure.

Ms. Rayno stated for the record that she, Mr. Brander, Mr. Goff, Mr. Griffin, and Mr. Wilhelm would be seated for this application. Mr. Brander stated that he had listened to the recording of this public hearing. He also declared that he was very familiar with the property in question as he had friends who had owned adjacent property approximately 20 years ago. Ms. Malanca questioned whether Mr. Brander felt that he would be able to act impartially on this matter, and Mr. Brander responded affirmatively.

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Richard Calkins, PE, addressed the Board regarding this matter and submitted revised plans. He stated that as of the last public hearing date, the only item outstanding was Farmington Valley Health District (FVHD) approval; he stated that they had since obtained this approval and it was present in the file. Mr. Calkins explained that they had obtained two approvals from FVHD; one was for the system affiliated with the house currently under consideration by the Board, and the other was an approval for a reserve system for the other house on the lot in the event its current system ever failed. He explained that this reserve system would include a tank near the house closest to the road as well as an extra row of galleys; the system would be gravity-fed.

Mr. Budney then reviewed with the Board pictures of other houses around the lake, including some that were near his property. He also with the Board reviewed sketches of the proposed house from various angles. Mr. Budney explained that the new house would be 6-7 feet higher than the current house due only to requirements of the current Building Code. Ms. Malanca explained to the Board that Mr. Budney's proposed house would be located on the exact same footprint as his current house; the special exceptions were required due to the increase in height for the proposed structure and for the increase in floor area ratio. Ms. Rayno questioned how tall the current structure was in comparison to the new proposed. Ms. Malanca explained that the current structure was 17.7 feet high, and the proposed structure would be 24.7 feet high. Mr. Griffin questioned what the new floor area ratio would be, and Ms. Malanca explained that it would be 27%. She explained that as this was an 11,000 square foot lot, it was permitted 15% FAR by Zoning Permit under the Zoning Regulations; the lot could be permitted up to 30% by special exception.

Ms. Malanca stated that both the Town's engineering and planning consultants had indicated all their concerns were satisfactorily addressed, and they now recommended approval. She noted that the applicant had incorporated several low-impact development techniques into the plans for the new house. Mr. Budney reminded the Board that three of his abutting neighbors had submitted a letter at the previous public hearing expressing their support for this proposal. Mr. Brander questioned whether FVHD had given their approval of the reserve system with any sort of time limits; Mr. Calkins responded negatively. He stated that the FVHD had treated this application as a septic system repair. Ms. Malanca noted that the reserve septic system approval showed the Board that there was room onsite to replace the system for the other house if it ever became necessary.

Ms. Rayno opened the floor to public comment; however, no one present expressed a desire to speak. Hearing no further comments or questions:

MOTION Mr. Griffin, second Mr. Brander, to close the public hearing in the matter of **Eric Budney, 634 West Hill Road – Special Exceptions per New Hartford Zoning Regulations Article 7, Section 7.1C for 0.27 Floor Area Ratio and per Article 7, Section 7.1B to Increase Size of Nonconforming Structure**; unanimously approved.

3. PENDING APPLICATIONS:

A. **Eric Budney, 634 West Hill Road – Special Exceptions per New Hartford Zoning Regulations Article 7, Section 7.1C for 0.27 Floor Area Ratio and per Article 7, Section 7.1B to Increase Size of Nonconforming Structure.**

Mr. Brander observed that the proposed new house was modestly sized, and the proposed septic system was an improvement over the current one. Mr. Griffin concurred, stating that the engineer had done a good job in this design.

MOTION Mr. Griffin, second Mr. Brander, to approve the application in the matter of **Eric Budney, 634 West Hill Road – Special Exceptions per New Hartford Zoning Regulations Article 7, Section 7.1C for 0.27 Floor Area Ratio and per Article 7, Section 7.1B to Increase Size of Nonconforming Structure** as per all oral and written testimony; unanimously approved.

4. READING OF THE MINUTES:

A. July 23, 2013 regular meeting.

MOTION Mr. Griffin, second Mr. Wilhelm, to approve the minutes of the July 23, 2013 regular meeting as written; unanimously approved.

5. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

A. Discussion of Septic System Repairs and Approvals in regard to Applications for Properties around West Hill Pond.

Mr. Goff expressed concern regarding the process by which the Farmington Valley Health District reviewed septic system proposals around West Hill Pond. He asserted that many of the applications the Board reviewed included septic systems that were essentially new as they were replacing outhouses and cesspools, yet they were being treated as septic system repairs by the Farmington Valley Health District. Since these systems were considered repairs, no reserve areas were required. Mr. Goff expressed concern that this created a large loophole that may eventually impact water quality at West Hill Pond. Mr. Brander noted that the regulations guiding septic systems were issued by the State; they were only implemented by the Farmington Valley Health District. Mr. Griffin asserted that the Board was limited to review of applications within the confines of the special exception criteria contained in the Zoning Regulations.

Ms. Malanca stated that she could speak with her contact at the Farmington Valley Health District as well as the Board's attorney, in order to find out what if anything the Board could do to address their concerns while complying with all applicable State laws. Ms. Malanca explained that, in order to deny an application, the Board would need to have specific information from a professional such as an engineer or scientist that an applicant's proposal would cause harm to West Hill Pond.

MOTION Mr. Chappel, second Mr. Griffin, to adjourn at 8:15PM; unanimously approved.

Respectfully submitted,

Stacey M. Sefcik
Board Clerk