

MINUTES OF THE TOWN OF WAYNE  
ZONING BOARD OF APPEALS  
March 18, 2014

The meeting opened at 6:30 PM with a roll call of the members.

MEMBERS:	PRESENT	ABSENT	LATE	ARRIVAL
Wayne Hand, Acting Chair	<u>X</u>	—	—	—
Greg Blessing	<u>X</u>	—	—	—
Candy Dietrich	<u>X</u>	—	—	—
Bill Feinstein	—	<u>X</u>	—	—

ALSO PRESENT: Gayle O'Connor  
Tom Chacho  
Leona Brainerd  
Steve Veley II  
John Welch

Kimberly O'Connor  
Kay Leiderbach  
R. G. Brainerd  
Lori Deloe

**MINUTES:**

Mr. Hand made a motion to approve the December 12, 2013 minutes as presented, seconded by Ms. Dietrich.

A roll call vote was taken.

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Bill Feinstein	—	—	—	<u>X</u>
Greg Blessing	—	—	<u>X</u>	—
Candy Dietrich	<u>X</u>	—	—	—
Wayne Hand	<u>X</u>	—	—	—

Ayes-2. Abstain-1. Absent-1.

The minutes were approved.

**NEW BUSINESS:**

Mr. Hand apologized to those present for any inconvenience that may have occurred because the need for rescheduling of the previous Zoning Board meetings due to weather conditions.

After discussion, the following recommendations were made for the cancellation any future meetings:

- Contact the TV stations in the area.
- Put the notice on the Town website page.
- Put a notice on the outside bulletin board.

**VARIANCE APPLICATION NO. 01V14:** Stephen Veley II. Property located at 9875 Bubbling Springs Rd., Town of Wayne. Request setback and lot size relief for the removal and replacement of an existing cottage. 6.3 and 7.2.3

Mr. Veley stated the following:

- He bought the property with the existing cottage and shed.
- Part of both the existing cottage and shed are on a neighboring property.
- The proposed cottage will be placed squarely on his own property.
- The proposed cottage would meet the proposed Land Use Regulations setbacks that are currently being reviewed.
- His lot size is 3,780 sq. ft. and the minimum lot size requirement is 20,000 sq. ft.

Mr. Hand stated the applicant had good documentation but noted that the proposed Land Use Regulations were just that, proposed. The Zoning Board needed to base their decision on the current Land Use Regulations. He further noted the application would require a variance for the lot size, a side yard setback on both sides and a front yard setback, making it a total of four (4) variances.

After the public hearing was opened, it was noted that 56 letters were sent to the neighboring property owners, with one response received by phone from Peter McKendrick stating it would be an improvement to the neighborhood.

No one was present at this meeting to express any concern.

Upon discussion, the Board agreed to go through the area variance findings and decision questions and combine the variance requests.

There was unanimous agreement that replacement of the existing structures would not only reduce the setback non-conformity, but substantially improve the appearance of the property and neighborhood.

Ms. Dietrich made a motion to grant a setback relief the following:

- A ten (10) ft. from the front yard.
- Two (2) ft. on both the East and West side yard.
- 16,220 sq. ft. from the minimum lot size.

Seconded by Mr. Blessing.

A roll call vote was taken.

	Aye	Nay	Abstain	Absent
Bill Feinstein	—	—	—	X
Greg Blessing	X	—	—	—
Candy Dietrich	X	—	—	—
Wayne Hand	X	—	—	—

Aye-3. Nay-0. The variance was approved.

**OLD BUSINESS:**

**VARIANCE APPLICATION NO. 13V13:** Gayle O'Connor. Property located at 12474 East Lake Rd., Town of Wayne. Request replacement of existing retaining walls, extend patio area and change step layout.

This application was first heard December 12, 2013 and then tabled due to the need for a clearly defined survey showing the existing conditions, with a complete set of Plans and Specification for the proposed work with the proper dimensions and a plot plan drawn, showing the street on which the property is located, lot dimensions, all building dimensions (existing and proposed), the distance from new construction to the lot line and a North arrow. Due to weather conditions, both the February 14<sup>th</sup> and March 13<sup>th</sup> meetings were cancelled.

Mr. Chacho, landscaper for Ms. O'Connor stated the following:

- For stability, he recommended three (3) tiers instead of the existing two (2).
- Currently the existing oak retaining wall is starting to fail.
- Unilock materials would be used for the retaining walls, pillars, steps and pavers.
- He would be using five (5) ft. geogrid blocks with approximate 384 tons of fill.
- The top and bottom retaining walls would not change.
- The proposed bump out for the middle wall is for an existing tree the owner would like to save.
- They would remove the existing pump house.

Kimberly O'Connor, daughter to the owner was present to inquire and state the following:

- She was an architect and had information on her computer to show the Board.
- The existing tree they wanted to save would help stabilize the steep bank.
- They were seeking relief from the south side, west side and high water mark.
- In order not to drag the application any longer, the need to have a clear understanding of what was needed.

Mr. Hand opened the public hearing.

Ms. Brainerd stated she was here to listen and learn what the applicant would like to do.

Mr. Welch stated he was present at the Brainerd's request and stated the following:

- He was a landscaper who also instructed others how to install retaining walls.
- For safety, he stressed the need for soil samples to know the density and the correct type of materials that should be used.
- The need for stamped engineered plans with soil samples to determine the safest way to remove and replace the existing walls.

Mr. Hand read two (2) letters from Mr. Madigan, neighbor to the North, stating he objected to the proposed plans. (Letters in file).

Ms. O'Connor stated the parking area above the retaining wall was there prior to 1985 when she bought the property and is used by more than her family and stated Mr. Bauer signed off on the road portion.

Mr. Hand recommended the applicant repair on the existing footprint and was very concerned about the distance the proposed top wall retainer design needed to extend into the road right-of-way. However, there were no detailed drawings provided which defined construction elevation views, defined the degree of excavation required, or the significant amount of new fill needed.

Mr. Blessing stated he had no problem with the applicant repairing the existing retaining walls, further noting the property was already non-conforming and shouldn't be allowed into further non-conformance.

Ms. Dietrich stated the first stairs were the same and the second stairs were almost in the same footprint.

After discussion, Mr. Blessing made a motion to table the application until the applicant could provide the following:

- The applicant needs to provide stamped detailed engineered plans, including elevation views, showing all the dimensions for the proposed construction; clearly indicating distances from property boundaries, road right-of-way, and mean high water mark. The location of existing structures, along with current distances from property boundaries, road right-of-way, and mean high water mark, need to be clearly indicated vs. any new proposed structures.

- Appropriate soil testing will need to be performed to determine the most appropriate design and materials to be used.
- Recommend the applicant stay within the existing footprint.
- All information needs to be supplied and reviewed by the Board prior to their next meeting with Ms. O'Connor.

Seconded by Mr. Hand. Ayes-3. Nays-0.

As there was no further business, Ms. Dietrich made a motion to adjourn, seconded by Mr. Blessing. Ayes-3. Nays-0. The meeting was adjourned at 7:57PM.

Sincerely,

Maureen Kurtz