

**MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS MEETING
HELD ON MONDAY, MARCH 5, 2012 AT 7:30 P.M. IN COUNCIL CHAMBERS,
TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Ken Wilson, Chairman; Marion Nero, Secretary; John Pepper, Agnes White.
Alternates: Jackie Cianci, Gerald Devine.
Absent: Vincent Lentini and Zachary Welburn
Staff: David Kehoss, Zoning Enforcement Officer/Wetlands Agent.
Guest: Attorney Kari L. Olson, Murtha Cullina.

I. CALL TO ORDER

Chairman Wilson called the meeting to order at 7:30 p.m.

Chairman Wilson read the emergency fire notice.

Ms. Cianci was the alternate for this meeting.

II. ROLL CALL

Secretary Nero called the roll.

III. DETERMINATION OF QUORUM

Following roll call, a quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES – FEBRUARY 6, 2012

Tabled to end of the meeting.

VI. COMMUNICATIONS

Mr. Kehoss advised that the only communications is a letter to the ZBA on the first application.

VII. PUBLIC HEARING

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| <p>1. Application 12-03-01
<u>Richard N. Johnson, Jr.</u>
315 Wiese Road
Requesting a variance of Section 32, Schedule B,
Dimensional Requirements requesting a 14 foot
Side line variance of the required 30 foot sideline
Setback for a garage.</p> | <p>PH 3/5/12
MAD 5/9/12</p> |
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Secretary Nero read the call of public hearing for this application.

The application of Richard N. Johnson, Jr., 315 Wiese Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 14 foot side line variance of the required 30 foot side line setback for a garage, property located at 315 Wiese Road, Cheshire CT, as generally shown on Assessor's Map No. 51, Lot No. 11 in an R-40 Zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

The applicant requested waiver of an A-2 Survey. The Board reviewed the information in the file and agreed that the information submitted meets the requirements of a waiver of the A-2 Survey.

MOTION by Ms. Nero; seconded by Mr. Pepper

MOVED that the Zoning Board of Appeals grants a waiver of the A-2 Survey based on the information submitted as part of the application.

VOTE The motion passed unanimously by those present.

Richard Johnson, applicant, 315 Wiese Road, Cheshire CT, stated that he is requesting a 14 foot variance for a two car garage. He has lived in the house since 1998 without a garage. The proposed garage would be built on the south side of the house which is the only appropriate location for the garage. Building on the north side would also require a variance, and the back of the house is the location of the septic system. Mr. Johnson informed the Board that he has .6 acres in a 1 acre zone, and his home is the smallest among others in the area. His .6 acre lot is 130 feet wide and should be 150 feet wide in a one acre zone. The property is nonconforming. It was stated by the applicant that having a garage would be consistent with other homes in the area, and homes within one mile of his property. There is a driveway on the south side of the lot, with a 30 foot walkway to the front door. Mr. Johnson would like a garage in order to walk safely into the house, and have safer access on dark nights. He has asked his neighbors if they have any problems with his variance request for a garage, and all of them support his application.

Ms. Nero read a letter into the record from Mr. Winch, 301 Wiese Road, Cheshire CT into the record. This letter stated support of the variance request.

Mr. Johnson advised that he hand delivered and mailed the notification letters to his neighbors.

It was noted by Mr. Wilson that in 1991 there was a variance request for this property.

Mr. Johnson explained that he put in a 30 foot round pool in 1991, and learned it was too close to the side lines. He requested a variance, was denied, and took

down this pool. Later on, he put in an oval pool that met the setbacks. At the present time there is a dumpster on the property because he is taking apart the deck on the house.

Mr. Wilson asked about the hardship for this variance application, and noted that the property is non-compliant, and is much smaller than other properties in this one acre zone. The side line setbacks are based on one acre; the property is 130 feet wide; and is .6 acres in a one acre zone. He asked if the applicant had considered making a narrower garage as an option.

In response, Mr. Johnson said a narrower garage would be a one car garage, and would probably still require a variance.

With regard to the hardship, Mr. Johnson said the garage would be required to get in and out of the house safely. With the lot being .6 acres in a one acre zone, he must still adhere to the one acre zoning requirements.

Mr. Pepper commented on the right of way on the north side, and how far back the Winch property is located.

The Board was informed by Mr. Johnson that the Winch property is near where the variance is requested. The Johnson and Winch houses are almost in an exact line.

Mr. Devine asked about the height of the garage, and if it would have a second floor.

The Board was informed by Mr. Johnson that there is no second floor; that the garage height will be the same as that of the house; and there may be room for some storage in the garage rafters.

In the past there was one zoning variance request for the pool, and Mr. Wilson said it was denied. In this neighborhood there are only two other smaller lots, with the Johnson lot being the smallest one.

Mr. Devine asked about a garage on the other side of the house, and installation of a smaller driveway rather than being 65 feet from the street.

In that instance, Mr. Johnson said he would need a larger variance on the north side of the house. There is a right of way there but his deed does not include usage of this right of way. This right of way is King Road, is not a Town road, and has four houses in the back.

PUBLIC

Anthony Bellegaqua, Wiese Road, stated his agreement with the statements made by Mr. Winch in his letter to the Board. He favors granting the variance

request to the Johnsons, and said neighbors have discussed it, and requested that the Board approve the variance.

There were no further comments or questions. The public hearing was closed.

VIII. DECISION MAKING SESSION

1. **Application 12-03-01** **PH 3/5/12**
Richard N. Johnson, Jr. **MAD 5/9/12**
315 Wiese Road
Requesting a variance of Section 32, Schedule B,
Dimensional Requirements requesting a 14 foot
Side line variance of the required 30 foot sideline
Setback for a garage.

Secretary Nero read the call of public hearing for this application.

The application of Richard N. Johnson, Jr., 315 Wiese Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 14 foot side line variance of the required 30 foot side line setback for a garage, property located at 315 Wiese Road, Cheshire CT, as generally shown on Assessor's Map No. 51, Lot No. 11 in an R-40 Zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

DISCUSSION

Ms. Cianci said she supports this variance request based on the property being .6 acres in a one acre zone, and the fact that the neighbors have no objections. Also, putting the garage on the other side of the house would require a larger variance, and the drawings show the garage going well with the rest of the house.

Mr. Pepper stated his understanding of the hardship with the shape of the lot, and believes an angle of the garage would not look as bad as being straight. He is inclined to approve this variance.

Ms. White said she would vote to approve this variance request due to the shape of the lot, and that neighbors are in support of the application.

Ms. Nero stated she would vote to approve this variance. There is agreement from the neighbors, and the garage would be beneficial to everyone. The hardship is the small lot, and its restrictions based on being in a one acre zone.

Mr. Wilson agreed with the statements from other Board members. He agreed there is a hardship with the small lot in an R 40 zone. When the home was built

it was small, and has been increased in size over the years. The applicant will make reasonable use of the property, and adding the two car garage is a reasonable use. The shape of the lot and side lines are the hardship.

MOTION by Ms. Nero; seconded by Ms. White.

MOVED that the Zoning Board of Appeals grants the variance request of Richard N. Johnson, 31 Wiese Road, Cheshire CT 06410, for a 14 foot side line variance of the required 30 foot side line setback for a garage. Based upon the evidence presented at the public hearing and general knowledge of the Board it is found that a hardship exists to the property which is not applicable to other properties in the district. And, that to strictly apply the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Regulations.

VOTE The motion passed unanimously by those present.

Chairman Wilson advised the applicant that a variance does not become effective until it is filed on the land records of the Town of Cheshire and this is the responsibility of the applicant.

V. ACCEPTANCE OF MINUTES – FEBRUARY 6, 2012

MOTION by Ms. White; seconded by Mr. Pepper.

MOVED that the minutes of February 6, 2012 be approved subject to corrections, deletions, additions.

VOTE The minutes passed unanimously by those present.

IX. OTHER ZONING BOARD OF APPEALS BUSINESS Attorney Kari L. Olson, Murtha, Cullina, LLP. ZBA Workshop.

Attorney Olson submitted a packet of information to the Board and gave a presentation on a general overview of the Zoning Board of Appeals. A copy of the information is submitted as part of the minutes of the March 5, 2012 meeting.

The presentation included the following:
Powers and Duties of the Board of Appeals, General Criteria, Powers and Duties, Zoning Enforcement Office Action Review, Special Exceptions and Special Permits, Variances (definition), General Rules for Appeals, General Concepts of Variances, Variances and the Comprehensive Plan of Development, Hardship and its legal definition, Variance Approval, Conditions of Approval, Decision Making. The Appeal, and Conclusion.

The Board reviewed and discussed the information presented by Attorney Olson.

X. CHAIRMAN'S REPORT

XI. ADJOURNMENT

MOTION by Mr. Pepper; seconded by Ms. Nero.

MOVED to adjourn the meeting at 9:10 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk.