



**Town of Willsboro**  
LOCAL GOVERNMENT OFFICES

Zoning Board of Appeals Meeting  
Tuesday, June 21, 2016 at 7:00PM  
Willsboro Town Hall

**ATTENDANCE:** Carol deMello, Peter Sowizdrzal, Barbara Paye

**ABSENT:** Robert Bruno, Jason Morgan

**Public:** Kevin and Kathleen Miller

Doug Rock, Town Code Enforcement Officer

**CALL TO ORDER:** deMello

The meeting was called to order at 7:00.

**MINUTES: Ms. Paye made a motion to accept the minutes with corrections. Mr. Sowizdrzal seconded. Motion carried unanimously.**

*Corrections:*

In Old Business, first paragraph, add "discussion followed and the ZBA concurred with the findings in the deMello report."

**Public Hearing:**

*2602 - Kevin and Kathleen Miller - 381 Bay Lane - 155200-20.20-1-61.00 - RL-1 - Variance for front and side yard setbacks*

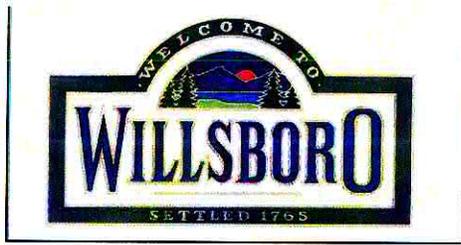
**Public Hearing opened.**

Aside from the applicants, no public was in attendance. A letter was submitted for the record from neighbors Ed and Laura Smith stating no objections to the project.\*

Ms. deMello asked Mr. Rock the exact reason why a building permit was denied. Mr. Rock stated there is a 50' required setbacks in the front and side yards. Their existing building is already protruding into the required yards. No increase in non-conformity can be permitted without a variance and they are increasing the non-conformity in this case. The proposal is adding a 12' x 30' addition on the rear and a second floor where the ordinance does not allow an increase in non-conformity. The 12' x 30' extension on the rear protrudes into the front side setbacks and the second story increases the height in the front and side setbacks. Thus, a variance is required for the front and side yard setbacks.

Ms. deMello reviewed the Findings of Fact.\*

The Board reviewed the site plan, which is available on the website, with the applicants. The Board determined that the front yard (East) setback requires a variance of 41', the South side yard requires 39' 6" setback and the North side yard setback requires 31'. They are 8' from the right of way line.



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There was later an adjustment made to the front yard variance via e-mail.\* The necessary variance is 28.5'.

**Public Hearing closed.**

The ZBA proceeded with the process of review criteria.\*

- The ZBA concluded because the additions will be made to an existing structure and the lot is pre-existing and non-conforming, the only remedy is a variance. The lot width at 65' cannot accommodate side yard setbacks of 50'. The current structure is consistent with other non-conforming nearby properties, most of which were built before the original zoning ordinance.
- The ZBA concluded that by adding on to the structure, the character of the neighborhood will be preserved. There will be no detriments to neighboring properties with the expansion.
- The ZBA concluded the requested addition of 169 square feet on the overall allowance of the property at 2,614 is not substantial and still falls under the allowance of 15%. While the setbacks are considerably substantial at 41' for front yard, 39'6" for the south side yard and 31' for the north side yard, the proposed addition will not make the structure more non-conforming. The project is within the rear yard setback.
- The ZBA concluded the proposed structure will have minimal impact on the natural environment. The applicant states he will plant similar trees to replace vegetation.
- The ZBA concluded that this consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting on the area variance.
- The ZBA concluded that the hardship was not self-created because existing structure location existed when property was inherited.

**Ms. deMello motioned to grant a variance for side yard setbacks and the front yard setback instead of the 50' required. Mrs. Paye seconded. All in favor. Motion carried unanimously.**

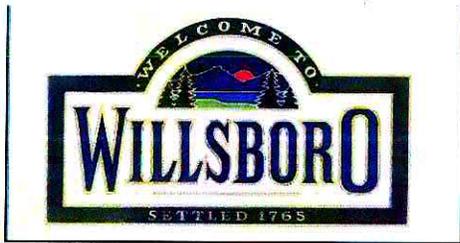
**Old Business:**

James Provost – 37 Maple Street - 31.13-1-5.000 – Parking of Travel Trailer

Mr. Rock stated the Mr. Provost has agreed to do what is necessary to not require a variance. Mrs. Paye agreed that Mr. Provost has adhered to regulations.

**Agenda Additions:**

Ms. deMello requested the ZBA review suggested corrections to Sections 5.51 and 5.52 of Zoning Errata 02.\* The Planning Board has a property in site plan review that may require a variance. Clarification is needed on the location of the front yard for waterfront properties and accessory building regulations. Discussion followed between the ZBA and Mr. Rock in regard to the concerns outlined in the attached documents. The ZBA concluded that the rewrite to the Zoning Law



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Sections 5.51 and 5.52 contained errors from the original Zoning Ordinance, probably as a result of the cut-and-paste process.

**Ms. deMello motioned to modify sections 5.51 and 5.52 of the new zoning law to clarify and correct requirements regarding definitions and placements of accessory buildings to read as follows:\* Mr. Sowizdrzal seconded. All in favor. Motion carried unanimously.**

Further discussion followed in regard to yard definitions.\*

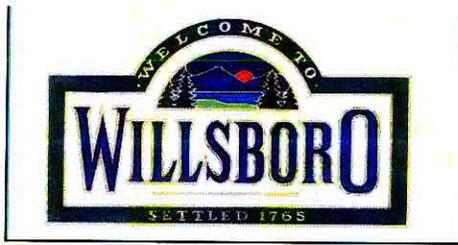
**CONCERNS/INFORMATION:**

**ADJOURNMENT:** The meeting adjourned at 9:25 PM

**\*All attachments available at the Town Hall**

Respectfully Submitted,

Laura Bliss, Zoning Board of Appeals



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WLS  
tele meeting

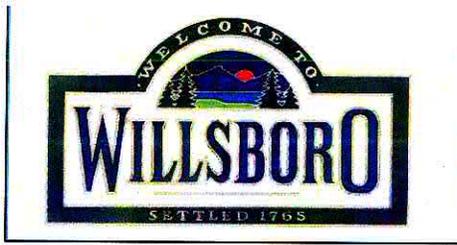
We have no objections  
to the building addition  
of Kevin & Kathy Miller  
and look forward  
to having them as  
Full time neighbors.

Sincerely,  
Laura & Ed Smith  
380 Bay Lane

Laura & Ed Smith

June 21, 2016





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FINDINGS OF FACT--Draft

Variance Application 2602—Miller  
June 21, 2016

Property location: 381 Bay Lane, Willsboro  
Zoning District: RL-1

Project description: Conversion of camp to year round home--**IMPACTS FRONT AND SIDE**

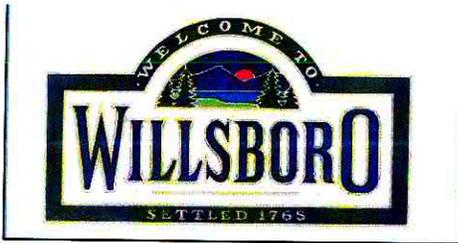
**YARD SETBACKS, Sec. 4.10, p. 29**

Remove rear porch—condition—deteriorating; replace with 12' x 30' extension on rear, 20' x 30' basement; remove roof and add second story.

ZONING REQUIREMENTS:

Minimum lot size: 40,000 sq. ft. (original lot size 0.40 acres = 17,424 sq. ft.)  
Front yard setback: 50' Previous variance granted for 20' setback for porch added in 2012 (Application 4979)  
Rear yard setback: 50' (in compliance)  
Side Yard setback: 50' (--cannot meet as lot W is 65" where building is located)  
Maximum Lot Coverage: 15% (not an issue—total 2,445 sq. ft.; max allowed—2,614 sq. ft.)  
Maximum bldg. height: 35' (not an issue)

According to the property record, the buildings and improvements total 169 sq. ft., under the 2,614 sq. ft. allowance.



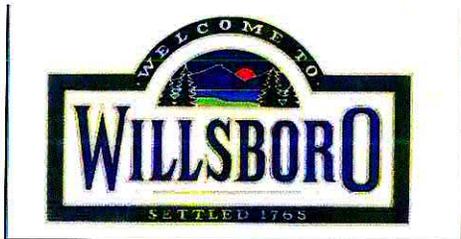
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ZBA Area Variance Criteria Notes **DRAFT**

Name Miller, Kevin and Kathleen Tax Map # 155200-20,20-1-61.00  
Area Variance Application Number: 2602 Date of Vote: 2016-06-21

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:  
  
Because the additions will be made to an existing structure, and the lot is a pre-existing and nonconforming, the only remedy is a variance. The lot width at 65' cannot accommodate side yard setbacks of 50'. The current structure is consistent with other nonconforming, nearby properties, most of which were built before the original zoning ordinance.
2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:  
  
By adding onto the structure, the character of the neighborhood will be preserved. There will be no detriments to neighboring properties with the expansion.
3. As to whether the requested area variance is substantial, I find that:  
  
The requested addition of 169 sq. ft. on the overall allowance of the property at 2,614 sq. ft.—is NOT substantial and still falls under the allowance of 15%. While the setbacks are \_\_\_\_\_ and well under the 50" required, the proposed additions will not make the structure more nonconforming.
4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:  
  
Proposed structure will have minimal impact on natural environment. Applicant states that he will plant similar trees to replace vegetation.
5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)  
  
Existing structure location existed when property was inherited. Ants which have destroyed supporting members are natural causes.



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To:  
Cc:  
Bcc:  
Subject: Fw: Bay Lane Right of way- Correction

**From:** Douglas Rock <[codes@townofwillsborony.gov](mailto:codes@townofwillsborony.gov)>  
**Date:** June 23, 2016 at 9:24:19 AM EDT  
**To:** Carol <[c3s2mello@gmail.com](mailto:c3s2mello@gmail.com)>  
**Cc:** Barbara Paye <[76bobbibrad@gmail.com](mailto:76bobbibrad@gmail.com)>, Jason Morgan <[jwm12996@yahoo.com](mailto:jwm12996@yahoo.com)>, Peter Sowizdral <[petesowiz@hotmail.com](mailto:petesowiz@hotmail.com)>, Robert Bruno <[rbbruno7@gmail.com](mailto:rbbruno7@gmail.com)>, Laura Bliss <[codesclerk@townofwillsborony.gov](mailto:codesclerk@townofwillsborony.gov)>  
**Subject: Re: Bay Lane Right of way- Correction**

Since that it is less of a variance required, I think that the explanation should be amended and the necessary front yard variance adjusted to 28.5' feet.

Doug Rock

Town of Willsboro

Code Enforcement Office

Ph. 518-963-7411 Fax. 518-963-7488

Website: [www.townofwillsboro.com/building--zoning-code.html](http://www.townofwillsboro.com/building--zoning-code.html)

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On Wed, Jun 22, 2016 at 7:56 PM, Carol <[c3s2mello@gmail.com](mailto:c3s2mello@gmail.com)> wrote:

Hi Doug,

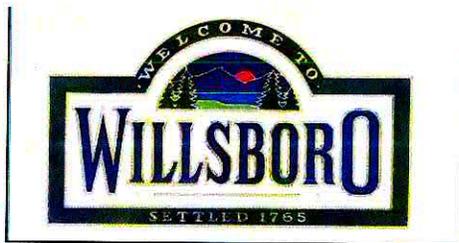
Because the dimension correction is less than approved last night, would it be OK for Laura to change it; or would it be better to have emails from those of us who approved it that we're okay with the correction and change?

Or, do we have to have some sort of meeting?

Carol

On Wed, Jun 22, 2016 at 10:11 AM, Douglas Rock <[codes@townofwillsborony.gov](mailto:codes@townofwillsborony.gov)> wrote:

I have a correction to my calculation of the required variance for front yard setback. As I stated in the meeting last night, the width of the Bay Lane town road right of way is 50 feet, however, where the road goes around the circle, and in front of the Miller's, the right of way is only 25 feet. I apologize for this oversight, and therefore the



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required variance for the front yard is actually 12.5' less, or 28.5 feet instead of the 41'.

The location of the new addition on the rear as drawn is still protruding into the required front yard, and the entire existing structure and second story addition is still entirely in the required front yard.

Doug Rock

Town of Willsboro

Code Enforcement Office

Ph. [518-963-7411](tel:518-963-7411) Fax. [518-963-7488](tel:518-963-7488)

Website: [www.townofwillsboro.com/building--zoning-code.html](http://www.townofwillsboro.com/building--zoning-code.html)

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New Zoning Errata 02—Section 5.50 Accessory Uses  
Submitted by Carol de Mello, Vice Chair ZBA  
June 21, 2016

The original Zoning Ordinance considered the street-side of waterfront properties as the rear yard (sections 3.62 and 6.52). As a result, waterfront properties were permitted to put accessory structures on the street-side of the principal building, but no closer than 10 feet from the property line.

During the rewrite of the Zoning Ordinance and production of the Zoning Law, the consultant recommended that the street-side of all properties be considered the front yard. This was to make the new Zoning Law more consistent with most other Zoning Laws/Ordinances.

It was never the intention of the Zoning rewrite committee to eliminate the right of waterfront properties to put accessory structures on the street-side of the principal building. This ability offsets other restrictions on how close a structure can be to a shoreline, now the rear yard.

The new Zoning Law hints at this ability in 5.51, item 3: “Where the main building structure faces the rear yard or waterfront” but does not explicitly state that for such properties accessory structures are permitted on the street-side, now the front yard.

The Zoning Board of Appeals believes this is an error or an oversight. The Zoning Law should be interpreted as still permitting accessory structures on the street-side of the principal building for waterfront properties, but no closer than 10 feet from the property line.

Modifications to the Zoning Law are suggested below to clarify this issue.

### **Relevant Sections from the 2002 Zoning Ordinance**

#### Section 3.62 Setback from the Water, Lot Width and Side Yards

1. Setback from the water. All principal buildings and structures in excess of 100 square feet in size, except docks, piers, marinas, or boathouses which require lesser setback, shall be set back from the mean high water mark of any lake or pond and from the shoreline of the North and South Branches of, and main stream of, the Bouquet River as specified in the following Schedule. **This setback requirement shall be in lieu of the normal front yard requirements otherwise applicable.**

#### Section 6.52 Location of Detached Accessory Buildings in Required Yard Area

An accessory building shall be permitted in any required rear yard if the aggregate ground covered, other than cornices and eaves, shall not exceed 15 percent of the rear yard area in any residential district, or 50 percent of the rear yard in any commercial or business district. No accessory building shall be located closer than ten (10) feet from any lot line.

On waterfront properties where the **rear yard may be that portion nearest the street or highway**, the design and location of any accessory building in the rear yard area must be such as to result in a minimum of detracting from the overall appearance of the property and its main building structure as viewed from the street or highway.

## Original Sections from the 2015 Zoning Law

### Section 5.51 Accessory Buildings

1. In order to allow access by Emergency Responders, accessory buildings unattached to principal buildings shall be located no closer to the principal buildings, unless otherwise specified in this Law, than twelve (12) feet or a distance equal to the height of the accessory building, whichever is greater.
2. Any accessory building physically attached to a principal building by means of a breezeway or a roofed passageway with open or latticed sides shall not be deemed to be part of such principal building in applying regulations.
3. Where the main building structure faces the rear yard or waterfront, the design and location of any accessory building facing the front yard (the street) must be such as to result in a minimum of detraction from the overall appearance of the property and its main building structure as viewed from the street or highway.

### Section 5.52 Location of Detached Accessory Buildings in Required Yard Area

1. An accessory building may not be less than 10 feet from the side or rear property line.
2. An accessory building may NOT protrude into the required front yard.
3. Boat houses, docks, or similar waterfront accessory structures must be no less than 10 feet from the side yard property line extended into the water.

## Suggested Modification to the 2015 Zoning Law

### Section 5.51 Accessory Buildings

1. In order to allow access by Emergency Responders, accessory buildings unattached to principal buildings shall be located no closer to the principal buildings, unless otherwise specified in this Law, than twelve (12) feet or a distance equal to the height of the accessory building, whichever is greater.
2. Any accessory building physically attached to a principal building by means of a breezeway or a roofed passageway with open or latticed sides shall not be deemed to be part of such principal building in applying regulations.
3. ~~Where the main building structure faces the rear yard or waterfront, the~~The design and location of any accessory building facing the front yard (the street) must be such as to result in a minimum of detraction from the overall appearance of the property and its main building structure as viewed from the street or highway.

### Section 5.52 Location of Detached Accessory Buildings in Required Yard Area

1. An accessory building may not be less than 10 feet from the side or rear property line.
2. ~~Except as provided in 4 below, an~~An accessory building may NOT protrude into the required front yard.
3. Boat houses, docks, or similar waterfront accessory structures must be no less than 10 feet from the side yard property line extended into the water.
4. ~~Where the main building structure faces the rear yard or waterfront, accessory structures may protrude into the required front yard but may be no closer than 10 feet from the front property line.~~

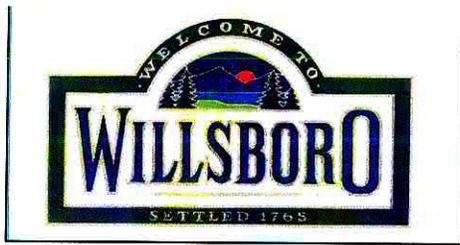
MOTION: The ZBA concludes that the rewrite to the Zoning Law of Sections 5.51 and 5.52 contain errors from the original Zoning Ordinance probably made as a result of the cut-and-paste process. I make a motion to modify Sections 5.51 and 5.52 of the new Zoning Law to clarify and correct requirements regarding definitions and placement of accessory buildings to read as follows (changes appear in red):

#### Section 5.51 Accessory Buildings

1. In order to allow access by Emergency Responders, accessory buildings unattached to principal buildings shall be located no closer to the principal buildings, unless otherwise specified in this Law, than twelve (12) feet or a distance equal to the height of the accessory building, whichever is greater.
2. Any accessory building physically attached to a principal building by means of a breezeway or a roofed passageway with open or latticed sides shall not be deemed to be part of such principal building in applying regulations.
3. ~~Where the main building structure faces the rear yard or waterfront, the~~The design and location of any accessory building facing the front yard (the street) must be such as to result in a minimum of detracting from the overall appearance of the property and its main building structure as viewed from the street or highway.

#### Section 5.52 Location of Detached Accessory Buildings in Required Yard Area

1. An accessory building may not be less than 10 feet from the side or rear property line.
2. ~~Except as provided in 4 below, an~~ accessory building may NOT protrude into the required front yard.
3. Boat houses, docks, or similar waterfront accessory structures must be no less than 10 feet from the side yard property line extended into the water.
4. ~~Where the main building structure faces the rear yard or waterfront, accessory structures may protrude into the required front yard but may be no closer than 10 feet from the front property line.~~



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**YARD DEFINITIONS**

**Yards—from Lake George:**

**YARD** -- An open unoccupied space on the same lot with a building or structure.

**YARD, FRONT** -- An open unoccupied space on the same lot with the principal building, between the front line of the principal building and the front line (street right-of-way line) of the lot and extending the full width of the lot. Properties adjacent to the lake shall have their front yard facing the lake. Shoreline setback requirements shall apply.

**YARD, REAR** -- A space on the same lot with the principal building, between the rear line of the principal building and the rear line of the lot and extending the full width of the lot. Properties adjacent to the lake shall consider the rear yard to be the space between the principal building and the street right-of-way line.

**YARD, SIDE** -- An open unoccupied space on the same lot with the principal building, situated between the side line of the principal building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

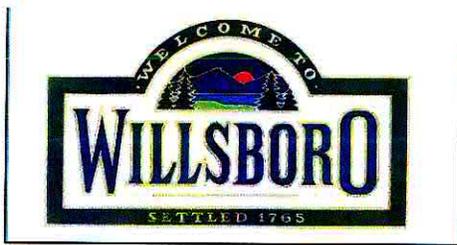
**Yards—From Town of Rochester:**

**Yard** — A required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitation and requirements limiting obstruction of visibility.

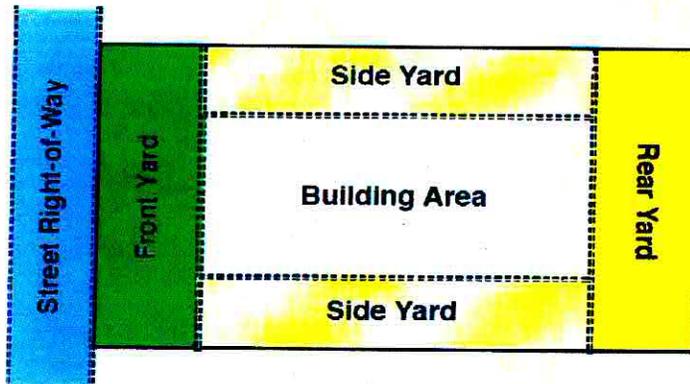
**Yard, Front** — A yard extending between side lot lines across the front of a lot adjoining a street. Front yards shall be provided on all road frontages, except that one frontage on a corner lot may be designated as a side yard.

**Yard, Rear** — A yard extending across the rear of the lot between inner side yard lines. In the case of through lots, there will be no rear yard, but only front and side yards.

**Yard, Side** — A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of required front yards. In the case of corner lots, one of the yards remaining after the designation of front yards shall be considered the side yard, and the other the rear yard.



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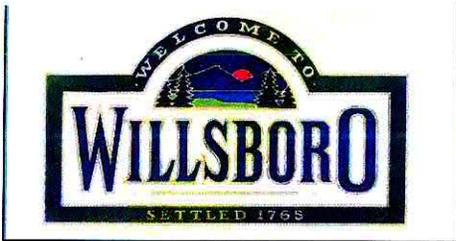


From the Town of Bolton:

**YARD, FRONT** – A yard that extends the full width of the lot and is situated between the adjacent highway right-of-way and building projected to the side lines of the lot. The depth of the front yard shall be measured between the building and the highway right-of-way line. Covered porches, whether or not enclosed, shall be considered as part of the main building and shall not project into a required front yard. When a building is situated on a corner lot which abuts two streets, the lot will be determined to have two front yards, one side yard and one rear yard. When a building is situated on a corner lot which abuts three streets, the lot will be determined to have three front yards and one rear yard. When a building is situated on a lot that extends through to another street, the lot shall be determined to have two front yards and two side yards.

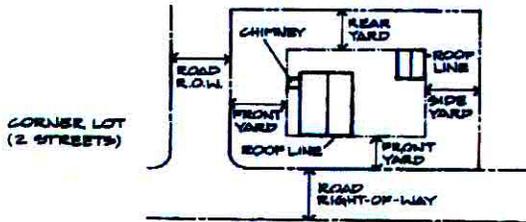
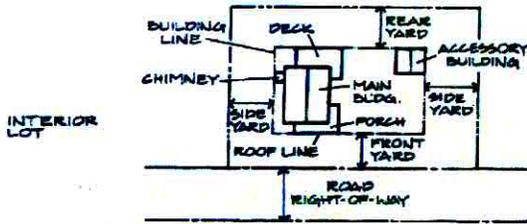
**YARD, REAR** – A yard that extends the full width of the lot and is situated between the rear line of the lot and the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the building, including any covered porches, whether or not enclosed.

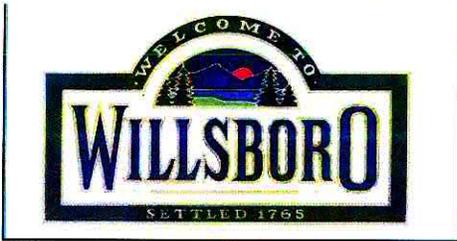
**YARD, SIDE** – A yard that is situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard, including any covered porches, whether or not enclosed. B. Any term in this chapter which is not defined in this or other sections of this chapter shall carry its customary meaning.



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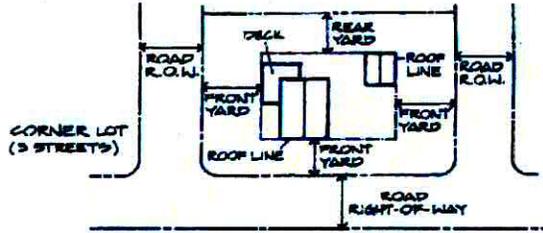
**Front, Side, and Rear Yard Definitions**



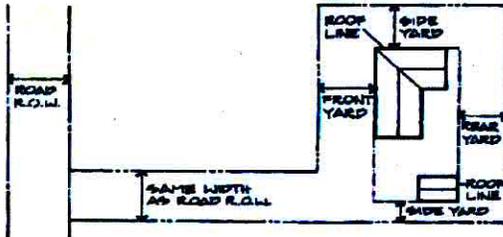


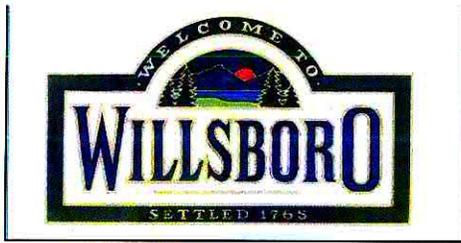
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Front, Side, and Rear Yard Definitions (Cont.)



F Lot Example





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Possible Zoning Law Errors and Omissions  
Carol de Mello 05-25-2016  
With comments appended by Scott Allen 6/21/2016

Further review of the new Zoning Law has revealed the following errors/omissions:

**Section 3.30—Zoning Map:**

FIH—Overlay (Flood Hazard) appears in Section 3.20—Purposes of Districts; however, it does not appear on the Zoning Map. It also does not appear in Section 3.10—Establishment of Districts. If this overlay is not supposed to be shown on the map, suggest that note to such effect and where the information can be found, be added.

Commented [SA1]: Article 10 addresses the mapping of Flood Hazard Areas. FEMA maintains Flood Insurance Rate Maps (FIRMS) for the Town of Willsboro and changes them as new information becomes available. That is why we defer to the FIRMS's in Art. 10 rather than put them on your zoning map.

**Section 4.10—Schedules of Use and Area Regulations:**

IC—Island Conservation: "42 acres" was added to the Lot Size; this was blank in the original zoning Ordinance, and there was no discussion of adding it in the ZAAC meetings.

Commented [SA2]: I believe the APA requested this change or order to be consistent with the APA map and regs.

**Section 5.117—Fences and Hedges:**

I question #4: "Fences are structures subject to setback requirements included in the Law and required approval from the Codes Enforcement Officer." Does that mean, for example, if the front yard setback is 50' in any district, that the fence has to be placed at 50' rather than the rule stated in #6?

Commented [SA3]: I suggest adding the word accessory here.

Number 6 states: "Solid fences and other fences that required regular maintenance should be setback from property lines by 3 feet to allow access for maintenance." So which is it?—number 4 or 6?

Commented [SA4]: # 4.