

Wallingford Zoning Board of Appeals Kristen Pango (LG) TOWN CLERK

July 15, 2024

7:00 p.m.

Robert F. Parisi Council Chambers  
Town Hall – 45 South Main Street

### Minutes

**Present:** Joseph Rusczek, Chairman; Ray Rys, Vice Chair; Karen Raddatz, Secretary; Board Members: Bruce Conroy; Thomas Wolfer; Robert Gross; Robert Prentice; and Amy Torre, Zoning Enforcement Officer.

Chairman Rusczek called the meeting to order at approximately 7:00 p.m. The Pledge of Allegiance was recited.

Voting members tonight are Conroy, Wolfer, Raddatz, Rys, and Chairman Rusczek.

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, July 19, 2024. The effective date of your variance will be Friday, July 19, 2024; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, August 4, 2024. If you commence operations and/or construction during the appeal period, you do so at your own risk.

Chairman Rusczek announced that the following applications will not be heard tonight. They will be heard in September.

2. **#24-020 – Special Exception Request/Woronick/312 Parker Farms Road**
3. **#24-016 – Variance Request/Woronick/312 Parker Farms Road**

### PUBLIC HEARINGS

#### 1. **#24-015/Variance Request/Sunwood Home Solutions, LLC/288 North Main Street**

Ms. Raddatz read the staff notes into the record. Application #24-015 is a Variance Request for a lot frontage of 49.72 ft. where 50 ft. is required in order to divide the lot at 288 North Main Street in an R-6 District to construct 2 single-family dwellings. The existing lot is 45,136 sq. ft., which is nearly 7 times the required 6,250 sq. ft. area requirement for a residential lot in an R-6 Zone. One of the 2 lots created would be short 2.28 inches for sufficient street frontage. The Board may wish to inquire if 2.28 inches may fall within a possible margin of error for Class A Land Surveys therefore rendering the parcel potentially compliant. There is an existing non-conforming dwelling (location on the existing lot) on the parcel which will need to be removed to allow the lot split and prevent an increase to the non-conformity. The Board must condition any approval on the removal of the existing dwelling as proposed. Correspondence included an Internal Memo from the Health Department and an Internal Memo from the Engineering Department.

Bob Weidenmann, 1443 Durham Road, for Sunwood Home Solutions, the owner of the property. He noted that the abutters were notified as required. He explained that he intends to divide the property into two lots. The property is large enough, but the frontage would be just under 100 ft. He looked at the deeds for the property and they all show the same frontage, so he doesn't think it's a surveyor error. He needs a variance to comply. Mr. Weidenmann stated that he would remove the single-family home

on the property which is in poor condition and not worth salvaging. The two homes he will build will look appropriate for North Main Street. He is building the homes for himself and his children.

Chairman Rusczek asked if the houses would be close to the road. Mr. Weidenmann replied that they will likely be set back to where the property is wider. There will be a shared driveway and he will retain the hitching posts.

Mr. Gross asked what the hardship was. Mr. Weidenmann replied that the less than 100-foot frontage. This could have been due to how it was originally surveyed. The existing house is non-conforming because it is very close to the front property line. Removing this non-conformity makes the property less non-conforming.

#### **PUBLIC COMMENT**

Mandy and Heather Bundock-Simjian, 145 North Whittlesey Avenue, reported that since trees were removed on the property, they have had an increasing amount of flooding on their property which is ruining their yard. They asked about a drainage plan. Mr. Wiedenmann stated that he was not aware of the problem and was happy to look at it. The construction should not change the water flow. He stated that he would make sure the footing and gutter drains go into a detention system. He can't promise to eliminate the water but can make an effort to minimize it. The change from one house to two houses should not increase the runoff. Ms. Bundock-Simjian asked if they were planning to remove the wooded area in the back of the lot. Mr. Weidenmann replied no. The clearing done so far is all that is intended.

Jerry Farrell, Jr., 54 North Elm Street, representing the Wallingford Preservation Trust, noted that this is part of the original 1670 settlement and the house to be demolished is one of the oldest homes in the area. It was built in 1730. He stated that though he respects Mr. Weidenmann, he doesn't think he has a hardship. He explained that all the houses in the settlement had six acres. Over the years the lots have been chopped up from the rear. He asked the Board to deny the request as it would set a precedent for Main Street.

Mr. Gross noted that this is a 300-year-old house and asked if all the lots were narrow like this. Mr. Farrell confirmed.

Philip Youker, Curtis Avenue, commented on using the reduction of a non-conformity as a reason to approve. Yes, there is case law, but the outcome of those cases goes either way. This house could be moved back to be compliant.

Chairman Rusczek asked if the variance was approved, and will the applicant have to go to Planning and Zoning. Ms. Torre replied no. The only requirement will be for a building permit.

Mr. Weidenmann stated that he appreciates Mr. Farrell's comments and added that some portion of the house is 300 years old but it was built in pieces over the years. He looked at the possibility of rehabbing the house but he would have to take the roof off to increase the ceiling height on the second floor. The house has lead paint, asbestos, and mold. It is not practical to preserve. He explained the referenced court cases and stated that there is clear documentation that the ZBA can grant a variance without a strict hardship determination.

Mr. Conroy noted that this request is purely financial. The applicant can mitigate the problems by taking the house down and rebuilding it behind, where it belongs. He can still use the property.

Mr. Gross asked if he could raise the roof if he wanted to. Mr. Weidenmann replied that from a construction standpoint, it could be done but from a financial standpoint it is not realistic.

Ms. Torre noted that putting a second floor on would require a variance and would expand the non-conformity. The house is in the setback so anything would require a variance. If they are reducing the non-conformity, the Board can accept that in lieu of a hardship.

Mr. Wolfer asked for assurance that the applicant would make them look like other houses on Main Street. Mr. Weidenmann replied that he has a good reputation and noted that legally that can't be a condition of approval as it wouldn't hold up in court. He stated that he is not building the houses for profit.

Hearing no further public comment, Chairman Rusczyk closed the public hearing and asked for discussion or possible action. He noted that for the record other properties in this area have been divided in the past.

**Mr. Rys: Motion to approve #24-015 Variance Request for Sunwood Home Solutions, LLC at 288 North Main Street for a Lot Frontage of 49.72 ft. where 50 ft. is required to split the lot at 288 North Main Street as shown on Property and Topographic Survey, Subdivision-By Deed, Land of Sunwood Home Solutions, LLC, 288 North Main Street, Wallingford, dated 6/4/2024, subject to:**

- 1. Removal of existing dwelling**

**Mr. Conroy: Second**

**Vote: Conroy – no to approve; Wolfer – yes to approve; Raddatz – yes to approve; Rys - yes to approve; and Chairman Rusczyk – yes to approve.**

The application is approved.

#### **4. #24-017/Special Exception Request/Powers/40 Northford Road**

Ms. Raddatz read the staff notes into the record. The applicant requests a total garage area of 2,290 sq. ft. where 1090 sq. ft. exists and a maximum of 1,800 sq. ft. is permitted as-of-right (request is for an additional 490 sq. ft.) to construct a 1,200 sq. ft. detached garage at 40 Northford Road in and RU-120 District. The lot is 8 acres in size and the applicant proposes to locate the garage to the rear of the dwelling approximately 367 ft. from the front boundary on the western side of the property abutting Town of Wallingford Open Space/Mackenzie Reservoir. The proposed detached garage will therefore be well out of any view as well as maintain the desired ratio of garage area to living area. Garages are an accessory use and should be subordinate to the primary dwelling use and in this case garage area is approx. 40% of the Livable Floor Area (which is greater than 5,000 sq. ft.) of this dwelling. The property also requires Health Approval. Correspondence included an Inter-Departmental Memorandum from the Health Department and an Interoffice Memorandum from the Engineering Department.

Paul Powers, 40 Northford Road, explained that they want to add a 1,200 ft. accessory garage. The property is long and narrow. The left side and back borders the reservoir and the right side is undeveloped. It is heavily wooded all around. The garage would be set back and not seen from the road. He stated that they received approval from the Health Department and there will be no plumbing

in the building. He will store a tractor to maintain the property and a trailer as well as use the space for practicing Corn Hole. He needs the depth and height to practice in the winter.

Chairman Rusczek asked if there would be any commercial use or oil changes. Mr. Powers said no.

Mr. Powers thanked the Zoning office staff for being so helpful.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

**Mr. Rys: Motion to approve #24-017 Special Exception Request for Powers at 40 Northford Road for a total garage area of 2,290 sq. ft. where a maximum 1,800 sq. ft. is permitted to construct a 1,200 sq. ft. detached garage at 40 Northford Road as shown on Property Survey prepared for Paul and Lisa Powers, 40 Northford Road, Wallingford, dated June 11, 2024 and plans received June 20, 2024, subject to:**

- 1. Comments from the Health Department dated July 8, 2024.**

**Mr. Conroy: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Raddatz – yes to approve; Rys - yes to approve; and Chairman Rusczek – yes to approve.**

The application is approved.

#### ***5. #24-014/Variance Requests/Mastriani/4 Field Drive***

Ms. Raddatz read the staff notes into the record. This request is for a front yard of 31.7 ft. where 31.7 ft. exists and 40 ft. is required and a building height of 19.25 ft where 15 ft. maximum is permitted to construct/allow a 720 sq. ft. detached garage at 4 Field Drive in an R-18 District. The applicant submitted a building permit application with an accompanying Zoning Location Survey and building plans and received zoning sign-off to proceed with a compliant detached garage. The applicant was granted the permit in June of 2022 and proceeded with construction. In October 2023 the property was cited by the Building Official for Building code violations (constructed other than as presented in the front setback and exceeding allowable height due to the full dormer not depicted on plans) as well as no permit for utility hook-ups (Water/Sewer and Gas). A violation was issued from the Zoning Department in December 2023 following a Building Department referral for the location and height of the accessory structure. Communication with the applicant immediately followed the Notice and options to move and reduce the height or attempt ZBA Approval to allow the garage to remain were conveyed to achieve compliance and closing of Violation files. This application is a result of those discussions and the path the applicant has chosen to remediate. Correspondence included an Inter-Departmental Memorandum from the Health Department and an Inter-Departmental Memorandum from the Engineering Department.

Anthony Mastriani, 4 Field Drive explained that his son dug the foundation for the garage while he was away and didn't see the stakes. He stated that he got the inspections and everything was fine. The garage is in line with the rest of the houses. He stated that they didn't realize they had two front yards. He built the garage himself and the dormer was added to make it look like the house. He didn't know it was an issue. He is not aware there is a utility issue as all the departments signed off. He went to Water

& Sewer and got the permit. He meant no disrespect and wanted to conform. He has letters from his neighbors supporting the garage.

Chairman Rusczek noted that the garage was built too close to the road. Mr. Mastriani stated that the dormer is just decorative. He has done no work since he was informed.

Mr. Gross asked if there was water, gas, and electricity going to the garage. Mr. Mastriani replied no, just a separate electric meter and water for a spigot from the house. He built the garage himself. He explained that he drew it out on graph paper and was approved. The only difference from the drawing is where they raised part of the roof a little. Mr. Gross stated that there are height restrictions and you would have been informed of them. Mr. Mastriani stated he was not aware of them.

Chairman Rusczek asked if the sewer and water question had been rectified. Ms. Torre stated that she just has the contents of the building permitting file so doesn't know. Mr. Mastriani replied that it had been resolved. Water & Sewer gave him the permit and signed off on the inspection.

Ms. Torre asked if there was plumbing in the garage. Mr. Mastriani replied no.

Mr. Conroy asked what would happen if we said no. Ms. Torre replied that the property remains in violation. In the end, we want compliance. Mr. Conroy asked if the building was complete. Mr. Mastriani replied the outside, yes.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

**Mr. Rys: Motion to approve #24-014 Variance Request for Mastriani at 4 Field Drive for a front yard of 31.7 ft. where 40 ft. is required to allow a detached garage at 4 Field Drive as shown on the Plot Plan, prepared for Janet Pietrunti, 4 Field Drive, Wallingford Avenue, dated November 2, 2017, and revision dated March 22, 2024, and submitted plans received June 17, 2024.**

**Mr. Conroy: Second**

**Vote: Conroy – no to approve; Wolfer – no to approve; Raddatz – yes to approve; Rys - no to approve; and Chairman Rusczek – no to approve.**

The application is denied.

**Mr. Rys: Motion to approve #24-014 Variance Request for Mastriani at 4 Field Drive for a Building Height of 19.25 ft. where 15 ft. maximum is permitted to allow a full dormer on a detached garage at 4 Field Drive as shown on Plot Plan, prepared for Janet Pietrunti, 4 Field Drive, Wallingford Avenue, dated November 2, 2017 and revision dated March 22, 2024, and submitted plans received June 17, 2024.**

**Mr. Conroy: Second**

**Vote: Conroy – no to approve; Wolfer – no to approve; Raddatz – yes to approve; Rys - no to approve; and Chairman Rusczek – no to approve.**

The application is denied.

**6. #24-018/Variance Request/Mulcahy/ 21 Country Way**

Ms. Raddatz read the staff notes into the record. The applicant requests a Variance Approval for a side yard of 5.5 ft. where 15 ft. is required to locate a 144 sq. ft. shed at 21 Country Way in an RU-40 District. There is no Building Permit required and no survey requirement to locate any shed less than 200 sq. ft. in the area. The Accessory Structure is well below the 200 sq. ft. area requirement and is compliant with regard to allowable height. As a result, the property owner was locating the shed 5 ft. minimum from the boundary as believed was compliant. The 5 ft. minimum setback for a shed only applies when the accessory structure is located 100% behind the building line of the dwelling, otherwise, it must comply with applicable setbacks. The Accessory Structure is existing and landscaped in place. The applicant requests Approval to allow the structure to remain. Correspondence included an Inter-Departmental Memorandum from the Health Department and an Inter-Departmental Memorandum from the Engineering Department.

Jennifer Mulcahy, 21 Country Way, stated that they are now aware that they did the process backward. She apologized. They didn't know they needed a variance since it is not a permanent structure and is not oversized. They located it in the only place they can put it. The photos show it fits and is out of sight.

Chairman Rusczek asked how long it's been there. Ms. Mulcahy replied in April. She added that if they move it over the required 9 feet, it would block access to the backyard for any equipment. Chairman Rusczek asked what the shed was used for. Ms. Mulcahy replied pool equipment, lawnmower, etc.

Mr. Wolfer agreed that it is hard to see the shed from the road. Ms. Mulcahy stated that she is willing to add more shrubbery.

Mr. Gross asked if there could be a condition that if it is replaced, it can't be in that location. Ms. Torre replied no, you can't condition the future. She added that many other properties have similar issues.

Ms. Raddatz asked how it came to the applicant's attention. Ms. Mulcahy stated that she received a letter from the Town after a neighbor complained.

**PUBLIC COMMENT**

Thomas Griffin, 19 Country Way stated that he doesn't see a reason for it to be 5 ft from his property. No one in the neighborhood has a shed in front of their house.

Ms. Mulcahy shared photos from her neighbor's perspective showing that he can't see it.

Hearing no further public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

**Mr. Rys: Motion to approve #24-018 Variance Request for Mulcahy at 21 Country Way for a side yard of 5.5 ft, where 15 ft. is required to allow a 144 sq. ft. Accessory Structure at 21 Country Way as shown on Mortgage Survey Map, Lot 85, 21 Country Way, Country Side East-Section V, dated 11/07/1989, revision dated 12/11/1989, and submitted plans/photos received 06/14/2024.**

**Mr. Conroy: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Raddatz – yes to approve; Rys - yes to approve; and Chairman Rusczeck – yes to approve.**

The application is approved.

#### **7. #24-019/Variance Requests/Carlson/5 Arbor Lane**

Ms. Raddatz read the staff notes into the record. The applicant seeks a side yard of 7.71 ft where 7.71 ft. exists and 20 ft is required, a front yard of 25.45 ft. where 25.45 ft exists and 40 ft is required and building coverage of 18.3% where 18.3% exists and 15% maximum is permitted to construct a 1,659 sq. ft. second story addition at 5 Arbor Lane in an R-18 District. The parcel pre-dates zoning with an undersized lot area and side and front yards as presented predating the inception of zoning as well. The property received a Side Yard Variance Approval in May of 1990 to construct a single-story addition which expanded the non-conforming opposite side yard of 4.25 ft. The property should have received a Building Coverage Variance as well in May of 1990 as the addition increased the building coverage to 18.3% when the maximum building coverage permitted in 1990 was 15% as it remains today. The Building Coverage Variance being sought with this application is to rectify that oversight as no increase in Building Coverage results from this proposal. The property also received Approval from the Planning and Zoning Commission in October of 1990 to convert the newly constructed addition, the existing garage, and the sun porch to an Accessory Dwelling Unit. This application for the side and front yard variances is to expand the pre-existing, non-conforming side and front yards vertically to add a 1,659 sq. ft. second floor of living space on the footprint of a 2,063 sq. ft. single-story dwelling. The Board should carefully determine whether any hardship exists in the creation of a 3,722 sq. ft. dwelling with an Accessory Apartment, 2 stories greater than 8 ft. from one side boundary and 25.3 ft. from the front boundary and a single story 4.25 ft. from the opposite side boundary in a neighborhood with no comparable residences. This office always raises questions when there is a need for continued and numerous variances whether the property in question has reasonable use currently and if there is something unique regarding the parcel necessitating relief from the regulations. Correspondence included an Inter-Departmental Memorandum from the Health Department and an Inter-Departmental Memorandum from the Engineering Department.

Cody Carlson, 5 Arbor Lane, and Keith Santora, Handyworks Remodeling and Design, presented. Mr. Santora stated that he designed the addition and noted that there was a clerical error in the application. The addition is designed as 1,375 sq. ft., not 1,659 sq. ft. This reduces the total finished square footage to 3,231 sq. ft. He offered examples of comparable homes in the area. Regarding the previous variances, the last request was 34 years ago.

Mr. Carlson explained that they just wanted to add a second floor. The lot is undersized for the R-18 district. They are not looking to increase the footprint. They will just go up to the main part of the house. He added that the house was owned by his grandparents and his parents are still living with them. He offered letters from the abutters to be added to the record along with photos of comparable homes.

Ms. Torre noted that variances are granted to the land, it doesn't matter who owns it. She stated that she has to look at why the property needs so much relief. She added that since the application is based on the survey that says 1,659 sq. ft. suggested that they leave that number.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

**Mr. Rys: Motion to approve #24-019 Variance Request for Carlson at 5 Arbor Lane for a Front Yard of 25.45 ft. where 40 ft. is required to construct a 1,659 sq. ft. 2<sup>nd</sup>-floor addition at 5 Arbor Lane as shown on Proposed Plot Plan, Land of John K. and Penny L. Carlson, 5 Arbor Lane, Wallingford, dated 06/13/2024 and submitted plans received 6/14/2024.**

**Mr. Conroy: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Raddatz – yes to approve; Rys - yes to approve; and Chairman Rusczek – yes to approve.**

**Mr. Rys: Motion to approve #24-019 Variance Request for Carlson at 5 Arbor Lane for a Side Yard of 7.71 ft where 20 ft. is required to construct a 1,659 sq. ft. 2<sup>nd</sup>-floor addition at 5 Arbor Lane as shown on Proposed Plot Plan, Land of John K. and Penny L. Carlson, 5 Arbor Lane, Wallingford, dated 06/13/2024 and submitted plans received 6/14/2024.**

**Mr. Conroy: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Raddatz – yes to approve; Rys - yes to approve; and Chairman Rusczek – yes to approve.**

**Mr. Rys: Motion to approve #24-019 Variance Request for Carlson at 5 Arbor Lane for Building Coverage or 18.3% where 15% maximum is permitted to construct a 1,659 sq. ft. 2<sup>nd</sup>-floor addition at 5 Arbor Lane as shown on Proposed Plot Plan, Land of John K. and Penny L. Carlson, 5 Arbor Lane, Wallingford, dated 06/13/2024 and submitted plans received 6/14/2024.**

**Mr. Conroy: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Raddatz – yes to approve; Rys - yes to approve; and Chairman Rusczek – yes to approve.**

The application is approved.

#### **CONSIDERATION OF MINUTES**

**1. June 17, 2024, Regular Meeting**

**Mr. Wolfer: Motion to accept the June 17, 2024, Zoning Board of Appeals Minutes as submitted.**

**Mr. Rusczek: Second**

**Vote: Unanimous**



**ADJOURNMENT**

Mr. Wolfer: Motion to adjourn the July 15, 2024, regular meeting of the Zoning Board of Appeals at 8:25 p.m.

Mr. Rusczek: Second

Vote: Unanimous

Respectfully submitted,  
Cheryl-Ann Tubby  
Recording Secretary

