

TOWN OF COLUMBIA
ZONING BOARD OF APPEALS
THURSDAY, APRIL 25, 2019 - 7:00 P.M.
ADELLA G. URBAN ADMINISTRATIVE OFFICES CONFERENCE ROOM
323 ROUTE 87, COLUMBIA, CT
REGULAR MEETING MINUTES

Members Present: Chair Joseph Narkawicz, Vice Chair Carole Williamson, Secretary Jeffery Vose, Keith Peck, William Petrone, Andrea Drabicki (Alternate)

Members Absent: Edward DiGiovanni (Alternate)

Staff Present: ZEO Constance Kisluk, Board Clerk Terri Lasota

Others Present: Ann Dunnack, Robert Powell, Rick Nassiff, Mary Roickle, and 11 others.

CALL TO ORDER: J. Narkawicz called the meeting to order at 7:01 pm

ROLL CALL (Designation of Alternates, as needed): None

CHANGES/ADDITIONS TO AGENDA: None

APPROVAL OF REGULAR MEETING MINUTES OF March 28, 2019 :

C. Williamson **MOVED** to **APPROVE** the meeting minutes of 03/28/2019;

J. Vose **SECONDED; MOTION CARRIED 5:0:0**

AUDIENCE OF CITIZENS (Comments on matters not on the Agenda): None

SUSPEND REGULAR MEETING: The regular meeting was **SUSPENDED** and public hearing **CONTINUED** at 7:03pm

CONTINUE PUBLIC HEARING:

- 1. ZBA-1819-04: Application of Craig Gates (owner) and Greg Glaude (agent) for a Variance of the side yard set back requirement from 20ft to 10ft, and the front yard set back requirement from 40ft to 10ft, to build a two story 24'x30' garage at 35 Woodland Terrace #1, Columbia CT, Assessor's Map #13C, Lots #003 & 007 in the LAR zone:**

J. Narkawicz reviewed and read the application into record and noted the EHHD approval for the plan. He also noted the correspondences that were received in response to this application and read them into record; all letters were in opposition of this application. Letters read were received from the following:

Bruce & Linda Hopper, 27 Woodland Terrace #1, Columbia CT
Gary & Shirley King, 31 Woodland Terrace #1, Columbia CT
Stephen & Sheila Wells, 39 Woodland Terrace #1, Columbia CT
Nancy Maclean, Camp Asto Wamah, 42W Route 87, Columbia CT
Judy Wait, 39 Woodland Terrace, Columbia CT
Michael & Leslie Fialkiewicz, 29 Upper Woodland Terrace, Columbia CT
Jon & Kate Dixon, 37 Woodland Terrace #1, Columbia CT
Holly Wells, 100 Johnson Road, Columbia CT
E. A. Wells, PhD, 39 Woodland Terrace #1, Columbia CT
Brenda Wells, 37 Woodland Terrace, Columbia CT

J. Narkawicz explained to the public audience the purpose of the Zoning Board of Appeals and how ZBA decisions are reached, referring to Connecticut General Statutes section 8.6 and 8.7.

Greg Glaude of Killingly Engineering Associates, representing the applicant owner, Craig Gates, talked about the history of the 0.6 acre parcel and how it was created. He explained this was a pre-existing lot of record that pre-dates zoning, created in 1914 as part of the Backus land map, volume 1 page 1 of the Columbia land records. In

1916 when the first lot was sold, it was sold with an access over the remaining Backus land to the main road with no width specified in the easement; only to pass and repass to that one lot. The second lot to be sold was lot #2 in 1919 which is currently owned by Mr. Gates, and was given the same access right of way across the remaining Backus land to the main road. In 1951 the Town acquired 30 foot wide right of way from all current lot owners which ended at the cul-de-sac of what is known as the town road, which is at Mr. Gates' property line. Mr. Gates purchased his property in 1994 and built his house in 1995, and built the garage in 1996/1997.

G. Glaude mentioned the right of ways through the Gates property to the surrounding properties, and showed the aerial map view of the current properties. G. Glaude said C. Gates is proposing a 24'x30' garage and noted the hardship is due to current zoning regulations that do not allow trailers to be visible from the road or be within setback lines, or between the front yard and the house (section 64 of the Columbia Zoning Regulations), and would like to use this proposed garage for boat trailer storage. He added there will be private home residence office space above the garage, and also said Mr. Gates had created a retaining wall to park cars and allow people to pass beyond his property line. G. Glaude said in part of showing the noted hardship they are also claiming as part of the hardship the pre-existing undersized lot of record and access right of way for Woodland Terrace going through the property making it a non-traditional lot. He added that they are not asking for a variance on lot coverage or height, and are only asking for the setback lines.

Mr. Glaude also talked about the nutrient allocation and the 10% reduction on the phosphorus which is for the runoff going into Columbia Lake, and was also done for the proposed plan. The proposed plan includes a larger depressed riprap basin which will handle required runoff and reduce the amount of phosphorus going into the lake, and also to create a 650 square foot of mulch landscape along the edge of Columbia Lake to help reach the standards. They also propose a subsurface system off the back of the proposed garage to infiltrate one inch of the roof runoff into the ground.

In response to the letters of opposition read into the record, G. Glaude said they are not asking for a coverage variance, they meet or exceed the nutrient allocation standards addressing runoff into the lake, there will be no blasting in the area, and the septic system what would be on the side of this garage was installed approximately 6 years ago so they know there is no ledge to be blasted. He added they would be addressing catch basins and are also are not proposing any business on site. G. Glaude said he was not aware of any previously denied variances for this property, only an approved variance for the garage currently located on the property to reduce the setback to 10 feet. C. Kisluk noted this may have been a withdrawn application but would need to research this further, adding this would have no impact on the current application.

J. Vose asked about the easement that runs across the property; G. Glaude said this was an access easement but no width was ever specified, it was only over the existing path. G. Glaude said there would still be approximately 23 feet of driveway width left for access between the proposed garage and the edge of the pavement on the other side.

C. Williamson commented there was another location on the property to place the garage which is in front of the house, though may not be aesthetically pleasing. She and G. Glaude discussed the location of the septic and G. Glaude felt the septic would in turn need to be moved to accommodate the suggested location. C. Kisluk noted the septic area on the side of the proposed garage was added when the original garage was added; G. Glaude noted the finished room in the upstairs of the garage was classified as a bedroom.

K. Peck inquired about the frontage for this lot; G. Glaude noted where the town road ends, and said they decided to use the same side designated as the frontage as the original site plan done in the 1990's, and the previous variance application to keep consistency.

J. Narkawicz asked if there were any questions or comments from the public audience.

Brenda Wells of 37 Woodland Terrace commented that historically it is not true that Woodland Terrace stops at the Gates' property. She said the Wells' owned their property for over 100 years, and the road not only came up to their driveway but historic maps show Woodland Terrace reaching their parking area passed the Gates' house. B. Wells added the right of way is supposed to be Woodland Terrace, and it was an asphalt 2 lane street up to the Wells' driveway. J. Vose replied that this is dependent on what the town has accepted as the town road, and the fact is the town has accepted the town road up to the Gates' property.

Robert Powell of 6 Sunnyslopes Road asked for clarification as to which was being designated as side yard and which was front yard; G. Glaude explained and referenced the original site plan maps of 1995, the variance plans of 1997, and the as-built that was provided to the town all designated the same front and side yards, and this application designates them as the same for constancy. The front yard faces the church property. It was noted the reason for the front yard variance is due to the right-of-way, and the side yard variance request is due to the septic system location.

Brenda Wells asked why the garage wouldn't be placed closer to the lake if being used for boat trailers, rather than the proposed location. G. Glaude said there is no driving room to get closer to the lake due to the septic systems, and are limited by the width and size of the non-conforming lot. A. Drabicki noted there is also a well in that area.

Gary King of 31 Woodland Terrace asked what the footage was between where the garage comes into the cut-out and where the road/easement starts; G. Glaude said there is 22-23 feet of road width between garage and other edge of the pavement.

Sheila Wells of 31 Woodland Terrace asked if the ZBA considers the reason for the applicant wanting this building, especially since the building will have potential living space in it, and a septic associated with it, and inquired why the applicant couldn't use their existing garage to store their boat trailers. J. Narkawicz replied they only can consider the placement of the building on the lot. S. Wells commented per the regulations they are to also consider negative impact to the neighborhood; J. Vose commented the ZBA considers negative impact but not building use.

Rick Nassiff of 11 Webster Lane felt there was no plausible hardship defined for this application, noting there is already existing full use of the property with a 2-car garage, adding he felt there was no restrictions of reasonable use. R. Nassiff also noted the existing septic was added by the applicant and its location should not be used as reason for a hardship since this was self-imposed, and added there is no uniqueness of the non-conforming lot as there are many around the lake. G. Glaude said if this was a traditional lot the application would not be before the ZBA, and out of 159 frontage lots around the lake, there are only 8 lots that meet this same requirement as this, with Woodland Terrace running through the middle of it. He added it is a small percentage, but it is unique to these 8 lots.

Regarding previous comments of septic system locations being self imposed, J. Vose noted that when working with a small lot, once you've considered property line setbacks and well location, there often is little choice as to where the septic will be located. G. Glaude said these items as well as the catch basins which have a 50 foot distance minimum, were considered when the previous septic was installed.

Sheila Wells asked why the garage couldn't be located on the northwest corner of the property to be less intrusive to everyone; G. Glaude on the public audience debated where the access road was located in relation to the proposed garage.

Robert Powell said the applicant purchased this property in 1994 and was aware of the zoning regulations regarding coverage and setbacks, and of the right-of-way. Because of this knowledge, R. Powell felt this was a self-inflicted hardship and could have located the septic elsewhere and also noted there are alternative locations for this proposed garage that would not involve setback variances. He also suggested expanding the existing garage. J. Narkawicz said a variance would still be needed.

C. Kisluk said it was her understanding the additional septic was required due to the added living space above the garage; G. Glaude confirmed this was due to a bedroom over the garage.

Robert Powell asked if the Town has reviewed the nutrient allocation plan; C. Kisluk confirmed that it has been reviewed and meets the requirements, and that it also addressed the water runoff coming off the street.

C. Williamson said the detailed variance statement request refers to this as a non-traditional lot with no true road frontage to the parcel, but this is incorrect as there is in fact road frontage even though it is not on the front of the parcel. She added as this is a documented legal record it should be corrected; G. Glaude said it should state "no traditional road frontage".

Shirley King of 31 Woodland Terrace asked if property uses are monitored, and if someone would be checking on this property periodically for multiple commercial vehicles in the easement if this variance were to be granted. C. Kisluk said if violations are noticed they can be reported by filing a complaint in the Building and Land Use Dept., and she would then investigate the complaint. Shirley King also asked if the use of the space about the garage can also be regulated, restricting it to a home office; C. Kisluk said the area could not legally be converted to a living space since there is already an accessory living unit in the garage that is attached to the house, but as a Zoning agent can not randomly inspect that space per State statutes.

G. Glaude commented that Mr. Gates owns a dealership and drives a dealership car that is his own personal vehicle, and also that Mr. Gates' wife drives a landscaping vehicle which is owned by her landscaping company. The public audience disagreed, and C. Kisluk noted she had witnessed multiple cars with dealer plates on them.

Karl Then of 14 and 16 Woodland Terrace said G. Glaude's statement regarding the vehicles was false, and seeing multiple dealership and landscaping vehicles in the right-of way is a daily occurrence making it difficult for anyone else to use or turn around in. He believes, from the activity he has seen, that Mr. Gates is conducting business from his home. J. Narkawicz again noted this public hearing is not intended for these complaints. A. Drabicki reminded the public audience that complaints of zoning violations can be filed with the ZEO in the Building & Land Use department.

Mary Roickle of 34 Erdoni Road read a statement into record that she had prepared which reiterated the zoning regulations of Columbia and the Connecticut State Statutes regarding the requirements needed for a zoning variance to be approved, and believed the application should be denied as these requirements have not been met.

G. Glaude thanked M. Roickle for her input, and said the unusual conditions in determining the hardship are what are found in the zoning district, not just the neighborhood, and the district is around the entire lake. He also noted the letter from EHHD, and maintaining the 22-23 foot accessway to the other two homes. Mr. Glaude also believed there would be no hinderance or diminishing of property values as a result of this proposed garage, and added a variance would be needed regardless due to the hardship of the accessway and non-conforming lot.

J. Vose **MOVED** to **CLOSE** the public hearing; K. Peck **SECONDED**; **MOTION CARRIED 5:0:0**;
The public hearing was **CLOSED** at 8:29pm

RESUME REGULAR MEETING: The regular meeting was **RESUMED** at **8:29pm**

UNFINISHED BUSINESS:

1. **ZBA-1819-04: Application of Craig Gates (owner) and Greg Glaude (agent) for a Variance of the side yard set back requirement from 20ft to 10ft, and the front yard set back requirement from 40ft to 10ft, to build a 24'x30' garage at 35 Woodland Terrace #1, Columbia CT, Assessor's Map #13C, Lots #003 & 007 in the LAR zone:**

J. Vose **MOVED** to **DENY** without prejudice the application of Greg A. Glaude on behalf of the property owner Craig M. Gates for variances from Section 10.4.2 of the Columbia Zoning Regulations for a reduced front yard setback from 40' to 10' and a reduced side yard setback from 20' to 10' to allow construction of a two story 24' x 30' detached garage building with office space at 35 Woodland Terrace 1, Columbia, CT, Assessor's Map 13C, Lots 3 & 7 in the LAR zone as shown on a Plot Plan, and statements made by the applicant due to the applicant's failure to demonstrate the existence of a significant hardship uniquely identified with the land and that said variances would not be in harmony with the general purpose and intent of the Town of Columbia Zoning Regulations as outlined in Section 71.2.3 of said regulations.

J. Vose felt the applicants have failed to prove their claimed hardship, and a variance can not be granted if their conditions are not different than anyone else's in the zoning district.

W. Petrone **SECONDED**; **MOTION CARRIED 5:0:0**

NEW BUSINESS

1. ELECTION OF OFFICERS:

W. Petrone **MOVED** to **CARRY THE CURRENT SLATE**; C. Williamson **SECONDED**; **MOTION CARRIED 5:0:0**

BOARD OPEN DISCUSSION: Board members discussed easements, shared rights-of-way, and floating rights-of-way.

CORRESPONDENCE: None

ADJOURNMENT:

J. Vose **MOVED** to **ADJOURN**; A. Drabicki **SECONDED**; **MOTION CARRIED 5:0:0**

The meeting was **ADJOURNED** at 8:39pm

Respectfully submitted by Terri Lasota, Board Clerk

Please see the minutes of subsequent meetings for approval of these minutes and any corrections hereto.