

**New Hartford Zoning Board of Appeals
TOWN OF NEW HARTFORD, CONNECTICUT
REGULAR MEETING MINUTES
Wednesday, August 16, 2017 at 7:00 PM
New Hartford Town Hall
530 Main Street, New Hartford, Connecticut**

PRESENT: Chairman Mary Lou Rayno, Bert Brander, Lew Chappel, Paul Griffin, Scott Goff, Alternate Members Keith Schaufler and John Wilhelm; and Zoning Enforcement Officer Ruth Mulcahy.

ABSENT: John Rouleau.

Chairman Mary Lou Rayno called the meeting to order at 7:00PM.

1. PUBLIC HEARINGS:

A. Klaus Gorski/Applicant – Klaus J. & Carol J. Gorski/Owners – Map 023 – Block 034 – Lot 007 – 98 Bruning Road – Variance – Build a 3 Car Garage (32'x20') on the Front Corner of Property. (cont.)

It was noted that this application had been continued from the June 21, 2017 meeting. Klaus Gorski appeared before the Board regarding this application.

Mr. Gorski explained his need for a variance, noting that his hardship involves the terrain of the site. Specifically, he pointed to the limitations of development imposed through a brook bisecting the site as well as the presences of wetlands. He noted the support received from his neighbors regarding his proposal.

Ms. Rayno questioned the other structures. Mr. Gorski explained that one is an antique car with a canopy over it and that the other is a wood shed that has been there for thirty-five years. Ms. Rayno questioned whether there were for permits for these. Mr. Gorski explained that years ago he was unaware of needing one. Ms. Rayno questioned whether the proposed garage could be located up further from the proposed location. Mr. Gorski explained how steep it is behind his house. Ms. Rayno explained she was referring to the location of the two outbuildings. Mr. Gorski indicated that one was the reserve area for the septic system and then also noted the location of the existing septic system. Mr. Brander observed that the survey included with the application did not include topography indicators.

It was noted that Mr. Gorski needed a sixty-four (64') foot variance. Mr. Gorski noted that back when he constructed his home, front-yard setbacks were, at that time, fifty (50') feet whereas the current Zoning Regulations require a front-yard setback of one-hundred (100') feet.

Observing an alternative location that the proposed building could be constructed, Mr. Goff questioned why Mr. Gorski would not locate it in that fairly level spot, thereby meeting the setback requirements. Mr. Gorski noted that there is a hedgerow, serving as a buffer between his and his neighbors' property that would need to be removed.

Mr. Gorski explained that the drawing does not show the steepness of the property. Mr. Brander questioned whether he had any photographs with him. Mr. Gorski explained that he had not brought photographs as Ms. Rayno and Mr. Goff had already personally seen the property. Mr. Brander questioned whether the applicant would like additional time to return with a topo map or any photographs of the site.

The hearing was open to the public for comment.

Donna LaPlante of 77 Stedman Road spoke in favor of the application, opining that the one-hundred (100') foot setbacks are difficult for homeowners with existing houses. She noted that buffers should not just be considered important with commercial development but with residential development, too. Ms. LaPlante reported that her review of the Inland Wetlands Commission Minutes revealed that board felt that the proposed location was the only location the garage could be constructed.

Zoning Enforcement Officer/Wetlands Agent Ruth Mulcahy explained that this application is an after-the-fact application, because trees had been put down and a foundation had been laid in. Ms. Mulcahy noted that the IWC had based their finding given that there is also a pond on the other side of the brook.

MOTION: Mr. Griffin, Mr. Brander second, to close the public hearing in the matter of Klaus Gorski/Applicant – Klaus J. & Carol J. Gorski/Owners – Map 023 – Block 034 – Lot 007 – 98 Bruning Road – Variance – Build a 3 Car Garage (32'x20') on the Front Corner of Property; unanimously approved.

B. Martin F. & Roberta R. Seifert – Map 04A – Block 112 – Lot 037A_38, 704 West Hill Road – Variance – Setback from Lake – Special Exception – Addition to Non-conforming Dwelling.

Ms. Rayno read the legal notice into the record, reporting that it had been published the requisite two times, August 4, 2017 and August 11, 2017, in The Hartford Courant. Ms. Rayno explained that initial discussion would be centered around the Variance request followed by a discussion on the Special Exception request.

Martin Seifert, accompanied by Tom Grimaldi, Project Engineer, for R.R. Hiltbrand, appeared before the Board regarding this application. Mr. Seifert provided a history behind the design and engineering of his proposed development as well as the goals important to his wife and him. He noted that a message had been sent from Inland Wetlands Commissioner Steve Unger that IWC Chairman Jamie Hall considers the design the new gold standard.

Mr. Seifert explained that the hardship inherent with this property is the steepness of the site, with a drop of more than fifty (50') feet from the road to the lake. Additionally, he explained that the new Regulations result in much of the structure considered as legally non-conforming.

Mr. Seifert noted that a chart had been included to reflect the elevation change, noting that the lower house does not meet the elevation of West Hill Road. He pointed out that one existing home has 2,419 square feet of live-able space and that the proposal to replace that dwelling has been designed containing 2,465 square feet. Mr. Seifert reported that the existing guest house has 1,104 square feet and that his architect has designed a hobby shop with a basement, containing 1,111 square feet to replace that dwelling.

In reviewing the proposed new driveway, Mr. Seifert explained that his architect has agreed to sign off on the radius containing a 30' radius. He noted that the upper house cannot go further up the hill in order to avoid an encroachment on his well and the wells of his neighbors. Mr. Seifert also noted that his perc field has been moved up to the top. Mr. Seifert explained that the tank was squeezed in nearer the bottom of the slope but reported that every point across the lot line will need to be surveyed during construction.

Mr. Seifert explained that the main dwelling is just over forty (40') feet from the water. Noting that there are multiple reasons why that proposed main dwelling will not meet the required seventy-five (75') foot setback from the lake, Mr. Seifert explained that they would like to shift it back from the lake only sixty-two (62') feet. Mr. Seifert explained that the Unger property located on one side, with three tiered decks, overlooks his home. He noted that they are seeking to tip the bedroom in order to allow privacy. Mr. Seifert noted that they are aware that Section 8.2a of the Zoning Regulations would allow them to remodel the house and stay in the exact same footprint of the current home. He noted that this would also result in the home remaining at forty-two (42') feet from the lake rather than sixty-two (62') feet, and would therefore not meet the seventy-five (75') foot setback neither.

Ms. Rayno questioned what the closest point of the proposed house would be to the lake. Mr. Grimaldi explained that the applicants retained Land Surveyor David Little to provide the highwater mark of the lake. Mr. Grimaldi reported that the closest part of the structure to the lake is 55.5 feet, which is the deck. Referring to aerial photographs provided by the applicant, Mr. Brander questioned whether the footprint is the same. Mr. Seifert explained that the garage is entirely out of the overlay district. Mr. Brander questioned whether the drawings have been changed since they were originally submitted. Mr. Seifert confirmed, noting that there has been as much area squeezed between the proposed dwellings and the highwater mark.

Mr. Chappel questioned what exactly the applicants are seeking. Mr. Grimaldi noted the applicants are seeking a variance of 19.5 feet. Mr. Brander questioned whether the possibility existed to move any of the buildings around. Mr. Seifert confirmed that they could, having it appear like Lombard Street in San Francisco but that they did not want to add more paving, did not want to add more runoff to the lake and did not want to add to the steepness of the driveway. Mr. Seifert opined that this would hurt the lake more than what is being proposed. Mr. Brander noted that there was no engineer that has substantiated that. Mr. Seifert maintained that if the development gets pushed up towards the road, they have the problem with the radius of the driveway that gets further compounded and/or the driveway gets steeper. Mr. Chappel questioned whether it was the design of the house that lends this to be the only location. Mr. Seifert noted that it was the wisest compromise possible and that they spent an enormous amount of money trading that off. Mr. Chapel questioned whether the site currently has garages. Mr. Seifert noted that there are not. Mr. Chapel questioned whether the proposal included four garages with two at each dwelling. Mr. Seifert explained that while most new development in this area would include three-car garages, they are proposing only two-car garages at each building. Mr. Chapel explained that his point is that by including these four garages, it takes up space which thereby push the development towards the lake.

Noting that he has viewed the site, Mr. Schaufler questioned the slope, drop in grade, from the road to the lake. Mr. Seifert noted that West Hill Road is at 130' and the lake is at 78.5'. Mr. Goff questioned whether the variance is needed to make the driveway radius work. Mr. Seifert agreed, noting that the driveway otherwise would be much longer or much steeper which would result in environmental impacts. Mr. Goff questioned whether if the garage was eliminated on the principal dwelling the applicants would be able to comply with the seventy-five (75') foot setback. Mr. Seifert agreed, but explained that the question would then become whether someone would then invest the type of money necessary for a retirement home. Mr. Goff noted that there would still be a garage on site on the other structure. Mr. Seifert noted that there are two houses though and what is common in this town is at least a two-car garage and for this value would typically be a three-car garage. Mr. Seifert noted that there is a greenhouse as well as other structures that they are proposing to remove.

Mr. Grimaldi addressed the challenges posed with access to the proposed garage on the smaller dwelling. Mr. Goff noted that one would be able to back in the garage. Mr. Grimaldi confirmed.

Mr. Grimaldi reviewed putting the driveway and access on the other side of the frontage of the property. He noted that it would be steeper on the other side and wouldn't be able to meet the grade requirements of the driveway ordinance. Mr. Goff questioned whether the radius could be made if access to the garage on the second dwelling was gained from the lakeside. Mr. Grimaldi explained that it would necessitate cars coming very close to the front door of the primary dwelling. Mr. Goff questioned whether if the garage on the primary dwelling was eliminated on the primary dwelling and the garage on the secondary dwelling was increased, if it would result in the site being more compliant with the Zoning Regulations. Mr. Grimaldi noted that it might be possible but he would want to be sure that it does not increase the runoff. Mr. Seifert questioned why it would be suggested to take the driveway further downhill. Mr. Goff explained that the intention would be to get the building in compliance. Mr. Seifert noted that this would increase the impact on the lake, with more paving into the wetlands whereas the current design has the paving outside of the wetlands.

Mr. Brander explained that the Board is questioning whether there are alternatives. Mr. Seifert indicated that there are many alternatives.

Mr. Goff questioned whether the wetlands are delineated on the plans. Mr. Grimaldi explained that the wetlands are the lake itself, and that the one-hundred (100') foot upland review area are marked. It was noted that the alternative as proposed by Mr. Goff would not bring the driveway into the upland review area. Mr. Grimaldi agreed.

Referring to the intention of the Overlay Protection regulation, Mr. Grimaldi questioned whether the Board wouldn't rather keep running surfaces for pavement, potential oil and other similar things, further from the lake. He noted that with a roof structure and low-impact development, as part of the current design, are really considered clean water. He noted the location of pervious paver patio. Mr. Chapel noted that the same question could be asked in terms of why not build the whole building further back and eliminate the impact altogether.

Ms. Mulcahy noted that the applicants would need to also appear before this Board for a total tear-down even if the proposed re-development was confined to the exact same footprint.

The hearing was open for public comment.

Michael Bernstein of 698 West Hill Road indicating that he is the southernmost neighbor to the applicant spoke in favor of the application. He noted that the applicants have reviewed with him every alternative with respect to the impacts to his own home, the Unger home, and the lake.

Donna LaPlante of 77 Steadman Road spoke in favor of the application, opining that it is unrealistic to expect a new home to be built without an attached garage. She noted that in light of the neighbors' support of the application and the intent of the regulation to protect the lake, the Board should approve the application.

MOTION: Mr. Chappel, Mr. Goff second, to close the public hearing with respect to the Variance portion of the application in the matter of Martin F. & Roberta R. Seifert – Map 04A – Block 112 – Lot 037A_38, 704 West Hill Road – Variance – Setback from Lake – Special Exception – Addition to Non-conforming Dwelling; unanimously approved.

The hearing continued with discussion regarding the Special Exception portion of the application. Mr. Seifert explained that the existing floor area ratio coverage is 11.9% but that approval is being sought for 17.2%, necessitated through the inclusion of the garage.

Mr. Chappel questioned the overall increase in square footage. It was noted to be going from 4,892 square feet to 7,041 square feet. Mr. Brander questioned whether the decks are included as part of the floor area ratio. Ms. Mulcahy indicated that they are not.

Michael Bernstein of 698 West Hill spoke in favor of the two garages.

MOTION: Mr. Griffin, Mr. Chapell second, to close the public hearing in the Special Exception portion of the application in the matter of Martin F. & Roberta R. Seifert – Map 04A – Block 112 – Lot 037A_38, 704 West Hill Road – Variance – Setback from Lake – Special Exception – Addition to Non-conforming Dwelling; unanimously approved.

C. Robin Cunningham/Applicant – Robin A. & Wells C. Jr. Cunningham – Map 014 – Block 021 – Lot 005, 39 Maple Hollow Road – Special Exception – Addition to non-conforming Dwelling.

Ms. Rayno read the legal notice into the record, reporting that it had been published the requisite two times, August 4, 2017 and August 11, 2017 in The Hartford Courant. Proof of notice of this application to the abutting neighbors was confirmed as having been received.

Robin Cunningham appeared before the Board regarding this application. She explained that her home was built in 1850 and drops off very steeply in the back towards the Bakerville Brook. Ms. Cunningham explained that at some point in the home's history, an addition that functions as their living room had been added but that there are two beams serving for support. The applicant explained that she was seeking to install a bay-window which would jut out 2.5 feet towards the frontyard to allow more room for their dining. Additionally, she noted that they were seeking a little overhang for the door that they use as their access way into the home.

Mr. Goff confirmed that this is not a teardown but is merely a remodel. Ms. Cunningham confirmed. Ms. Rayno questioned a shed on the property. Ms. Cunningham confirmed, noting that it was installed without understanding the need for a zoning permit and indicated that it is their intention to remove it.

Mr. Seifert and Ms. LaPlante both spoke in support of this application.

MOTION: Mr. Brander, Mr. Chappel second, to close the public hearing in the matter of Robin Cunningham/Applicant – Robin A. & Wells C. Jr. Cunningham – Map 014 – Block 021 – Lot 005, 39 Maple Hollow Road – Special Exception – Addition to non-conforming Dwelling; unanimously approved.

The Board recessed for a short restroom break at 8:45PM and formally reconvened at 8:48PM.

2. PENDING APPLICATIONS:

A. Klaus Gorski/Applicant – Klaus J. & Carol J. Gorski/Owners – Map 023 – Block 034 – Lot 007 – 98 Bruning Road – Variance – Build a 3 Car Garage (32'x20') on the Front Corner of Property. (cont.)

MOTION: Mr. Brander, Mr. Goff second, to approve a sixty-four (64') foot variance in the matter of Klaus Gorski/Applicant – Klaus J. & Carol J. Gorski/Owners – Map 023 – Block 034 – Lot 007

– 98 Bruning Road – Variance – Build a 3 Car Garage (32'x20') on the Front Corner of Property; Motion failed with Ms. Rayno, Mr. Brander, Mr. Chappel, Mr. Goff, and Mr. Griffin opposed.

Prior to the vote on the preceding motion, Mr. Brander opined that if an alternative exists where a garage can be constructed, he was inclined to not grant the variance. Mr. Chappel noted that there has been nothing presented to this Board to indicate that there was no other location for the building he proposed. Mr. Griffin explained that even if a hardship exists, he did not perceive it to be an undue hardship. Mr. Goff agreed but questioned whether the Board might continue the application. It was noted that this was not an option as the public hearing was already closed.

B. Martin F. & Robert R. Seifert – Map 04A – Block 112 – Lot 037A_38, 704 West Hill Road – Variance – Setback from Lake – Special Exception – Addition to Non-conforming Dwelling.

MOTION: Mr. Brander, Mr. Griffin second, to approve a variance of 19.5 feet, with respect to the variance portion of the application in the matter of Martin F. & Robert R. Seifert – Map 04A – Block 112 – Lot 037A_38, 704 West Hill Road – Variance – Setback from Lake – Special Exception – Addition to Non-conforming Dwelling; Motion failed with Ms. Rayno, Mr. Brander, Mr. Chappel, Mr. Goff, and Mr. Griffin opposed.

Prior to the vote on the preceding motion, Mr. Brander noted that no evidence was received to confirm that an alternative to the request was not possible. Ms. Rayno agreed and noted that this is a new regulation. Mr. Griffin concurred, again indicating that no undue hardship was evidenced. Mr. Chappel agreed noting his reluctance to except from a regulation adopted about a year ago and saw the hardship as being self-imposed. Mr. Goff agreed, noting that he could not see granting a variance for a resulting two 2-car garages on less than an acre of land at the lake.

MOTION: Mr. Chappel, Mr. Brander second, to grant a Special Exception for Floor Area Ratio to 17.2% from 11. 9%; Motion failed with Ms. Rayno, Mr. Brander, Mr. Chappel, Mr. Goff, and Mr. Griffin opposed.

Prior to the vote on the preceding motion, the Board discussed the thought behind denying the request. Members noted that while they might not necessarily have an objection with making such an allowance, they were reluctant to do so without seeing a design that fits within the building envelope.

C. Robin Cunningham/Applicant – Robin A. & Wells C. Jr. Cunningham – Map 014 – Block 021 – Lot 005, 30 Maple Hollow Road – Special Exception – Addition to non-conforming Dwelling.

MOTION: Mr. Brander, Mr. Goff second, to approve a 2.5 foot Special Exception in the matter of Robin Cunningham/Applicant – Robin A. & Wells C. Jr. Cunningham – Map 014 – Block 021 – Lot 005, 30 Maple Hollow Road – Special Exception – Addition to non-conforming Dwelling subject to the condition that the applicant has the shed removed prior to the issuance of a zoning permit; unanimously approved.

Prior to the vote on the preceding motion, the Board agreed that they deemed the request as reasonable and were happy to have the shed removed.

3. NEW APPLICATIONS:

A previous approval for a Special Exception for an addition granted on 600 West Hill Road was discussed, noting the problems encountered in the design phase. The Board agreed that the Gottfried's should return to them for any proposed changes.

4. APPROVAL OF MINUTES – June 21, 2017 and July 5, 2017:

No action was taken on the June 21, 2017 Minutes and July 5, 2017 Minutes.

5. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

Mr. Goff opined that the Zoning Board of Appeals application may need to be reviewed and revised, making it clear what constitutes a hardship. Mr. Brander also opined that the application should be uploaded to the town's website, in an editable form so that the application is readable. The Board concurred.

MOTION: Mr. Brander, Mr. Griffin second, to adjourn at 9:22PM; unanimously approved.

Respectfully submitted,

**Pamela A. Colombie
Recording Secretary**