

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

Minutes

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June 1, 2017

MEMBERS PRESENT: Wayne Kilburn, Steve Carty, Erik Dabrowski, Joseph Etter

ALTERNATES PRESENT: Edwina Futtner, Elizabeth McGuire, Paul Oates

STAFF PRESENT: Pamela Oliva, Zoning Enforcement Officer
Lauren Zarambo, Recording Secretary

The following are motions made during the June 1, 2017 Public Hearing/Regular Meeting.

Acting Chairman Carty called the public hearing to order at 7:38 p.m.

The Recording Secretary read the legal notice as published in the Journal Inquirer.

Acting Chairman Carty appointed Alternate Board Member Oates to be seated for Vice Chairman Kupchunos.

PUBLIC HEARING / MADDEN ROOM

1. **Appl. 2800-17** – Christine & Jon Gehris – request for a 10 foot variance to Section 3.1.2A to allow placement of a 12' by 24' pool house 10 feet from the property line (20 ft required), on property located at 1523 Main Street, A-40 Residential zone

Ms. Christine Gehris presented the variance request to allow for a pool house to replace an existing gazebo for which a variance was previously granted.

Ms. Oliva submitted the original variance for the gazebo at the Acting Chairman's request. Mr. Etter asked to see a site drawing and elevations. Ms. Gehris indicated the existing gazebo is 12' x 12' and the pool house measures 12' x 12' plus a roof structure for a porch area and will be located in the same location. She supplied a picture of the type of pool house they would like to install. The existing stockade fence will be increased from 4' feet to 6' in height. She stated the original hardship still exists of the hazard created if the pool house is located between the house and pool blocking the view of the pool from the house and preventing seeing who is in the pool.

Mr. Carty asked about the size of the pool house and it was determined the 10' side yard requirement would be maintained. Mr. Oates noted the applicant is not changing the original intention of the variance previously granted since sidelines and height are maintained with no changes to the floodplain or hardship. Mr. Kilburn asked if the pool house would have utilities. Ms. Gehris stated there would be electricity. Ms. Futtner verified abutters were notified and there were no comments received from neighbors.

Motion to: close public hearing at 7:55 p.m.

Was made by: Board Member Oates

Seconded by: Board Member Dabrowski

The motion: Carried

Vote: Unanimous

2. **Appl. 2801-17** – Empire Auto Wholesalers – request for approval of a Department of Motor Vehicle Used Car Dealers license for retail sale of motor vehicles, on property located at 280 Sullivan Avenue, Industrial zone

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Mr. Oates asked for an explanation of why DMV licensing was now under the jurisdiction of the ZBA. Ms. Oliva explained that in 2016 the State legislature changed where applicants would apply for DMV licensing by streamlining the process. Previously the size of a town determined where an applicant would apply and the Planning & Zoning Commission had the ultimate role of determining which zone the use was allowed. This applicant went before PZC and received site plan approval and now is before ZBA for their DMV license.

Mr. Jay Ussery of J. R. Russo & Associates LLC presented the request with Mr. Michael Farina, the general manager of Empire Auto. A site plan, previously approved by PZC, was shown of the former Rex Lumber site where Empire Auto Wholesalers will be located. The plan includes landscaping in the front of the site where some pavement was removed. The red line area has been added to plan as required by DMV. Mr. Oates verified there was nothing else required by PZC.

Mr. Etter asked if Empire will be a tenant on the property. Mr. Ussery indicated they will be a tenant selling primarily to the wholesale market and only servicing cars they will be selling. Ms. McGuire asked what dictates what cars come to the site. Mr. Ussery indicated off lease cars or fleet cars from rental agencies that are 2 to 3 years old would typically come to the site to be sold.

Motion to: close public hearing at 8:13 p.m.

Was made by: Board Member Oates

Seconded by: Board Member Dabrowski

The motion: Carried

Vote: Unanimous

- 3. Appl. 2802-17** – Jacques Construction on behalf of Joyce Aucoin - request for a 7 foot variance to Section 3.1.2A to allow construction of a 16' x 18' sunroom, 43 feet from the rear property line (50 feet required), on property located at 383 Deming Street, AA-30 zone.

Mr. John Jacques of Jacques Construction presented the variance request on behalf of property owner Ms. Joyce Aucoin. When the house was constructed it had to be set back further on the site because of the location of the septic system. They are also unable to construct the sunroom on the west side of the house where all the utilities enter the house.

Mr. Oates noted the topography of the site which Mr. Jacques described as a sloping site and that they will install a foundation for the sunroom to help retain it. He submitted drawings of the structure and one copy of the complete plot plan which were not part of the original application. The house is 1 ½ years old and sitting on the 50' lot line as far back as it can go so there would be a 6' 3" encroachment for the addition of the 18' deep sunroom. Mr. Oates asked about the abutting properties. Mr. Jacques stated a Christmas tree farm with a development being built beyond that is behind the lot. Mr. Etter asked who built the house. Mr. Jacques stated he had built the house on speculation.

Mr. Etter asked why this was not a self created hardship. Mr. Jacques noted the utilities on the right side of the building preventing an addition to that side. Mr. Etter noted it was his design to which Mr. Jacques stated the engineers told them where the utilities would be placed. The house was built as far back as it could go on the lot because of where the septic had to be placed. By choice the driveway would have been 75' shorter but there was no choice. Mr. Etter asked if the location of the tank and leach field was prescribed by the Town or approved by the Town and asked for documentation.

Ms. Futtner stated a hardship does exist because the Town approved the site for the house with the Health Department requesting the leaching field and septic system would be in a certain location. Mr. Etter suggested it would be summarizing that they were told where to place the septic and utilities. Mr.

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Jacques stated the original approval for the lot was in 1995. Mr. Oates noted it is the ZBA's job to look at what exists today which is a house with a leaching field within the buffer zone looking for a variance.

Mr. Kilburn asked for copies of letters to the abutting property owners. Mr. Jacques submitted the generic letter sent and stated he received no written comments in response but had spoken with the property owner directly behind who had no problem with the plan.

Mr. Carty asked if the sunroom could be designed to be 11' wide to avoid the issue. Mr. Jacques stated 11' would be too narrow for the four season sunroom addition and noted the chimney and utilities on the west side of the house preventing the location there.

Mr. Etter requested Health Department documentation requiring the location of the septic system and leaching fields on the site. Mr. Jacques stated the lot was approved in 1995 which included the septic because they have to do the test pits at that time for approval. Mr. Carty asked for the minimum setback to the leaching fields. Mr. Jacques stated there is a 25' required setback but they are at 27'.

Mr. Etter suggested leaving the hearing open if the applicant can show that it was not their own choice to place the house where it is on the lot. Mr. Jacques stated he will go to the Town to get the information of where it was approved. Mr. Carty noted the conflict of whether the location was approved or required.

Motion to: close public hearing at 8:38 p.m.

Was made by: Board Member Oates

Seconded by: Board Member Kilburn

The motion: Carried

Vote: Unanimous

REGULAR MEETING / DELIBERATIVE SESSION

1. **Appl. 2800-17** – Christine & Jon Gehris – request for a 10 foot variance to Section 3.1.2A to allow placement of a 12' by 24' pool house 10 feet from the property line (20 ft required), on property located at 1523 Main Street, A-40 Residential zone

Motion to: approve Appl. 2800-17 as presented

Was made by: Board Member Etter

Seconded by: Board Member Kilburn

The motion: Carried

Vote: Unanimous

Hardship: The previously approved variance will be maintained for its original intention and hardship. The sidelines and height of structure, and the floodplain on property has not changed.

2. **Appl. 2801-17** – Empire Auto Wholesalers – request for approval of a Department of Motor Vehicle Used Car Dealers license for retail sale of motor vehicles, on property located at 280 Sullivan Avenue, Industrial zone

Motion to: approve Appl. 2801-17 as presented

Was made by: Board Member Dabrowski

Seconded by: Board Member Kilburn

The motion: Carried

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Vote: Unanimous

- 3. Appl. 2802-17** – Jacques Construction on behalf of Joyce Aucoin - request for a 7 foot variance to Section 3.1.2A to allow construction of a 16' x 18' sunroom, 43 feet from the rear property line (50 feet required), on property located at 383 Deming Street, AA-30 zone.

Motion to: approve Appl. 2802-17 as presented

Was made by: Board Member Oates

Hardship: that the house was built as approved, closer to the rear setback, requiring a 7' variance for this request and there are no other feasible alternatives for locating the addition on the property.

Seconded by: Board Member Dabrowski

There was further discussion regarding whether a hardship existed or was self created. Mr. Oates indicated he heard the concerns about a self created hardship but the house is located where it is today per a requirement and cannot be moved and finds it reasonable to approve the variance request. Mr. Kilburn stated he found the documentation to be thin on the newly constructed house and would vote in opposition. Mr. Etter read the definition of a hardship from the ZBA regulations and stated he would vote in opposition.

The motion: Denied

Vote: 2 Yea – Oates, Dabrowski; 3 Nay – Etter, Carty, Kilburn

Approval of Minutes

Motion to: approve minutes of May 6, 2017

Was made by: Board Member Kilburn

Seconded by: Board Member Dabrowski

The motion: Carried

Vote: Unanimous

New Business:

Old Business: Proposed Bylaws Revisions to be addressed

Correspondence:

Adjournment:

Motion to: adjourn the meeting at 9:05 p.m.

Was made by: Board Member Kilburn

Seconded by: Board Member Dabrowski

The motion: Carried

Vote: Unanimous

Respectfully submitted:

Lauren Zarambo
Recording Secretary