Washington ZBA Minutes 10/26/2022

# Attendance

Board members: Gary Carney, Martk Florence, Linda Marshall, Andrew Hatch.

Applicants: John and Jennifer Calabro.

Abutters: Frank and Priscilla Isoch.

# Public Hearing

The meeting was called to order at 7:00pm.

Carney moved to temporarily appoint Lori Dube as recording secretary. Florence seconded the motion. The motion passed 4-0 in favor. However, Dube was unable to attend and the minutes were recorded jointly by Florence and Hatch.

Carney moved to accept the minutes of the 9/28/2022 meeting. Florence seconded the motion. The motion passed 4-0 in favor.

## Calbro Variance Application

Most, but not all, of the applicant’s statements were made by John Calabro. Where Jennifer Calabro spoke separately, that is noted.

Florence requested permission from the Chair to distribute a list of written questions to all participants. Carney approved.

Florence noted that the application contained three separate sets of dimensions and asked Calabro to indicate which were correct. Calabro clarified that the figures on page 4 of the building permit application were the ones to be considered. They differed from the site plan because it depicted the building footprints, whereas the application accounted for overhangs. Calabro explained that the separate DES site plan was drafted to obtain approval for a Water Access Structure (WAS). It depicted a larger structure than Calabro intended to build so that DES approval would be independent of any subsequent structural changes.

Florence noted that section 3(d) of the building permit contained an incorrect impervious surface of 4716 SF, where 5196 SF was intended. Calabro acknowledged the typographical error.

Florence requested permission from Calabro to rephrase the variances, noting that a variance from LUO 206 had been requested where 201.5 was intended. Calabro granted permission.

**Variance #1** is requested from section 202 of the Land Use Ordinance to permit a 25.3’ side setback where 30’ is required.

**Variance #2** is requested from section 201.5 of the Land Use Ordinance to permit an impervious surface coverage of 21.6% where a maximum of 20% is required.

**Variance #3** is requested from section 202 of the Land Use Ordinance to permit a 3’ shoreline setback where 50’ is required.

Florence noted that an additional variance setback variance was required. Calabro agreed.

**Variance #4** is requested from section 403.1 of the Land Use Ordinance to permit a 30’ setback from an abutter’s building where 35’ is required.

Florence claimed that a building height variance was required. Calabro pointed out that they had correctly calculated the average building height, not the maximum. Hatch confirmed that Calabro accurately interpreted the LUO and Florence withdrew his claim.

Florence noted that a further variance was required, owing to the planned location of a propane tank.

**Variance #5** is requested from sections 202 and 311 of the Land Use Ordinance to permit a 6’ side setback for a propane tank where 30’ is required.

Hatch agreed that this was a correct interpretation of the LUO but Calabro said that they would not pursue this variance and instead move and bury the propane tank to be conforming.

Florence noted that a water tank was installed at the shoreline. Calabro said it was temporary but could not recall the exact date of installation. Florence said that if it was going to be present longer than 180 days, it would need a building permit, and that permit would need a shoreline setback variance.

Marshall asked to see the planned location of the well. Hatch produced a large-scale lot plan that showed the confirming well location greater than 75’ from the septic system. Due to copying limitations, the large scale plan had not been previously viewed by the other board members.

Carney asked about the impervious area that had historically been built on the Calabro property by Isoch as a part of their driveway. Carney produced a diagram to show its location and size of 944.75 SF. Calabro said that they would either add its extent to their planned impervious surface or work with Isoch to return it to its permeable state. Calabro agreed that it would raise variance #2 to 25%.

Florence noted that the Calabro proposal could be built without changing the building footprint and without the need for variances #1, #2 and #4 by moving the garage. Florence said that the proposal was designed so that Calabro would not have to make a three-point turn to enter the garage.

Calabro said that they could build without variances but they had chosen not to in order to be better neighbors. To be conforming, Calabro said, would require cutting down trees, building fences and being overly obtrusive.

Florence asked Isoch if they had any objections to the Calabro proposal or if they anticipated a diminution of their property values. Isoch said that they did not.

Florence noted that Calabro claimed on their variance application that their lot was subject to special conditions based on its width. Florence produced a map and a spreadsheet to show that the lot was in fact normal for the neighborhood. Calabro agreed and withdrew their claim.

Calabro said that the lot had been vacant since 1969. Since that time, the neighbors to the north and south had built close to the lot lines, narrowing the area in which they could build. Calabro said that a driveway must be at least 15’ from the lot line. The Board researched the LUO but could not find this restriction.

Carney asked for clarification on the Water Access Structure (WAS). Calabro said that it was intended for safety reasons so that they could observe their grandchildren on the water. It was also intended as an anchor for steps leading down to a boat dock. Marshall asked if the steps and dock would be present without the WAS. Calabro said they would. Florence asked if a walkway was planned between the house and the WAS. Calabro said no, only a permeable surface.

When pressed, Calabro said that the notion of safety was one presented by ARLAC during their Zoom call. Marshall contended that the raised WAS might obstruct the Calabros view of their grandchildren on the dock and in the water. Calabro spoke at length about his perception that building the WAS over the existing rocky shoreline would maintain and protect the natural features.

Florence moved to adjourn the public hearing at 8:17pm. Carney seconded the motion. The motion passed 4-0 in favor.

Isoch left the meeting.

# Deliberative Session

Florence said that he felt uncomfortable deliberating over the complex issues raised without an independent recording secretary. Carney, Marshall and Hatch agreed.

The Board discussed at length how far they could go to make a decision but were unable to reach a consensus. Hatch said that the Calabros had made several claims in regard to the need for some variances and he was not in a position to make decisions on these without returning to the lot for further review.

Hatch proposed continuing deliberations to the next meeting. Florence said it would be fairer to Calabro to instead reopen the public hearing at the next meeting to give Calabro an opportunity to advance their case in light of the questions posed by the Board. Carney, Marshall and Hatch agreed.

Florence motioned as follows: In order to assess the applicant’s claim that their proposal best serves the neighborhood by not cutting down trees and building fences, I move to reopen the public hearing at our next meeting, currently scheduled for 11/30/2022. This will allow the Board members to revisit the site and also the applicant to further state their arguments. Marshall seconded the motion. The motion passed 4-0 in favor.

Hatch updated the board on his continuing dialog with the Regional Planning Commission (RPC) regarding assistance with recordkeeping and preparation of minutes.

Florence motion to adjourn the meeting at 9:17pm. Carney seconded the motion. The motion passed 4-0 in favor.