

GLASTONBURY ZONING BOARD OF APPEALS
Special Meeting Minutes of Wednesday, January 17, 2024

The Glastonbury Zoning Board of Appeals, with Lincoln White, Building Official, and Seon Altius, Zoning and Planning Technician, held a Special Meeting on Wednesday, January 17, 2024 via ZOOM video conferencing.

ROLL CALL

Board Members- Present

Brian Smith, Chairman
Susan Dzialo, Vice-Chair
Nicholas Korn, Secretary
David Hoopes
Jaye Winkler
Douglas Bowman, Alternate
Elizabeth Cafarella, Alternate

Board Members- Excused

Aaron White, Alternate

Chairman Smith called the meeting to order at 7:04 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. The Chairman welcomed the new alternate, Ms. Elizabeth Cafarella, and briefly explained the role of alternate board members. He noted that it is similar to alternate jurors and added that alternates are not permitted to participate in the deliberation portion of the meeting.

Mr. Gary Haynes, Planner, Community Development, was present at the meeting.

Secretary Korn read the agenda items. The third application was postponed to the February 5, 2024 meeting.

Public Hearing

- 1. Scott Santucci of 350 Chestnut Hill Rd. Exact location of involved property is 265 Hebron Ave. Zone Town Center (TC) is requesting a variance from section 4.13.2 for the purpose of expanding a single-family home into a two-family dwelling. The variance is due to the inability to expand the home into a three-family dwelling because of the size of the lot.**

Mr. White read the application.

Mr. Scott Santucci introduced himself for the record. He explained that he purchased the property on 265 Hebron Avenue back in October. Mr. Santucci noted that he plans to turn the property into a two-family dwelling. He asked the Board if they had any questions.

Chairman Smith asked the applicant to explain the hardship. Mr. Santucci explained that he initially thought about a commercial business for the property and decided that the lot is more suited for rental purposes. He explained that the regulations allow an accessory unit apartment only if the owner resides at the address. Mr. Santucci stated that he lives in another part of Glastonbury and does not plan to live at the 265 Hebron Ave address.

Chairman Smith asked the applicant to describe the new layout. He asked whether the units would be upper floor, lower floor, or side by side. Mr. Santucci stated that it would be upper floor and lower floor and added that he has a survey and floor plan. Mr. White asked the applicant to share the plans. The plans were put up on the screen and it was noted that the property is in the Town Center (TC) zone. Mr. White explained that the Town Center zone allows for multi-family dwellings and existing non-conformities.

Mr. Haynes provided a brief history of the application. He explained that initially the applicant requested a building permit to establish a second unit. Mr. Haynes explained that the regulations allow a second unit as a permitted use prior to 2014 and noted that in this particular case the regulations define multi dwellings as 3 units or more. He noted that, because of the regulations, the applicant could only go to TPZ to receive a recommendation to go before the ZBA. Mr. Haynes explained that Town staff spoke with the Town Attorney about an opinion regarding the criteria of owner/occupied units. Mr. Haynes noted that the Town Attorney explained that there is some questionability about the legality and suggested amending the regulations in the future. Mr. Haynes noted that the Town Attorney suggested for the applicant to go before the ZBA to obtain a use variance. Mr. Haynes noted that on January 16, 2024 the applicant received a favorable recommendation from TPZ. Mr. Haynes explained that the proposal is in the Town Center zone and explained that the Plan of Conservation and Development encourages walkability. He stated that the application meets the criteria. The application also received conditions of approval from the ASDRC Commission. Mr. Haynes asked the Board if they had any additional questions.

The Board continued to discuss the regulations and the permitted use prior to 2014. Mr. Haynes noted that multi-unit dwellings are defined as 3 units or more. He remarked that this is an anomaly in the regulations and noted that the Town has to look into correcting and updating the regulations. Mr. Hoopes remarked that it is strange that a 2-family dwelling would be permitted if the structure existed before the regulations, making it a grandfathered use. He also noted that it is strange that three dwellings are permitted and not two. Mr. White explained that the reasoning behind this might be due to increased oversight by the fire marshal and more stringent regulations. He explained that a multi-unit dwelling consisting of three units would have more inspections and more regulations than a 2-unit dwelling. Mr. White noted that the regulations allow 2-unit dwellings that are owner occupied.

Mr. Haynes agreed with Mr. White's reading of the possible intent of the regulations. Mr. Haynes explained that hardship is also due to the lack of space, which prevents the applicant from adding a third unit. Secretary Korn asked Mr. Haynes to direct him to the definition of multi-family dwellings. Mr. Haynes replied that it can be found in section 2, dwelling multiple. The Board continued to discuss the regulations and the anomaly of allowing an accessory apartment but not allowing two dwellings.

Ms. Winkler asked how much of an enlargement is proposed. Mr. Santucci explained that the building will be the same size except for the backside of the building which will have a 20-foot dormer. He noted that an egress will be added in the back to allow for the construction of steps. Mr. Santucci stated that the addition will not be seen. Chairman Smith wanted to confirm that the egress will be put in to meet the fire code. Mr. Santucci replied yes. Chairman Smith asked if there are any changes to the driveway. Mr. Santucci directed the Board to the plans and pointed out a paved area and the additional parking marked "1" and "2". Chairman Smith wanted to confirm that the parking will be 2 spaces per unit. Mr. Santucci replied correct and explained that both units will have access to the basement and both units have separate locking doors. Mr. Haynes asked Mr. Santucci to provide the square footage breakdown for the first and second floors. Mr. Santucci stated that the first floor will have 987 square feet and the second floor would have 793 square feet. Mr. Haynes explained that an additional dormer is needed to provide vertical height for the kitchen. Mr. Santucci replied correct and added that the dormer is also needed for the egress in the back. Chairman Smith asked if the ceilings would be 8 feet in height. Mr. Santucci replied yes. Mr. White noted that the dormer would also extend to the bathroom. Mr. Santucci replied yes.

Chairman Smith noted that he is not a fan of use variances and explained that this application is a great example of a situation when a use variance is needed. The Chairman noted that there is a catch-22 in the regulations and it does not make sense. Chairman Smith noted that he presumes this is the hardship. Mr. Santucci remarked that the hardship is also not enough square footage to create a third unit. Mr. White asked about the plans for siding. Mr. Santucci noted that new siding will be used for the addition and the garage. Mr. White asked about the plans for painting. Mr. Santucci stated that they repainted and ordered new windows. Chairman Smith moved on to public comment.

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

- 2. Bryan Feery (Fine Homes LLC) representing Ryan Gardener of 154 Overlook Road, Zone AA is requesting a special exception from section 8.2.b for the purpose of adding a 1500 Sq.Ft. addition to a single-family home. The existing structure is non-conforming as to the side yard setback and the proposed addition will encroach less than the existing house.**

Mr. White read the application.

Mr. Jonathan Sczurek, Project Engineer, introduced himself for the record and stated that he is representing the applicant. A GIS slide of the lot was put up on the screen. Mr. Sczurek stated that the site is located at 154 Overlook Road in residence AA zone. The existing lot area measures 0.72 acres. Mr. Sczurek noted that the existing single-family house was built in 1955 and added that it is non-conforming as to the side yard setback on the westerly side. A slide detailing the existing single-family house was put up on the screen. Mr. Sczurek noted that the existing westerly boundary is 16.2 feet. A slide detailing the proposed addition was put up. Mr. Sczurek noted that a 1,500-square foot addition is proposed in the rear portion of the house. The plans include kitchen expansion, new master bedroom and adding a den. He stated that the addition will be no closer than the existing structure. Mr. Sczurek stated that the new setback will be 17.5 feet. He stated that the plans require a special exception in accordance with section 8.2.b. Photos of the front and rear rendering of the house were shown. Front and rear elevation views were also shown. Mr. Sczurek put up right and left views of the house. The foundation plan was put up on the screen. The presentation was concluded.

Chairman Smith asked if the new foundation was a slab and also asked if a basement is proposed. Mr. Sczurek stated that, according to the plans, it looks like a full basement is included. Chairman Smith asked if the site has well and septic. Mr. Sczurek replied that the site is serviced by MDC public water and explained that a septic is located in the back portion of the property. He stated that test pits were done and it was determined that the soils are good. Mr. Sczurek noted that the septic will meet the Health Department regulations. Mr. Sczurek spoke briefly with Mr. Feery and was told that the area on the plans that looks like a basement is actually a crawl space. Mr. Sczurek explained that a new septic has to be put in because the existing septic is too close to the house. He stated that new test pits will be done in accordance with the Health Department regulations.

Secretary Kornis wanted to confirm that the new side yard setback with addition will be 17.5 feet. Mr. Sczurek replied correct and stated that the current setback is 16.2 feet and, with the new addition, it will be 17.5 feet. Mr. Hoopes wanted to confirm that the new addition will be further away. Mr. Sczurek replied yes. Secretary Kornis asked if the measurements include the eaves and overhangs. Mr. Sczurek stated that the plans do not show much of an overhang and went back to the photos in the presentation. Mr. Feery estimated the overhangs to be about 3 to 4 inches. Mr. Hoopes asked if 6 inches would be sufficient. Mr. White noted that the overhang appears to be about 12 inches. Vice-Chair Dzialo asked about the total square footage of the house with proposed addition. She also noted that the regulations state that structures cover no more than 15 percent of a lot. Mr. Sczurek went through the plans and calculated 3,498 square

feet. He noted that it includes the chimney. Vice-Chair Dzialo asked if this measurement was the total. Mr. Sczurek replied yes and stated that it also includes the garage. Vice-Chair Dzialo noted that the lot is nearly three quarters of an acre and is within the allowable increase. Mr. Sczurek replied that it comes out to 11 percent. Chairman Smith moved on to public comment.

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

- 3. Corrine Crocker-Luby of 83 Naubuc Ave. Zone TCMU is requesting a variance to section 14.18.4(i)1 (Regulation error, should be 4.18.4(i)1) to allow 900 Sq.Ft of developed floor area which exceeds the allowed 5000 Sq.Ft. to complete the designed planned redevelopment. (Postponed to February 5, 2024 meeting per applicant's request.)**

Chairman Smith stated that a brief recess would be taken before the Board moves on to deliberations.

Discussion:

Secretary Korns noted that he sent Mr. White an email about the signage. Secretary Korns explained that he was on site and noticed the sign listed the meeting location at Council Chambers and not Zoom. He asked if the Zoom information is included on the signage. Mr. White explained that the Zoom link is listed on the website and in the packets. Secretary Korns brought up the point of neighbors relying on just the signage for information. Mr. White noted that the sign should have information to contact the Department for meeting access. Ms. Winkler noted that she does not believe that the signs have information about the meeting log-in and suggested continuing the discussion after the deliberations portion of the meeting.

Chairman Smith noted that he has not seen the revised agenda that would include the ZBA organizational meeting. Mr. White explained that a staff member had an emergency issue and the agenda could not be revised in time. He suggested amending the agenda this evening to include the ZBA organizational meeting. Mr. Hoopes asked if the item has to be on the agenda. Chairman Smith noted that a 2/3 vote is needed to get the item on the agenda and explained that the organizational meeting is not a public hearing item.

Action on Public Hearing

- 1. Scott Santucci of 350 Chestnut Hill Rd. Exact location of involved property is 265 Hebron Ave. Zone Town Center (TC) is requesting a variance from section 4.13.2 for the purpose of expanding a single-family home into a two-family dwelling. The variance is due to the inability to expand the home into a three-family dwelling because of the size of the lot.**

Motion by: Secretary Kornis

Seconded by: Vice-Chair Dzialo

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by Scott Santucci of 350 Chestnut Hill Rd. The exact location of the involved property is 265 Hebron Ave. in Town Center Zone. The applicant is requesting a variance from section 4.13.2 for the purpose of expanding a single-family home into a two-family dwelling. This use variance is due to the inability to expand the home into a three-family dwelling because of limited lot size. The variance is also being granted due to a regulatory hardship that is caused by an anomalous regulation allowing for two families to dwell in a unit via accessory apartment and owner-occupied dwelling, but not otherwise, unless the structure had been a two-family home since or before 2014. Relief is necessary to overcome the hardship. The requirements of Section 13.9 have been met.

Discussion:

Chairman Smith asked Secretary Kornis if he accepts a friendly amendment to include a regulatory hardship statement. Secretary Kornis agreed and asked the Chairman to provide the wording. Chairman Smith suggested adding a sentence to the motion stating that the variance is being granted due to a regulatory hardship that is caused by an anomalous regulation allowing for two families to dwell in a unit via accessory apartment and owner-occupied dwelling, but not otherwise, unless the structure had been a two-family home since or before 2014. Relief is necessary to overcome the hardship. Secretary Kornis accepted the amendment. Vice-Chair Dzialo accepted the amendment.

Mr. Hoopes noted that he will vote in favor. Secretary Kornis noted that the application makes sense in light of the Town's concern with adding more types of housing, some of which are affordable. He remarked that he is not sure how this application would fall according to affordable housing formula. Secretary Kornis noted that the property is located in the Town Center zone, is walkable, and reiterated that it makes sense.

Mr. White explained that this proposal makes the property less non-conforming than it is by adding a dwelling unit that is closer to multiple unit dwelling allowances. There was a brief discussion on the garage and parking assignments and brief discussion on the property location. Ms. Winkler noted that she is in favor of the application because the proposal allows for greater

density in downtown without overly tall buildings. She remarked the proposal is a sensible expansion of the property and added that the location is great. Ms. Winkler explained that the location encourages walkability and can reduce some of the traffic. Vice-Chair Dzialo agreed with Ms. Winkler's point on walkability and brought up the issue that was discussed earlier regarding the regulations allowing for multi-dwellings units and not 2 dwelling units. She stated that she will vote in favor.

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

- 2. Bryan Feery (Fine Homes LLC) representing Ryan Gardener of 154 Overlook Road, Zone AA is requesting a special exception from section 8.2.b for the purpose of adding a 1500 Sq.Ft. addition to a single-family home. The existing structure is non-conforming as to the side yard setback and the proposed addition will encroach less than the existing house.**

Motion by: Mr. Hoopes

Seconded by: Secretary Korn

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by Bryan Feery (Fine Homes LLC) on behalf of Ryan Gardener of 154 Overlook Road (Zone AA) for a special exception from section 8.2.b for the purpose of adding a 1500 Sq.Ft. addition to a single-family home. The new structure shall be no closer to the side yard than the existing structure. The requirements of Section 13.9 have been satisfied.

Discussion:

Mr. Hoopes noted that the addition will not be seen and remarked that the regulation was created for this reason. Ms. Winkler echoed Mr. Hoopes' comments and added that the addition is attractive. She noted that she will vote in favor. Secretary Korn agreed with the comments and noted that the addition will not be seen or cause problems. Vice-Chair Dzialo agreed with the comments.

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

REGULAR MEETING

1. Acceptance of Minutes from December 4, 2023 meeting

Motion by: Ms. Winkler

Seconded by: Mr. Hoopes

MOVED, that the Glastonbury Zoning Board of Appeals approves the December 4, 2023 minutes as presented.

Discussion:

Secretary Korns asked if continuations have a time limit. Chairman Smith noted that there is a limit to continuations. Mr. White explained that an applicant has 65 days from the date the hearing was opened. He noted that the applicant has some time and stated that he will check the numbers.

Secretary Korns noted that he reviewed the minutes and remarked that a great job was done with the write up. He noted that there no issues with additions or corrections. Chairman Smith agreed. There were no other comments.

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

(The alternates did not raise their hands to vote.)

Chairman Smith suggested adding the ZBA organizational meeting to the agenda. He noted that 2/3 votes are needed.

Motion by: Chairman Smith

Seconded by: Mr. Hoopes

MOVED, that the Glastonbury Zoning Board of Appeals adds an organizational meeting to the agenda to elect officers.

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

(The alternates did not raise their hands to vote.)

2. Organizational Meeting, Election of Officers

Chairman Smith asked the Board for nominations for Chair, Vice-Chair, and Secretary. Mr. Hoopes offered to make a motion to nominate Brian Smith for Chair. Ms. Winkler suggested for expediency to nominate the existing slate of Board members for reappointment. She suggested

doing so in one motion, if the previously elected officers agree. Mr. Hoopes noted that he will amend the motion to reflect Ms. Winkler's suggestion.

Motion by: Mr. Hoopes

Seconded by: Ms. Winkler

MOVED, that the Glastonbury Zoning Board of Appeals nominate Brian Smith for Chair, Sue Dzialo for Vice-Chair, and Nick Korn for Secretary.

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

(The alternates did not raise their hands to vote.)

Discussion:

Mr. White asked Ms. Winkler to explain the next agenda item. Ms. Winkler explained that she requested an old business item to be added to the agenda. The discussion would be about verifying the Zoom link that exists for the public. Ms. Winkler noted that, in the past, some Board members were not able to log in through the public connection and added that the link did not work or was not posted. She explained that the public has to be able to participate in the meeting and added that it is not legally a public meeting if the public cannot access it. Ms. Winkler explained that a mechanism should be in place to check that the public Zoom link is active before each meeting.

Motion by: Ms. Winkler

Seconded by: Secretary Korn

MOVED, that the Glastonbury Zoning Board of Appeals adds discussion of public Zoom link accessibility to the agenda.

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

(The alternates did not raise their hands to vote.)

3. Public Zoom link accessibility

Chairman Smith noted that alternates can weigh in and speak and explained that that it is only during the deliberation portion of the meeting that alternates are not permitted to participate. Ms. Cafarella directed the Board to the Boards and Commissions page of the Town website and explained that it states that meetings are held at Town Hall and added that Zoom information is not listed. Ms. Winkler remarked that this might be a reason they have not had many members of the public participate. Mr. White explained that the Zoom link is listed on the Town event calendar. He noted that the website needs updating and added that the staff member responsible for website updates is out on maternity leave. Mr. Bowman noted that he agrees with Ms.

Winkler's concern that there are barriers to public access. Mr. Hoopes agreed with the comments made and added that he has experienced some problems with logging in. Mr. White asked Mr. Nick Davis, IT staff member, to explain the process. Mr. Davis explained that he just tried joining the meeting from his phone from the event calendar page and it prompts him to put in an email. Mr. Hoopes noted that including an email is typical. Mr. Davis noted that the public Zoom link works from the events calendar. The Board discussed the need to update portions of the website to ensure that Town Hall is not listed as the meeting place. Mr. Hoopes suggested for a Town staff to update the website and the ZBA page. Mr. White agreed that the website needs to be updated and agreed to bring up the issue with Town staff.

Ms. Winkler noted that this Board is only one of two Boards and Commissions still holding Zoom meetings. Mr. Davis noted that this Board is exclusively Zoom and most others are hybrid. He stated that the other exclusively Zoom meeting is the Conservation Commission. Ms. Winkler asked the Board if they were open to discussing a return to in-person meetings.

Mr. White noted that this must be added to the agenda. Chairman Smith agreed that the discussion of in-person meetings should be added to the next agenda. There was a brief discussion on the legality of Zoom meetings and the Zoom format. Chairman Smith noted that the Zoom meetings are valid and legal. The Chairman agreed with the points made about consistency and accuracy regarding Town signage and the website. Chairman Smith asked Mr. White to add a discussion of the meeting format to the next agenda. Mr. White agreed and noted that the discussion can also include the pros and cons of hybrid meetings. There was a brief discussion on special exceptions and variances. The Board members welcomed Ms. Cafarella.

Adjournment

Motion by: Chairman Smith

Seconded by: Mr. Hoopes

MOVED, that the Glastonbury Zoning Board of Appeals adjourns their Special Meeting of January 17, 2024 at 8:21 pm.

Result: Motion passes unanimously. (7-0-0)

Brian Smith, Chairman