

**TOWN OF SOUTH WINDSOR  
ZONING BOARD OF APPEALS**



**Minutes**

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**January 4, 2024**

**MEMBERS PRESENT:** Timothy Appleton, Steven Carty – Chairperson, Daniel Kane –Secretary, Wayne Kilburn – Vice Chairperson

**MEMBERS ABSENT:** James Kupchunos

**ALTERNATES PRESENT:** Jon Stengel

**STAFF PRESENT:** Pam Oliva, Zoning Enforcement Officer  
Nicole Kowalik, Recording Secretary

**LIASION PRESENT:** Carolyn Carey

The following are motions made during the January 4<sup>th</sup>, 2024, Public Hearing/Regular Meeting.

Chairman Carty called the public hearing to order at 7:30PM. Chairman Carty reviewed the process for each application and meeting.

Recording Secretary, Nicole Kowalik, read the legal notice as posted in the Journal Inquirer.

**Public Hearing**

**App. 2867-23 – Jeen Chwich Tammo** – request for a 15 ft variance to Table 3.1.2A to allow pool equipment 5 ft from the property line (20 ft required) on property located at 15 Windy Hill Drive, AA-30 zone.

Chairperson Carty mentioned if applicants would like to give a quick summary of the variance request, or they may move on to other items to describe their hardship. Michael Frisbic commented how they have thought about what the commissioners have said in the previous meeting. The applicants researched alternatives for the pool equipment. Sam Hasso, 186 Hamilton Dr, Vernon, CT, presented one alternative that was researched. The alternative was using a soundproof blanket on the fencing that should reduce the amount of noise significantly. Sam Hasso presented an example of the alternative to the commissioners. Michael Frisbic, 204 Root Rd, Somers, CT, mentioned there is not much significant noise to begin but it is an effort the enclose the equipment.

Chairperson Carty asked if the blankets are a permanent installation. Sam Hasso answered that it is permanent. Michael Frisbic commented there is another option of putting a closure on top of the structure. Michael Frisbic asked if there is only four ZBA members, are all four members needed to vote for the variance. Chairperson Carty answered that 4 affirmative votes are required to grant a variance, and only 4 out of the 5 votes is needed since there are five members here at the meeting. Chairperson Carty also mentioned that the application can no longer be extended since it has been extended already once and a decision will be made tonight. Michael Frisbic asked if denied is there a time period to come back for another application. Pam Oliva answered if the application gets denied then they may appeal to the superior court and if an application were to be resubmitted there would need to be a significant difference in the application submitted.

Commissioner Stengel wanted to clarify which of the options that the applicants are proposing. Michael Frisbic answered that the options presented are different options for the ZBA members to look at to see if one option may be favorable than the other. Commissioner Stengel asked if the applicant was able to get a written or verbal comment from the other neighbor. That neighbor was present at the hearing,

Ismat Muhammed, next door neighbor of the applicant directly adjacent to the fence and pool equipment, asked what the ramifications are and would like to understand better the regulations before deciding. On their property there is an incline next to the fence so there are concerns about any leakage from the equipment that might come onto their property. Ismat has concerns about their children that play near the area. Chairperson Carty answered that they would not be responsible for the members decisions. Pam Oliva described the basic zoning requirements for properties, and the setback requirements for structures placed on properties. She stated that in this particular zone equipment has to be at least 20 ft away from property. A reason for that is because of the noise level associated with pool equipment. The pool is within the setbacks however it is the pool equipment

Commissioner Kilburn mentioned that the reason why the applicant is here is because the pool company did not follow the guidelines. The variance is permanent. What the ZBA members are looking for are the bordering neighbors' thoughts and concerns since it will mostly affect the neighbors.

Commissioner Stengel asked if the pool builder was asked to cover the moving of the pool equipment. Sam Hasso answered the pool company said they would not. Commissioner Stengel also asked if it was the same inspector that came in the final time. Pam Oliva stated that the building inspectors do not know the zoning regulations and are not responsible for ensuring compliance with the zoning regulations. Zoning relies on as-builts submitted after construction to ensure the structure (pool) and equipment are located in compliance with the proposed plans which are approved prior to a permit being issued.

Commissioner Kilburn asked what was presented at the permit application, what was shown and what does it say. Pam Oliva commented that the proposed plans did not indicate where the equipment would be located, and the issue was found when the as built was submitted. She also stated that the setback requirements were discussed with the applicant prior to the permit application being submitted.

Commissioner Appleton questioned why the contractor was not present at the meeting. He felt it was their responsibility to correct the issue. He is not sure if the hardships have changed from the last time the application was presented. Michael Frisbic answered that this is the path of least resistance, as they did not want to take the contractor to court or move the equipment. Commissioner Appleton commented how the contractor should be here at this meeting.

Abdul Tammo commented that if he had known on the first day, this would not have happened. Commissioner Kilburn commented that the hardship is the trusting an expert.

Commissioner Kane commented the hardship needs to be with the property and not with the third party. Commissioner Kane asked if blankets are currently installed. Sam Hasso answered they are not currently installed. Commissioner Kane asked if there have been any complaints with the sound. Sam Hasso answered there have not been any.

Carolyn Carey asked when the filter is being flushed and where is it being flushed to. Abdul Tammo commented that there is a drain goes towards the street. Carolyn Carey asked what hours the pump is running, as they are required to be run for 12 hours. Abul Tammo commented that it is on a timer and during the night, it is shut off and during the day it is on.

Motion to: Close public hearing at 8:10PM

Made by: Commissioner Kilburn

Second: Commissioner Appleton

The motion: Unanimous

Vote: Carried

## **Deliberative Session**

**App. 2867-23 – Jeen Chwich Tammo** – request for a 15 ft variance to Table 3.1.2A to allow pool equipment 5 ft from the property line (20 ft required) on property located at 15 Windy Hill Drive, AA-30 zone.

Chairperson Carty commented how he does not know if there are any other mitigation factors that would be useful for this application. If the application were to be considered approved, there would need to be a permanent installation of the blankets and an agreement for all future property owners to maintain them on the fencing.

Commissioner Stengel asked assuming if since this is on record, to what degree does this impact future applications. Pam Oliva answered that this would be remembered, and staff would make sure equipment is shown in the beginning phases because they are not always shown on the proposed plans.

Chairperson Carty asked Commissioner Kilburn to elaborate with a hardship justification. Commissioner Kilburn commented that the applicants came for justice to relieve pressure of an individual doing wrong onto them, it may not meet every hardship, but it is still a hardship.

Commissioner Appleton commented that he would feel better if it is known where the contractor is. Chairperson Carty agreed and the biggest concern is if the application gets approved, they are forgiving the design or construction errors and that is not what the commission does.

**Motion to:** deny **App. 2867-23 – Jeen Chwich Tammo** – request for a 15 ft variance to Table 3.1.2A to allow pool equipment 5 ft from the property line (20 ft required) on property located at 15 Windy Hill Drive, AA-30 zone.

Made by: Commissioner Appleton

Commissioner Appleton commented that the applicant did not state hardship and would encourage them to seek out another site plan that is within variance.

Second by: Commissioner Kane

The motion: Carried

Vote: 4 Yea 1 Nay (Commissioner Kilburn)

## **Approval of Minutes**

Motion to: Approve minutes from July 13, 2023

Was made by Commissioner Kilburn

Seconded by Commissioner Appleton

The motion: Carried

Vote: Unanimous

Motion to: Approve minutes from December 7, 2023

Was made by: Commissioner Kilburn

Seconded by: Commissioner Stengel

The motion: Carried

Vote: Unanimous

**New Business:** None

**Old Business:** None

**Correspondence:** None

**Adjournment:**

Motion to: Adjourn the meeting at 8:22PM

Was made by Commissioner Appleton

Seconded by Commissioner Stengel

The motion: carried

Vote: unanimous

Respectfully submitted:

Nicole Kowalik, Recording Secretary