

**DRAFT**

**Wallingford Zoning Board of Appeals**

**Monday, June 21, 2021**

**7:00 p.m.**

**Meeting Conducted Remotely through GoToMeetings**

**Minutes**

**Present:** Chairman Joseph Rusczek; Vice-Chair Raymond Rys; Board Members Thomas Wolfer; Samuel Carmody; Alternates: Karen Harris and Amy Torre, Zoning Enforcement Officer.

Chairman Rusczek called the meeting to order at 7:00 p.m. The Pledge of Allegiance was recited. Chairman Rusczek explained how the meeting was to be run.

Voting members are Carmody, Harris, Wolfer, Rys, and Chairman Rusczek.

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, June 25, 2021. The effective date of your variance will be Friday, June 25, 2021; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, July 11, 2021. If you commence operations and/or construction during the appeal period, you do so at your own risk.

Chairman Rusczek noted that the following applications will not be heard this evening, but will be heard next month.

- 4. #21-012 – Variance Requests/Marghery/48 Apple Street
- 6. #21-014 – Variance Requests/Moran/321 Church Street

**PUBLIC HEARINGS**

- 1. #21-009 – Variance Request/Leahy/58 Nod Brook Road

Chairman Rusczek read the staff notes into the record. This application requests variance for a front yard of 18 ft. where 43 ft. exists and 40 ft. is required to construct a single-story attached 2-car garage. The lot is a corner lot that currently is completely compliant with respect to all bulk zoning standards (lot area, street frontage, setbacks, and building coverage). The dwelling is oriented on the lot such that the front yard the variance is requested for serves as a side yard. Side yard setbacks for this zone (R-18) are 20 ft. Though the request is for an 18 ft. front yard, a 2 ft. reduction would still require a variance for the front yard in this case but at least meet the side yard setback requirement if it were not located on a corner parcel.

Paul Leahy, 58 Nod Brook Road, stated that he has been in the house for 33 years and this is one of only a couple houses in the neighborhood without a garage. The way the house was constructed, it is close to the side street. He proposes building an attached two-car garage with no pass-through to the house. A two-car driveway exists and is where the garage will be built. The hardship is due to the way the house was situated in the yard.

Chairman Rusczek stated that the hardship is also due to the corner lot. Mr. Leahy noted that the side street is a cul-de-sac.

Mr. Carmody noted that frontage is on two streets so there are two front yards. Mr. Leahy confirmed.

Ms. Harris stated that it didn't look like there was room for a garage in the rear. Mr. Leahy confirmed and stated that there is more clearance on the side.

#### Public Comment

Gail Villani, 4 Meadowland Road, stated that she is a neighbor and it is okay with her. There are trees between the properties and as long as it doesn't affect them, she is okay with it. Mr. Leahy added that she is directly behind him.

Chairman Rusczek closed the public hearing and called for discussion and possible action.

**Mr. Rys: Motion to approve a Variance Request for a front yard setback of 18 ft. to construct an attached 23 ft. x 26 ft. garage as shown on Location Improvement Survey Property of Paul G. and Rosemarie E. Leahy dated 4/26/2021 and plans/rendering received 5/11/2021.**

**Mr. Carmody: Second**

**Vote: Carmody – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.**

The variance request is approved.

#### **2. #21-010 – Variance Requests/Choate Rosemary Hall/333-356 Christian Street**

Chairman Rusczek read the staff notes into the record. The applicant seeks a height variance for 70 ft. where 50 ft. max. is permitted, up-lighting where up-lighting is prohibited, and 250 sq. ft. scoreboard where a maximum of 12 sq. ft. of signage is permitted to construct and illuminate athletic field at 333-356 Christian Street for Choate Rosemary Hall in an R-18 District. Light poles, up-lighting, and scoreboards are customary for athletic fields, and in some cases, for example, on Town of Wallingford property, scoreboards require no permitting. The Board should consider the specifics of this application/site to determine any hardship(s) and appropriateness of these particular variances for this particular site.

Dennis Ceneviva, of the Ceneviva Law Firm, introduced Patrick Durban, CFO, Choate Rosemary Hall, and Brian Kaye, Landscape Architect and Project Engineer of SLR Consulting. Atty. Ceneviva explained that this property is 5.61 acres and had a house that was razed some time ago. It is in the midst of other Choate properties with no non-Choate abutters. They propose creating a new athletic field primarily for football. It will require four 70 ft. light poles to safely illuminate the field. The lights are not shielded and use up-lighting to illuminate nighttime activities. They also propose a scoreboard that is covered in the regulations as a sign. He explained that the hardship for the lighting variances is the lighting requirement for the safety of the athletes. He noted a similar request for lighting for a soccer field in 2019 that was approved. He stated that he understood the purpose of the lighting regulations and stated that there would be no light trespass on any residential property. It would only illuminate the field. Regarding the hardship for the scoreboard, he noted that the sign regulations say no greater than 12 sq. ft. This scoreboard is typical for a field of this size and will not have advertising. He noted that the Town allows scoreboards on other non-municipally owned property because the Town is allowed to use the fields. Choate will allow the Town to use this field. He noted that the scoreboard complies with bulk zoning requirements and is located as far away from the roadway as possible. There will be no visibility to area residences.

Chairman Rusczek stated that he has no problem with the scoreboard. He asked if the light poles are the same as those used for the soccer field. Atty. Ceneviva replied yes. Chairman Rusczek asked if drivers

heading west on Christian Street toward Old Durham Road would experience glare from the lights. Mr. Kaye replied that the spill of these lights doesn't escape the field.

Mr. Carmody asked what Planning and Zoning needs to approve for this application. Ms. Torre replied that they look at the entire site plan and determine if a special permit is needed because it's in a residential zone. Mr. Carmody stated he had no concern with lighting or the scoreboard but noted that there are residential areas a few hundred feet away. He stated a concern with sound during evening games. Ms. Torre noted that Planning and Zoning will look at that.

Mr. Wolfer stated that he had no concerns with the lighting or scoreboard and echoed Mr. Carmody's comments on sound.

Ms. Harris asked how often the field would be used. Patrick Durban, CFO, Choate Rosemary Hall, 333 Christian Street, replied that the field will see 4 or 5 football games in the fall and lacrosse in the spring. The latest start time for a game is 7 pm on a Saturday. They do not intend to use the field late into the night. Ms. Harris asked how the field would be accessed. Mr. Durban replied from Rosemary Lane. Ms. Harris noted the tree line at Old Durham Road and asked if you take a right onto Christian from Old Durham Road if the field would be visible. Mr. Kaye explained that they are keeping the trees to the intersection and there will be grading three feet above the stone wall. He stated that it will be hard to see it because there will be a couple of layers of trees. Ms. Harris asked if there were houses on the eastern side of Old Durham Road. Mr. Durban replied there is one and it is owned by Choate.

Atty. Ceneviva stated that they will be going to Planning and Zoning but are asking this board for approval of the type and height of lighting and the scoreboard.

Hearing no public comment, Chairman Rusczek closed the public hearing and called for discussion and possible action.

**Mr. Rys: Motion to approve a Variance Request for structure height of 70 ft. to erect four light poles at the athletic field as per Choate Rosemary Hall Athletic Field, Variance Plan, Athletic Field Lighting dated 5/14/2021.**

**Mr. Carmody: Second**

**Vote: Carmody – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.**

The variance request is approved.

**Mr. Rys: Motion to approve a Variance Request to permit up-lighting to erect four light poles at the athletic field as per Choate Rosemary Hall Athletic Field, Variance Plan, Athletic Field Lighting dated 5/14/2021.**

**Mr. Carmody: Second**

**Vote: Carmody – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.**

The variance request is approved.

**Mr. Rys: Motion to approve a Variance Request to permit 25 ft. x 10 ft. of signage to erect scoreboard at the athletic field as per Choate Rosemary Hall Athletic Field, Variance Plan, Athletic Field Lighting dated 5/14/2021.**

**Mr. Carmody: Second**

**Vote: Carmody – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.**

The variance request is approved.

**3. #21-011/Variance Request/Benson/15 Atkinson Lane**

Chairman Rusczek read the staff notes into the record. The applicant seeks a side yard of 11.2 ft. where 10.4 ft. exists and 12 ft. is required to construct a single-story +/-495 sq. ft. addition to the rear of the dwelling. The existing dwelling predates the inception of zoning and is non-conforming with respect to the front and side yard setbacks. Expanding the existing non-conformity (side yard) requires variance approval.

Nancy and Mark Benson, 15 Atkinson Lane, explained that they are building an addition on the back of their house which was built in 1926 and is non-conforming.

Chairman Rusczek noted that the house was built before zoning and asked if they are just expanding off the back. Mrs. Benson said yes.

Hearing no public comment, Chairman Rusczek closed the public hearing and called for discussion and possible action.

**Mr. Wolfer: Motion to approve a Variance Request for side yard of 11 ft. 2 in. to construct a single-story addition as shown on Zoning Location Survey Depicting Existing House, Garage and Proposed Addition, Land of Mark Benson and Nancy Benson dated 4/20/2021 and Elevation and Section Plan dated 1/15/2021, received 5/13/2021.**

**Mr. Carmody: Second**

**Vote: Carmody – yes to approve; Wolfer – yes to approve; Harris– yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.**

The variance request is approved.

**5. #21-013/Variance Request/Booth/2 Bartholomew Lane**

Chairman Rusczek read the staff notes into the record. The applicant requests a front yard of 65.5 ft. where 142.1 ft. exists and 75 ft is required to construct a 23.5 ft. x 35 ft. detached garage at 2 Bartholomew Lane in an RU-120 District. The applicant has submitted building elevations, plans, and documents that exceed permitted height allowances. This office has concerns about the use of the second story on the garage and the need for dormers and height. Any approvals should include a condition that no plumbing be permitted in the building. The contours and grade change are overestimated and not calculated by an engineering professional. Approvals should be contingent on a maximum height allowance of 15 ft. and supporting evidence that the submitted plans reflect accurate existing contours, proposed contours, and engineered grade change calculations. Furthermore, no variance would be necessary, and land contours, not an issue should the applicant simply move the proposed garage 9.5 ft. to the East. There is ample distance between the existing drive and the required

setback to locate the same proposed garage. There is no hardship associated with choosing to locate the garage in a non-compliant location. The plans and building height are unsupported and exceed regulation. The Variance is not necessary for the applicant to construct an additional 3-car garage compliantly. This office cannot support this request and recommends the Board consider denial. He noted correspondence dated June 21, 2021, from Sharon & Nicolas Ciarlo, 4 Bartholomew Lane, and correspondence dated June 17, 2021, from Daniel Lyon with the calculated average grades.

Frederick and Kristen Booth, 2 Bartholomew Lane, explained that they purchased the house almost 5 years ago in a dilapidated condition and have totally redone it as well as cleared the 4 acres of land. It is on the corner of North Branford Road and Bartholomew Lane. They propose to build a garage directly across from the existing garage for cars and storage. The second level would be just used for storage. The dormers and size make it match the style of the house and accentuate the value of the home. He noted that there used to be a half-circle driveway but building the garage on that side of the house would not be functional and would make it look chopped up. If they put it at the end of the driveway it is too close to the septic.

David Lyon, architect, 4 Simpson Avenue, explained that the new grades and contour lines will be added to the site plan. There is a small front yard reduction but it conforms to all other areas. He confirmed the loft will be for storage only.

Chairman Rusczek stated that he doesn't see a hardship. He asked how many feet are between the existing garage and the proposed garage. Mr. Lyon replied 53 feet. Chairman Rusczek stated that there is plenty of room to put the new garage 9.5 feet closer. Mr. Lyon replied that there are utilities in the ground in front of the proposed garage that they want to avoid moving. Chairman Rusczek stated that it is not a hardship because they can be moved. Mr. Booth explained that moving the garage 9 feet would cut into the driveway. Chairman Rusczek explained that hardship has to do with the land. Mr. Booth replied that he understood.

Mr. Carmody asked for the letter from Ciarlo to be read as it was not distributed to the Board. Chairman Rusczek read the letter:

"Re: The 21-013- Variance Request for Booth for a Front Yard of 65.5 ft. (75 ft. required) to construct a detached 23.5 ft. x 35 ft. garage at 2 Bartholomew Lane in an RU-120 District.

We are writing in full support of this Variance Request by Frederick and Kristin Booth to construct a detached garage at 2 Bartholomew Lane. All of the Bartholomew property lots are large, thus this request for a variance of approximately 10 feet is minor and has no negative impact".

Mr. Carmody asked the staff if the questions regarding grade level and plumbing had been addressed. Ms. Torre stated that there is currently no request for a height variance. The application needs to be approved as is and cut into the hill or it will exceed the height. She stated that if they move the garage as recommended it will be at a level grade and it would not need a height variance. She stated that they can get what they want by moving it 9.5 ft and reducing the height. Mr. Carmody noted that in the presented rendering the height won't exceed 15 feet. Mr. Lyons suggested it be a condition of approval and stated that he will add the grades and contours to the site plan and submit them. Mr. Carmody asked if the request for a variance is for less than 10 feet. Mr. Lyon said yes. Mr. Carmody stated that he doesn't think that it is unreasonable.

Ms. Harris asked if the structure was made smaller, say an oversized two-car garage, would it need a variance. Mr. Lyon said no. Mr. Booth stated that he needs a three-car garage due to multiple drivers in the family and to the car break-ins in the area. Ms. Harris asked if he currently has a three-car garage. Mr. Booth said yes. Ms. Harris noted that an oversized two-car garage would solve the problem.

Mr. Rys stated he shared the Chairman's concern that there is no hardship.

Mr. Carmody asked if the proposal was changed to a two-car garage if it would meet the regulations. Chairman Rusczek said yes, but moving it 9.5 feet would also meet the regulations. He recommended the applicant take a step back and reassess.

Hearing no public comment, Chairman Rusczek closed the public hearing and called for discussion and possible action.

Mr. Wolfer asked if the applicant has considered a new design. Chairman Rusczek stated that they would have to reapply with a new plan.

Ms. Harris stated that if they scaled back or moved the garage as recommended, they would not need a variance. Chairman Rusczek agreed.

**Mr. Carmody: Motion to approve a Variance Request for a front yard of 65.5 ft to construct an 822.5 sq ft. detached garage as shown on Limited Property/Boundary Survey B100 Plan, Land of Kristin M. & Frederick W. Booth III, #2 Bartholomew Lane dated 7/23/2018, revision date 5/24/2021 and New Garage, section and elevation plans dated and received 5/24/2021, subject to:**

1. No plumbing to be installed
2. Height limited to 15 ft.

**Mr. Wolfer: Second**

**Vote: Carmody – yes to approve; Wolfer – no to approve; Harris – no to approve; Rys – no to approve and Chairman Rusczek – no to approve.**

The variance request is denied.

#### **CONSIDERATION OF MINUTES**

**Mr. Rys: Motion to accept the minutes of the Monday, May 17, 2021, Wallingford Zoning Board of Appeal meeting as submitted.**

**Mr. Wolfer: Second**

**Vote: Unanimous to approve**

Ms. Torre stated that the next meeting will be in person in the Chambers only if all the Board members agree.

Mr. Carmody asked if it's possible to do a hybrid meeting, retaining the ability of the public to call in. Ms. Torre replied that she didn't know if the Town was set up for that. The Town is following the CDC recommendations for in-person meetings and we will use the honor system regarding masks and social distancing for unvaccinated individuals. She stated that she will ask about doing a hybrid meeting and reminded the Board that the meetings are broadcast live.

Chairman Rusczek polled the members on going back to in-person meetings.

Mr. Carmody stated that he is personally fine with in-person but would like a hybrid option.  
Chairman Rusczek stated that he would like to go back to in-person.  
Mr. Wolfer stated he is in favor of returning to in-person.  
Ms. Harris stated that she is in favor of returning to in-person.  
Mr. Rys stated that he is good with returning to in-person.

**ADJOURNMENT**

**Mr. Rys: Motion to adjourn the June 21, 2021 meeting at 8:17 pm.**

**Mr. Wolfer: Second**

**Vote: Unanimous to approve**

Respectfully Submitted,  
Cheryl-Ann Tubby  
Recording Secretary