

**GLASTONBURY ZONING BOARD OF APPEALS**  
***Regular Meeting Minutes of Monday, August 3, 2020***

The Glastonbury Zoning Board of Appeals with Peter Carey, Building Official, in attendance held a Regular Meeting on Monday, August 3, 2020 via ZOOM video conferencing.

**ROLL CALL**

**Board Members- Present**

Brian Smith, Chairperson  
Sandra O’Leary, Vice Chairperson – excused from agenda #1  
Nicolas Korn, Secretary  
Timothy Lamb- excused from agenda #1  
Jaye Winkler  
Susan Dzialo, Alternate  
David Hoopes, Alternate  
Doug Bowman - Alternate

**Board Members- Excused**

(None)

Chairman Smith called the meeting to order at 7:00 pm and explained the public hearing process to the audience. Chairman Smith also noted that 4/5 votes are needed for an application to pass and there is a 15-day appeal period.

Chairman Smith asked each person to identify themselves before they speak.

Secretary Korn read out the 4 agenda items.

**Public Hearing**

**1. Continued application from July 6, 2020 by John Alan Sakon for a variance from Building Zone Regulations Section 12.7 for the property known as “The Shoppes at Avalon” at 2980 Main Street, 131 Griswold Street (Lot 27600131) N2B Griswold Street Rear (Lot 27600002B), E8A Main Street Rear (Lot 41400008E), in Planned Travel Zone.**

Mr. Peter Carey, Building Official, read off the first agenda item. Chairman Smith asked if Mr. Sakon or any representatives are present. Mr. Bobby Ashton, IT Manager, stated that no one is present. Chairman Smith asked Attorney Andrea Gomes whether Mr. Sakon was given the records. Attorney Gomes stated yes and noted that the information is also posted online. Chairman Smith asked if Mr. Sakon was notified about the meeting. Both Ms. Gomes and Mr. Carey stated that they have contacted Mr. Sakon twice and did not receive any response.

Chairman Smith asked Attorney Gomes to provide a summary of Mr. Sakon’s application.

Attorney Gomes stated that on the March 2, 2020 meeting, the Board voted to incorporate the record into the meeting. The Board continued the meeting to April and informed Mr. Sakon that he would have 15 minutes to speak and rebut the letter from Attorney Gomes. The April and May public meetings were canceled because of COVID-19.

Attorney Gomes explained that Mr. Sakon disagreed with the meeting being held via Zoom.

Chairman Smith reminded the Board that the seated members for the first agenda item are Mr. Hoopes, Ms. Dzialo, Ms. Winkler, Secretary Korns and himself.

Attorney Gomes explained that the deadline to hold another meeting would be prior to September 8, 2020 and added that it would have to be a Special Meeting because of Labor Day. Attorney Gomes stated that the Board must decide whether to have a Special Meeting or to close the public hearing.

Attorney Gomes stated that on July 22, 2020 Mr. Carey notified Mr. Sakon about the time discrepancy regarding the meeting deadline. Mr. Carey stated that he is unsure if Mr. Sakon would agree to a Special Meeting via Zoom prior to September 8, 2020.

Chairman Smith asked Mr. Ashton once again if Mr. Sakon or any representatives are present. Mr. Ashton stated that no one is present.

Secretary Korns inquired if all of the communication with Mr. Sakon has been done by email. Mr. Carey replied yes. Secretary Korns asked if he had gotten a response from Mr. Sakon. Mr. Carey stated that they have gotten a response in the past but not this time. Chairman Smith wanted to confirm that none of the emails bounced back. Mr. Carey stated that no emails bounced back.

Chairman Smith opened the floor for public comment, either for or against the application, and seeing as no one came forward to speak, Mr. Smith closed public comment on the application.

Chairman Smith asked the Board to entertain a motion.

***Motion by:*** Mr. Hoopes

***Seconded by:*** Ms. Winkler

MOVED, that the Glastonbury Zoning Board of Appeals closes the public hearing on the first agenda item.

***Result:*** Motion passes unanimously (5-0-0)

**2. By Tim Goodale/ Juliano Pools for a variance from section 7.1b.2f to allow a pool to be located closer to the side yard line on a corner lot located at 341 Old Stage Rd in residence AA zone owned by Ali Dabiri and Kristy Dabiri.**

Mr. Carey read off the second agenda item. Chairman Smith explained that they will now reseal the regular Board members.

Mr. Eric Levesque of Juliano Pools is presenting on behalf of the homeowners. Mr. Levesque stated that they have an 8 by 10 foot shed, as well as a pool in side yard. He asked if the Board had any questions. Mr. Bowman inquired if they will position the pool to the left of the house. Mr. Levesque replied yes. Mr. Bowman stated that the space can accommodate what is being proposed.

Ms. O'Leary inquired if there was a right of way road planned for the area bordering the property. Mr. Carey stated that it was a proposed road from Hampshire Drive over to Olde Stage and it has never been completed. He further explained that the easement right of way still exists and the Zoning requires it to be classified as a corner lot. Ms. O'Leary inquired if there are wetlands in the back of the property. Mr. Carey stated yes and also explained that the easement was never taken out. Ms. O'Leary inquired about who maintains the property. Mr. Carey stated it is most likely the Town. Mr. Ali Dabiri, the homeowner stated that they take care of the land. He explained that they snow blow in the winter. He also stated the Town owns the land. Ms. O'Leary inquired again if there are any wetlands. Mr. Dabiri stated yes and explained that they received approval.

Chairman Smith inquired if there were any conditions with the wetlands approval. Mr. Dabiri replied that the location is fine as long as they put in the notice.

Mr. Lamb stated that looking on Google Maps, it is Town property. Mr. Carey stated that it is reserve land and a sewer easement. He also explained that the land directly behind is reserve land owned by the Town.

Ms. Winkler stated that she wanted clarification on what the hardship is for shifting the pool over. She then asked if there was an existing obstacle. Mr. Levesque stated that there is a safety reason. He then explained that there is no clear view of the pool from the kitchen or the dining area. Ms. Winkler agreed with the safety issue.

Ms. O'Leary inquired what the pink area is on the map. Mr. Levesque stated that it is an existing blue stone patio.

Mr. Lamb stated that there appears to be a slope in the back and asked if that was correct. Mr. Levesque stated that it does slope down.

Chairman Smith opened the floor for public comment, either for or against the application, and seeing as no one came forward to speak, Mr. Smith closed public comment on the application.

Chairman Smith thanked the applicants.

**3. By George Fay for a Special Exception as provided for in section 8.2b for an addition to be closer to the rear property line but no closer than the existing non-conforming structure at 26 Mark Dr in residence A zone owned by Andrew and Leslie Hersom.**

Mr. Carey read off the third agenda item.

Mr. George Fay, stated that he is a contractor and will be representing the homeowners. He informed the Board that the addition will consist of a bedroom and bathroom. A wraparound porch will be attached to the 2-car garage. Mr. Fay explained that the addition will be no closer to the rear yard than the existing family room to the back of the house.

Chairman Smith inquired if the addition will not violate the side yard. Mr. Fay stated that it will not. Chairman Smith asked if the addition will be 1 or 2 stories. Mr. Fay replied one story and explained that the proposed space is for a handicapped child who uses a wheelchair.

Mr. Lamb inquired if it is 30 or 35 feet. Mr. Fay stated that he will try to scale it and figure it out.

Mr. Bowman inquired if the area in the back corner is a shed. Mr. Fay stated that he believes it is but is not sure where on the map it should be labeled. Mr. Bowman stated it is the back-left corner and commented on why it is not on the plot plan.

Mr. Lamb stated that the shed has nothing to do with the application. He then asked Mr. Fay to work out the scale and find out how many feet.

Ms. Winkler inquired if the property predates zoning laws. Ms. O'Leary stated not that area, but explained that the lots are smaller and are non-conforming.

Mr. Fay stated that the area is 37 feet from the back part of the property.

Ms. O'Leary asked if the addition is off the garage. Mr. Fay replied correct and added that it is accessed through the family room. Ms. O'Leary asked if it was off the family room to the left. Mr. Fay replied correct. Ms. O'Leary commented that most of it is going to the side. Mr. Fay replied correct. Ms. O'Leary then summed up that the circumstances, the addition leaning more toward the side and the lot being small, contribute to the hardships. Mr. Fay agreed with the point that the lot is not large.

Chairman Smith inquired whether it would be placed in the rear or side yard.

Mr. Lamb informed the Board that the applicants' proposal is under section 8.2 and explained that moving it 37 feet would bring it closer to the rear yard. Mr. Lamb noted that this could be a different section. Mr. Carey stated that is correct.

Mr. Carey asked Mr. Fay what the overlap is back from the garage. He then asked how much it overlaps into the sunroom addition and added that the measurement is not shown anywhere. Mr. Fay stated 12 feet. Mr. Carey stated that, based on a rough measurement on GIS, it is 37 or 35 feet.

Chairman Smith stated that the application may not fit under a special exception but rather a variance.

Mr. Carey stated that the application was not advertised as such. He also noted that it is not permitted to increase the scope of the project.

Chairman Smith stated that the applicants would need to cut off 3 feet to meet the code. He also added that it is unfortunate and inquired from Mr. Fay if the homeowners would be upset at the change.

Mr. Carey stated that the homeowners can come back in September for a variance for the porch. He also noted that it is a pretty minor request. Mr. Carey stated that, if the Board changed the application to a variance, the application could be challenged and reiterated that it is best to come back in September for a variance.

Mr. Fay agreed with Mr. Carey's points and stated the homeowners can always come back for the porch.

Ms. Dzialo agreed with Mr. Carey's points.

Mr. Hoopes stated that he does not see how anyone can be prejudiced and added that the Board should treat it as a variance. Mr. Hoopes then explained that the public can look at the plans and see what the applicants are proposing.

Ms. Winkler stated that this seems to be a kind of clerical error. She asked Mr. Hoopes, based on his zoning law knowledge, if they can make the correction on the spot during the meeting.

Mr. Hoopes stated that he cannot comment on the legalities but sees no prejudice.

Chairman Smith informed the Board that his concern is that members of the public could raise the issue because it was not advertised as a variance. He then explained that the change in application can give members of the public a year to bring up the issue. Chairman Smith stated that it is less problematic to come back in September for a variance application.

Mr. Hoopes stated that Chairman Smith brought up a good point.

Mr. Fay stated that he is in agreement with these points. He then explained that the porch was not a necessity but more of a wish list. Mr. Fay stated that they do not want problems a year from now.

Mr. Lamb stated that he is quite in favor of the application. He suggested that Mr. Fay talk over the plans with the homeowners and come back in a month. Mr. Fay stated that the homeowners do not want to delay the construction and they will eliminate the porch from the plans.

Mr. Bowman asked if there was any overhang. Mr. Fay replied 4 feet. Mr. Bowman asked if it would be supported by columns. Mr. Fay replied yes. Mr. Bowman stated that it sounds lovely from an aesthetic point. He then stated that he would like to encourage the homeowners to retain the idea of the front porch.

Chairman Smith opened the floor for public comment, either for or against the application, and seeing as no one came forward to speak, Mr. Smith closed public comment on the application.

Chairman Smith asked Mr. Fay if it was his position to agree with moving the addition 4 feet forward and coming back later for the variance. Mr. Fay replied correct.

Chairman Smith thanked the applicants.

**4. By John Wisniewski for a variance from section 4.4.7 for an addition closer to the side property line than permitted at 1721 Main Street in residence AA zone.**

Mr. Carey read off the fourth agenda item.

Mr. John Wisniewski stated that he plans on having a pavilion which connects to the house 15 feet away from the property line. He also added that the driveway is shared. Mr. Wisniewski also stated that the lot is problematic because there a shallow drainage pipe that measures about 12 to 12 ½ feet. He then explained that he is proposing an 18 x 18-foot pavilion pergola and added that he needs 5 feet and the property is only 75 feet wide.

Ms. O’Leary asked if the pergola will be placed in the area where the patio is. Mr. Wisniewski replied yes. Ms. O’Leary asked if it would be all the way to the end. Mr. Wisniewski replied not to the end. Ms. O’Leary inquired if it would be open all around. Mr. Wisniewski replied yes. Ms. O’Leary asked if there would be a roof on top. Mr. Wisniewski replied yes. Ms. O’Leary stated that the house on the left side just sold and inquired how close the pavilion will be to the side yard. Mr. Wisniewski replied 15 feet. Ms. O’Leary asked the applicant what he will use the space for. Mr. Wisniewski replied entertaining. He then explained that he always wanted a wood fire oven. Mr. Wisniewski also stated that he just bought the house and it is 100 years old.

Mr. Bowman stated that a pergola and a pavilion are different and inquired if the applicant is constructing something with a solid roof. Mr. Wisniewski replied correct and added that it will

be a gabled roof. Mr. Bowman asked if there would be columns. Mr. Wisniewski replied correct. Mr. Bowman inquired if it would be wider than the current house. Mr. Wisniewski replied no.

Chairman Smith confirmed that the measurement is 18x18 feet.

Chairman Smith opened the floor for public comment, either for or against the application, and seeing as no one came forward to speak, Mr. Smith closed public comment on the application.

Chairman Smith thanked the applicant.

*A brief recess was taken from 8:20-8:25 pm.*

Chairman Smith informed the Board that they will now move on to deliberations.

#### **1) Action on Public Hearings**

**1. Continued application from July 6, 2020 by John Alan Sakon for a variance from Building Zone Regulations Section 12.7 for the property known as “The Shoppes at Avalon” at 2980 Main Street, 131 Griswold Street (Lot 27600131) N2B Griswold Street Rear (Lot 27600002B), E8A Main Street Rear (Lot 41400008E), in Planned Travel Zone.**

*Motion by:* Secretary Korns

*Seconded by:* Ms. Dzialo

MOVED, that the Glastonbury Zoning Board of Appeals approves the continued application from July 6, 2020 by John Alan Sakon for a variance from Building Zone Regulations Section 12.7 for the property known as “The Shoppes at Avalon” at 2980 Main Street, 131 Griswold Street (Lot 27600131) N2B Griswold Street Rear (Lot 27600002B), E8A Main Street Rear (Lot 41400008E), in Planned Travel Zone.

#### **Discussion:**

Chairman Smith stated that non-sitting board members are not allowed to participate in the deliberation. Attorney Gomes confirmed this.

Secretary Korns asked the Chairman if the date of July 6, 2020 on the motion is correct. Chairman Smith stated it is correct because it is a continued application.

Secretary Kornis stated that it is unfortunate that no additional input was provided and Mr. Sakon was not present. He stated that he would vote against the application because there is no information to justify approving the application.

Mr. Hoopes stated that he will also vote against the application for a number of reasons. The applicant had not presented evidence and the hardships were self-created. Mr. Hoopes further explained that the applicant did not provide any evidence of hardship from section 12.7.

Mr. Hoopes also explained that the traffic studies and re-approvals and other expenses are solely a financial hardship.

Ms. Winkler stated that she regrets that Mr. Sakon chose not to participate. She also stated that she understands that Zoom does not provide the format Mr. Sakon is comfortable with. She also explained that without any presentation of evidence, the Board cannot vote in favor of this application. Ms. Winkler stated she will also join the no votes.

Ms. Dzialo stated Mr. Sakon's position does not seem entirely within a variance mode but has other issues. She suggested that Mr. Sakon go back to the Town for clarification on his permits. Ms. Dzialo also stated that she will not approve the variance application.

Chairman Smith stated that the Board had tried to give Mr. Sakon each and every opportunity to make his case, including one very long hearing. The Chairman also stated that what struck him from the testimony is that Mr. Sakon changed his position a number of times. The position Mr. Sakon took was to ask the Board to validate the existing permits from the Town Plan and Zoning Commission. Chairman Smith stated that the Board cannot do this.

Chairman Smith further explained that, instead of seeking a variance from 12.7, Mr. Sakon asked to extend the deadline. Chairman Smith also agreed with Mr. Hoopes' points that Mr. Sakon did not want to spend additional money. The Chairman also explained that there is no history of Mr. Sakon being denied and the Board is concerned with credibility on some of the testimony. For example, Mr. Sakon stated in the past that he had commenced substantial construction as early as 2016, but that statement was inconsistent with a letter presented in 2018. Chairman Smith stated that he can empathize with Mr. Sakon, but the reasons for the variance are not appropriate. The only hardships that were presented were financial hardships, which the Board cannot grant. Chairman Smith stated that he will be joining the others in not voting in favor.

**Result:** Motion fails unanimously (0-5-0)

**2. By Tim Goodale/ Juliano Pools for a variance from section 7.1b.2f to allow a pool to be located closer to the side yard line on a corner lot located at 341 Old Stage Rd in residence AA zone owned by Ali Dabiri and Kristy Dabiri.**



**Motion by:** Mr. Lamb

**Seconded by:** Ms. O’Leary

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by Tim Goodale/Juliano Pools for a variance from section 7.1b.2f to allow a pool to be located to the side yard line on a corner lot no closer than 15 feet located at 341 Olde Stage Rd in residence AA zone owned by Ali Dabiri and Kristy Dabiri on the grounds that the placement of an easement on the side of the property (current plans will not be developed to a cut through road) and due to the slope of the land and safety. The requirements of section of 13.9 have been met.

Mr. Lamb clarified that Olde Stage Rd is Olde with an “e” at the end.

**Discussion:**

Mr. Lamb stated that, if the Town decided to change their mind and put a cut through road, he might recommend that the Board negate the application. He then stated that he will let it go.

Ms. O’Leary stated that, if the Town was going to do it, they would have done it, but then added who knows.

Ms. Winkler inquired if the applicants can move the fence in closer. She then stated that it is more of a question for the applicants. Ms. Winkler then added that moving the fence might provide some comfort to members of the Board who feel hesitant regarding the positioning of the pool.

Mr. Lamb stated that he has no issue with the positioning because of the open space land that cuts across the access road.

Chairman Smith Stated that there is more of a risk for people with the pool and not the people on the road.

Ms. Winkler stated that the applicants can always build a higher fence.

**Result:** Motion passes unanimously. (5-0-0)

**3. By George Fay for a Special Exception as provided for in section 8.2b for an addition to be closer to the rear property line but no closer than the existing non-conforming structure at 26 Mark Dr in residence A zone owned by Andrew and Leslie Hersom.**

**Motion by:** Ms. Winkler

**Seconded by:** Ms. O’Leary

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by George Fay for a Special Exception as provided in section 8.2b for an addition to be closer to the rear property line but no closer than the existing non-conforming structure at 26 Mark Dr. in residence A zone owned by Andrew and Leslie Hersom on the grounds that the configuration of the existing building on the lot determines the placement of the addition, providing access to a handicapped family member and improved safety. The requirements of section 13.9 have been met.

Secretary Korn asked the Chairman if he can offer an amendment to strike the hardship clause from the motion because it is not required for a special exception.

Ms. Winkler stated that the hardship explanation can be used as her discussion points. Chairman Smith asked Ms. Winkler to change the wording of the motion and suggested that the language include “with the condition as presented by the applicant to change the plans that were shown to bring the addition 4 feet closer to the front yard.”

Ms. Winkler stated that she accepts the revision as stated. Chairman Smith asked if there a second. Ms. O’Leary stated that she will second the motion.

***Motion by:*** Ms. Winkler

***Seconded by:*** Ms. O’Leary

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by George Fay for a Special Exception as provided in section 8.2b for an addition with the condition as presented by the applicant to change the plans that were shown to bring the addition 4 feet closer to the front yard at 26 Mark Dr. in residence A zone owned by Andrew and Leslie Hersom.

**Discussion:**

Ms. Winkler asked if the moving the building 4 feet would result in removing the walkway. Chairman Smith stated that is correct.

Chairman Smith stated that bringing everything 4 feet forward should solve the problem. Mr. Carey replied that is correct.

Chairman Smith stated that the applicants can come back for a variance and asked if everyone is clear about what they are approving.

The Chairman also noted that Ms. Dzialo brought up the point and question of the revision in the plans and if it would entail a design change. Ms. O’Leary reiterated that the applicants can come back for a variance for the porch.

Chairman Smith asked Attorney Gomes whether the applicants would need to repost the notice if they are still conforming to the special exception.

Ms. Gomes stated that is correct – as long as the project is not increased in scope, there is no need to send another notice.

Mr. Lamb stated that he is in favor of the application, but the builder did not realize that he was encroaching more than the existing non-conforming structure, so the building will need to be moved forward. Ms. O’Leary stated that was a good catch.

**Result:** Motion passes unanimously. (5-0-0)

**4. By John Wisniewski for a variance from section 4.4.7 for an addition closer to the side property line than permitted at 1721 Main Street in residence AA zone.**

**Motion by:** Ms. O’Leary

**Seconded by:** Mr. Lamb

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by John Wisniewski for a variance from section 4.4.7 for a covered pavilion no closer than 15 feet to the side property line than permitted at 1721 Main Street in residence AA zone on the grounds that the sewer placement and narrow lot configuration has created a hardship. The requirements of section 13.9 have been met.

**Discussion:**

Ms. O’Leary explained that the lot is narrow and the patio is already down. She stated that the pavilion will not cause any harm and is very much useable even in times of rain. Ms. O’Leary also stated that it will be attached to the property.

Secretary Korns agreed with the points and stated that it makes sense and no one would have any problems.

Ms. Winkler stated that it is the best placement for the pavilion and will vote in favor.

**Result:** Motion passes unanimously. (5-0-0)

Chairman Smith thanked Attorney Gomes for her help. Ms. Gomes left the meeting at 8:56 pm.

**2) Acceptance of Minutes from July 6, 2020 meeting**

**Discussion:**

Secretary Korns stated that he did not read the minutes. He asked Mr. Carey about the inconsistency of the wording on the applications. Mr. Carey explained that is how the regulation is worded.

Mr. Lamb stated that he did not receive the minutes and will not vote on them because he did not read them and could not find them.

Ms. Winkler stated she found the meeting minutes and started reading from them and noted that it was detailed and not just a page long. Mr. Lamb asked her where on the website they are located.

Secretary Korns suggested the Board table the minutes until they are located and read by the members.

Ms. Dzialo stated the minutes are also located on Town Clerk website.

Secretary Korns stated that the Board should not have to search for this and the minutes should be emailed. Mr. Lamb stated that he seconds it and Ms. O’Leary stated she will third it.

Chairman Smith stated that the Board is in agreement about Secretary Korns’ points.

Mr. Carey stated that he agrees with the Board and he is having a hard time finding them on the website. He also stated that he does not expect the Board as volunteers to figure that out.

Chairman Smith asked Mr. Carey to send the minutes in advance directly to the Board. Mr. Carey stated that it should show up in the list with applicant materials.

Ms. Winkler stated that the July minutes are a 20-page document.

Ms. O’Leary stated that she would like to congratulate the applicants. Chairman Smith thanked IT Manager Bobby Ashton for his help.

**Motion by:** Secretary Korns

**Seconded by:** Mr. Lamb

MOVED, that the Glastonbury Zoning Board of Appeals tables the minutes of the regular meeting of July 6, 2020 to the September 14, 2020 meeting.

**Result:** Motion passes unanimously (5-0-0)

**Motion by:** Ms. Winkler

**Seconded by:** Ms. O’Leary

MOVED, that the Glastonbury Zoning Board of Appeals adjourns their regular Meeting of August 3, 2020 at 9:09 pm.

**Result:** Motion passes unanimously (5-0-0)

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Brian Smith, Chairperson