

Town of Colchester

Land Use Department
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**ZONING BOARD OF APPEALS
REGULAR MEETING
Tuesday July 18, 2023 7:00 pm
Hybrid Meeting via Zoom/Town Hall Meeting Room**

MINUTES

Members Present: Chairman Laurie Robinson, Vice Chairman Patrick Reading, Michael Solis, Bob Setchinsky, Jason Radachy

Members Absent: Quinn Kozak, alternate

Also Present: ZEO Isabelle Kisluk, Land Use Assistant Stacey Churchill, applicants, public

1. **Call to Order** – Chairman Robinson called the meeting to order at 7:00 pm
2. **Legal Notice** – ZEO I. Kisluk read the legal notice
3. **Applications/Public Hearings** – Chairman Robinson stated the rules and process of the public hearings. She asked if any members had any conflicts of interest in the applications. Members stated no conflicts exist.
 - A. **Application No. ZBA 2023-002** of Jeffrey P. Naples (Owner/Applicant) – 155 Westchester Rd (MBL#05-14/016-000) – Application for variance from Section 3.4.4.A.2 of the Town of Colchester Land Development (Zoning) Regulations to reduce the front yard setback requirement from 100' to 35'. – Attorney Scott Jezek for the applicant and Tristan Naples, son of the applicant appeared before the commission to speak about the application. When Attorney Jezek stated he did not have certificates of mailing to abutters with him, Chairman Robinson stated she would be ok with renumbering the applications on the agenda so he could go to his office to retrieve the certificates. Motion by P. Reading to stay the application and renumber the agenda accordingly. 2nd by J. Radachy. Vote was unanimous, motion carried.
 - B. **Application No. ZBA 2023-003** of Sam & Nancy Wilson (Owner/Applicant) – 7 Melanie Lane (MBL# 02-10/018-01A) – Application for variance from Section 3.4.4.A.2 of the Town of Colchester Land Development (Zoning) Regulations to reduce the front yard setback requirement from 100' to 50'. – Chairman Robinson asked if there were any conflicts with this application. Members and applicant stated no conflicts exist. Certificates of mailing were presented to the ZEO. Application materials were numbered exhibits A-H. I. Kisluk summarized the application for the commission and

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read the Planning Director's staff report (attached). The applicant S. Wilson addressed the board and stated the reasons he is appearing before it to apply for a variance. He explained he wants to install a pool behind his house but the current setback regulations are so restrictive there is nowhere to put it. Chairman Robinson asked if there was anyone in attendance who wished to speak in favor of the application. Hearing none, she asked if anyone wished to speak in opposition. No comments were heard. Mr. Wilson stated if he knew of these restrictions, he would not have purchased the property. Chairman Robinson stated that zoning regulations can often come as a surprise to someone if they don't look into them before making a purchase. She then read the variance guidelines from the town's regulations.

5 minutes recess occurred at 7:44 pm to address audio issues in the meeting room.

The applicant was asked if he wanted to continue the public hearing to the next meeting due to a pending application to be heard by the Planning & Zoning Commission the next evening that could potentially amend town regulations in a manner that this pool installation would not require a variance. Applicant declined. Motion by M. Solis to close the public hearing. 2nd by J. Radachy. Vote was unanimous, motion carried. Members deliberated on the application and discussed the setback requirements that exist on his property. They felt this does not constitute a hardship due to there being a house on the parcel and that is considered reasonable use of the property. The property was purchased when these regulations were already in effect. Motion by J. Radachy to deny application ZBA2023-003 due to a lack of hardship. 2nd by M. Solis. Vote was unanimous, motion carried. Applicant exited the meeting room before the Chairman stated they will receive a letter regarding the appeal process.

(ZBA2023-002 continued) The Chairman asked if there were any conflicts for members or the applicant. None were heard. Exhibits for the application, including certificates of mailing, were numbered by the ZEO. She read the Planning Director's staff report (attached) to summarize the application. Attorney Jezek read the list of hardships as perceived by the applicant. He mentioned the possibility of installing a fire pond in the area where wetlands currently exist on the property. There had been a discussion previously with the Fire Chief about it. They also have a wetlands application that is currently being reviewed by the Conservation Commission. Members asked questions about the existing buildings and uses of the property. T. Naples stated it is currently mixed use with some residential, some commercial and storage.

5 minute break occurred at 9:01 pm.

The Chairman asked for testimony in favor of the application.

Paul Catalano, Lebanon Ave business owner & Boulder Road condo owner, spoke in favor of the application.

The Chairman asked for testimony from the public in opposition.

Carolyn Schultz, Boulder Road resident, spoke in opposition to the application.

Linda Clark, Boulder Road resident, spoke in opposition to the application.

Paula Jervasi, Cato Corner Road, asked questions about the driveway entrance to the proposed new building.

Members discussed the option to close the public hearing, but decided to keep it open to accept any new information from staff, statement from applicants and be able to review written correspondence received. The applicant will request an extension due to being unavailable in August for the next meeting. Motion by J. Radachy to table the application until the next meeting. 2nd by M. Solis. Vote was unanimous, motion carried.

4. **Minutes of Previous Meetings** – January 17, 2023 & February 21, 2023 – Motion by P. Reading to approve the minutes of 1/17/23 with a correction to the meeting date to 2023. 2nd by J. Radachy. Motion carried with B. Setchinsky abstaining. Motion by P. Reading to approve the minutes of 2/21/23 with a correction reflecting the absence of J. Radachy. Motion carried with J. Radachy abstaining.
5. **Old Business**
 - A. Continuing Education Requirements – Chairman Robinson briefly spoke about the status of the continuing education requirements.
6. **New Business** – None
7. **Correspondence** – None
8. **Adjournment** – Motion by P. Reading to adjourn. 2nd by B. Setchinsky. Vote was unanimous, meeting adjourned at 9:52 pm.

Respectfully submitted by: Stacey Churchill, Land Use Assistant.

From: [Demian Sorrentino](#)
To: [Zoning Board of Appeals](#)
Subject: Staff Information for ZBA Meeting 7/18/23
Date: Monday, July 17, 2023 3:51:38 PM

Good Afternoon ZBA Members-

Not sure if this is SOP or not, but I wanted to take the opportunity to provide some background information on the variance applications that will be heard at your regular meeting of 7/18/23.

ZBA 2023-002 Naples

1. The subject property is located at the intersection of Westchester Road (CT#149) and Cato Corner Road. Per the Assessor's records the applicant appears to have owned the property since 1/9/2004.
2. Corner lots have 2 street frontages and "on a corner lot, front yard requirements shall be met for both street frontages" per the definition of "Yard, Front" in Sec. 20.4 of the Land Development (Zoning) Regulations.
3. Since 2015, the subject property is zoned Rural Use (RU).
4. As far as I can tell, the 200' front yard setback per Sec. 3.4.4.A.1 has not been enforced by this department. Instead, for front yard setbacks in the RU district, this department has utilized: 100' as the required front yard setback for arterial and collector roads per Sec. 3.4.4.A.2 of the Land Development (Zoning) Regulations.; and 75' as the required front yard setback for local road, new roads or extensions per Sec. 3.4.4.A.3 of the Land Development (Zoning) Regulations.
5. Roads are classified in Sec. 6.3 of the Subdivision Regulations, whereas Westchester Road (CT#149) is an arterial and Cato Corner Road is a collector. Both street frontages have a 100' front yard setback.
6. Based on the applicant's proposal, the applicant was instructed to request variance from Sec. 3.4.4.A.2, 100' front yard setback on arterial/collector road in RU district.
7. Prior to 2015 the subject property was zoned General Commercial (C) per the zoning map effective 12/13/2010.
8. The front yard setback for the General Commercial (C) Districts was 15' per the Zoning Regulations amended to 6/1/2010.
9. This means that upon the passage of new zoning regulations and corresponding map in 2015, the front yard setbacks applicable to the subject property were drastically increased from 15' to 100'.

10. Strict application of both 100' front yard setbacks along Westchester Road and Cato Corner Road and the 35' side/rear yard setbacks renders a building envelope of approximately 17,700 SF or 19% of the 93,654 SF property. Additional area within the building envelope lies within the 75' Upland Review Area under Conservation Commission jurisdiction. A sketch of this calculation is in the application file folder.

ZBA 2023-003 Wilson

1. The subject property is located at the intersection of West Road and Melanie Lane. The house was built in 1993. Per the Assessor's records the applicant appears to have owned the property since 6/1/2021.
2. Corner lots have 2 street frontages and "on a corner lot, front yard requirements shall be met for both street frontages" per the definition of "Yard, Front" in Sec. 20.4 of the Land Development (Zoning) Regulations.
3. Since 2015, the subject property is zoned Rural Use (RU).
4. As far as I can tell, the 200' front yard setback per Sec. 3.4.4.A.1 has not been enforced by this department. Instead, for front yard setbacks in the RU district, this department has utilized: 100' as the required front yard setback for arterial and collector roads per Sec. 3.4.4.A.2 of the Land Development (Zoning) Regulations.; and 75' as the required front yard setback for local road, new roads or extensions per Sec. 3.4.4.A.3 of the Land Development (Zoning) Regulations.
5. Roads are classified in Sec. 6.3 of the Subdivision Regulations, whereas West Road is a collector and Melanie Lane is a local road. West Road has a 100' front yard setback, Melanie Lane has a 75' front yard setback.
6. Based on the applicant's proposal, the applicant was instructed to request variance from Sec. 3.4.4.A.2, 100' front yard setback on collector road in RU district.
7. Judging by the zoning map in effect 12/18/1986 as well as lot sizes and setbacks depicted on the approved Subdivision Plan (1989/1990), it appears that the property was zoned R-40 (Suburban Residential) when it was created.
8. Front yard setbacks per the Zoning Regulations effective 12/18/1986 were as follows: "5.4.3 Minimum Setback from Street Centerline: 100' on arterial streets, 90' on collector streets and 75' on local and dead-end streets". Note this is from the street centerline not from the front property line.
9. Front yard setbacks depicted on the approved Subdivision Plan (Sept. 1990) are 50' along Melanie Lane and 25' along West Road. On this plan it appears the West Road frontage was treated as a side yard.

10. Front yard setbacks depicted on the approved Plot Plan and As-Built plan are 50' along Melanie Lane and 50' along West Road. On this plan it appears the West Road frontage was treated as a local road.

11. Strict application of the 100' front yard setbacks for West Road, the 75' front yard setback for Melanie Lane and the 35' side/rear yard setbacks renders a building envelope of approximately 3,500 SF or 8.2% of the 42,311 SF property. Additional area within the building envelope is precluded from development due to the location of the Subsurface Sewage Disposal System (SSDS). A sketch of this calculation is in the application file folder.

A copy of this email will be placed in each of the application file folders, as well.

I will not be able to attend the meeting tomorrow evening due to a conflict, but our Assistant Planner and ZEO Isabelle Kisluk will attend along with Stacey.

Thanks & Regards-

Demian

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