TOWN OF WILLSBORO
ZONING BOARD OF APPEALS REGULAR BOARD MEETING
TUESDAY, JULY 21ST, 2015 – 7:00PM AT THE WILLSBORO TOWN HALL

IN ATTENDANCE: Carol deMello, Jason Morgan, Barbara Paye, Pete Sowizdrzal
ABSENT: Robert Bruno (Excused)
PUBLIC: Patrick Leary, Laura Smith, Edward Smith
CALL TO ORDER: Vice Chairwoman deMello called the meeting to order at 7:05pm.

MINUTES:

The following corrections were made to the minutes of the April 21st, 2015 meeting minutes:

- Decision Form – Remove vote from Chairman as he was absent at the meeting.

Mr. Sowizdrzal motioned to approve the minutes and Mr. Morgan seconded. deMello, Sowizdrzal, Morgan – Aye, Paye - Abstain

NEW BUSINESS

Application #2493 - Jaquish Variance – After the fact variance for garage in the front yard

Mr. Jaquish stated that he was under the impression that the garage was being built in the side yard, but that it was not based upon the shape of the lot and the fact that it is positioned on the corner of Woodlawn and Middle Road. Mr. Rock referenced section 6.52 of the Ordinance noting that it specifies that any lot on a roadway corner contains two front yards. He noted that he believes that it could be in the rear yard, but that it is not in the 'required' rear yard as per the ordinance. Ms. deMello asked if Mr. Jaquish and Mr. Rock have decided upon what is deemed as the front yard. Mr. Rock noted that Mr. Jaquish would like the longer boundary to be listed as the rear yard. Ms. Paye clarified that Woodlawn is the front yard and asked if the applicant would need a variance for setback requirements. Mr. Rock explained that the house is in the front corner of the two front yards, the rear yard is to the opposite side of the black line that is parallel to Middle Road, the rear yard is between Doc Josh's and Woodlawn Lane. Mr. Rock reiterated that the structure is in the rear yard, but it is not in the required rear yard. Ms. deMello stated that she is confused as she thought that the entire length of the line became the front yard. Mr. Rock noted that yard front "means an open unoccupied space on the same lot with the principal building, between the front line of the principal building and the right-of-way line of the lot, and extending the full width of the lot." The Board reviewed their checklist to determine whether all documents were submitted as required. Ms. deMello noted that the lot is only 44 feet in depth. Mr. Rock noted that the tax map lines should not be used in the same way as a survey. Ms. Paye asked if

the garage would be used for commercial use and asked about the reasoning behind the large entrance on the eastern side. Mr. Jaquish stated that he is using it for personal use and that the opening was made so that he could drive his truck in to unload it. Ms. deMello asked if the shed would be removed. Mr. Rock noted that the shed will need to be removed as the applicant maxes out in lot coverage. Ms. deMello asked about the storm-water management plan. Ms. Paye asked what the applicant intends to do from the garage to the road. Mr. Jaquish stated that he will have gravel and concrete on top. Mr. Jaquish stated that Mr. Travis Crowningshield came over to assist him with some ditching and that he will probably install some gutters. Ms. deMello noted that he does have a storm-water management plan. Ms. Paye noted that it should be noted for the record that the applicant did seek a building permit, but that it was decided upon afterward that a variance was needed. Mr. Rock noted that the case was indeed complicated, but that he was very careful to determine that the structure was in the rear yard. He continued that the public was quick to point out that they were required to seek a variance. Mr. Rock noted that it was his mistake that it was not determined as "not" being in the required rear yard, hence the reason for it being after the fact.

Ms. Paye motioned to move the case to public hearing and Mr. Morgan seconded. All voted in favor and the motion carried.

Further discussion ensued regarding Mr. Rock's diagram.

CONCERNS & INFORMATION:

Leary Variance Updates –

Ms. deMello asked Mr. Rock to explain the situation. Mr. Rock noted that when he issued the permit he was under the impression that a 20X24 addition was going to be constructed as that is what was proposed. Mr. Rock noted that Mr. Leary sorted out the issues that occurred due to the demolition. He noted that he indicated to Mr. Leary that enough of the facts of the variance have changed that he should go back to the Zoning Board. Mr. Rock noted that what was being done was significantly different than what had been applied for at the time. He noted that as the Building Inspector and Code Enforcement Officer he needs to make sure that what is proposed is what is done. Mr. Rock noted that the applicant is now building a house. He noted that the variance request would be, but that the conditions around the case have changed significantly. Mr. Rock noted that the original project did not have changes to the original structure. Ms. Paye asked if the applicant was planning on proposing a deck. Mr. Rock noted he was under the impression that the applicant has given up on the deck for now, and noted that the deck would interfere upon the 50 yard setback on that side. He noted that an additional variance from the ordinance may be needed. Ms. deMello noted that there are several issues at hand. Ms. deMello noted that not every rebuild needs to have a variance, that they only need a variance if they cannot conform to the required setbacks and building regulations for height. Ms. deMello noted that when she looked at the materials presented, the map was not updated to indicate the dimensions of the buildings that the variance was based upon. Ms. deMello asked if there was a scaled drawing available. Mr. Rock noted that the sketch map did not indicate the high water mark. He noted that the house may be out of the way of the 50 foot setback requirement from the

waterfront. Mr. Morgan noted that the applicant had a survey done prior. Mr. Leary noted that the four pins were marked, but that the mean high water mark was not indicated on the survey map. Ms. Smith noted that she can attempt to help, noting that the water level is at 97.58 feet. She presented material to the board.

Discussion took place regarding the demolition of the main structure. Mr. Leary noted that the reason that the structure was removed was due to the contractor's determination that the framing was rotten. He indicated that he was not aware that the demolition was taking place as he was on vacation with his family. Mr. Sowizdrzal asked if the original footprint will be utilized for the new structure. Mr. Leary noted that it would be used that the height would be extended slightly. Questions took place regarding the height of the original walls and their extension to 9 feet versus 8. Ms. Paye clarified the statement that Mr. Rock provided indicating that Mr. Leary could increase the height and increase the amount of bedrooms. Mr. Rock clarified that he did not say that 9 feet was acceptable that he indicated that he would need plans to present the change. Ms. Paye noted that the board and public based their opinions and determinations on what they were presented at the December meeting, that what is being presented now is completely different. She noted that her opinion is that this is a totally different project and that she feels that it needs to be reviewed to by the board, and public, again. Ms. deMello noted that she respectfully disagrees and noted that the Zoning Board is not the Zoning police. Ms. Smith noted that she would like to see the mean high water mark determined that she is not confident that the structure contains a 50 foot setback. Ms. Paye referenced Town Law (267.12) re-hearing requirements. Ms. Paye noted that she experienced several re-hearings due to changes to variances. She provided several examples. Mr. Leary noted that he'll do whatever he has to do. Ms. deMello noted that she is not sure that a re-hearing or new variance is needed. Ms. deMello noted that the applicant can seek a variance based upon a denial from the Code Enforcement Officer. Mr. Sowizdrzal noted that the he does feel that the deck is substantial, but that the rebuild is not if the applicant follows the same footprint. Further discussion ensued. Mr. Rock noted that when there are extensive changes made to a variance it is appropriate for the applicant to go back for a variance or re-hearing. Mr. Leary asked what is considered a substantial change. Mr. Rock noted that the entire project contains the new structure and the addition. Ms. deMello referenced the restoration clause in the ordinance. Ms. deMello discussed the opinion of the professional that worked with the ZBA on the ordinance update. Further discussion took place regarding the after-the-fact tear-down/re-build. Ms. deMello noted that the setback line needs to be re-established for the old structure and the variance. Ms. Paye reiterated that she feels that to start with a good foundation the applicant should come in front of the board again. Mr. Sowizdrzal noted that had the applicant presented the case entirely the board may not have approved the variance as it was proposed in a different location. Mr. Rock noted that it is a different proposal from tearing a house down and rebuilding with an addition, than just erecting an addition. He noted that a variance is not going to match up with what is done. Further discussion ensued regarding substantial changes to the variance. Ms. deMello stated that she does not feel that her training has prepared her to be the Zoning police. Mr. Sowizdrzal noted that the plans presented show the deck which is a substantial change. Mr. Rock noted that the building permit that was given originally has changed so much since the initial building permit that the permit would be for a new house that would not be compliant with the setbacks. Ms. deMello noted that she disagrees with Mr. Rock. Mr. Rock referenced the ZBA findings of fact. Ms. Paye noted that Mr. Leary did not inform his contractor that he would need

to notify the Code Enforcement Officer of any changes being made to the plans – while he was on vacation. Discussion took place between Mr. Leary and Ms. Smith regarding the roof height.

Ms. deMello noted that she is basing her opinion on the restoration clause. Ms. Paye noted that the decision form is based upon an addition not the project that was presented. Ms. deMello asked what the steps would have been had Mr. Leary come to the Code Officer for a demolition permit. Mr. Rock noted that he would have suggested board replacement in-kind and that if the applicant continued to seek a demolition permit he would have had the case brought back to the board.

Ms. deMello stated that based upon Mr. Rock's statement she would then recommend that the applicant get a variance application to start the procedure. Mr. Rock noted that the neighbors will feel cheated should there not be a public hearing. He noted that the past and present practice is to present changes to a variance to the board. Ms. Paye noted that she does not want her comments about coming to the board for a re-hearing to dampen the applicant's entire desire for a request. Further discussion ensued regarding the floor plan of the proposed structure.

Mr. Sowizdrzal motioned to move the case to public hearing and Ms. Paye seconded. All voted in favor and the motion carried.

The board asked that the mean high water mark be indicated and the 50 foot setback line established. Mr. Leary noted that it has been a huge burden emotionally and financially. Further discussion ensued regarding asbestos abatement.

Zoning Ordinance Update –

Ms. deMello asked if anyone has any updates on the Zoning Ordinance. Ms. deMello noted that it is being reviewed, but is presently held up in the review office.

Respectfully Submitted,

Ashley Ryan Blanchard
ZBA Secretary