

# City of Westfield

## ZONING BOARD OF APPEALS

Martin Newman, Chair  
Richard Sullivan III, Member  
Gary Bacchiocchi, Member  
Sofia Williams, Alternate

January 27, 2016

- Members present
- Members absent

### Staff

- |  |  |
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| <input type="checkbox"/> Martin Newman, Chair                    | <input checked="" type="checkbox"/> Jay Vinskey, Principal Planner |
| <input checked="" type="checkbox"/> Richard Sullivan III, Member | <input checked="" type="checkbox"/> Christine Fedora, Clerk        |
| <input checked="" type="checkbox"/> Gary Bacchiocchi, Member     |  |
| <input checked="" type="checkbox"/> Sofia Williams, Alternate    |  |

1. *Call to order:* In the absence of Chairman Newman, Member Sullivan called the meeting to order at 7:00 p.m. Room 315, Municipal Building, 59 Court Street, Westfield, MA. Members introduced themselves.

2. *Public Participation:* No one presented for public participation.

Member Sullivan explained the process for the meeting. He informed the attendees that the Board would conduct the public hearings this evening and have the petitioners answer questions the Board and or attendees might have regarding the applications. He added the Board probably will not be voting tonight as there are variance requests adding that variances are more stringent as far as granting them. The next meeting the Board will be discussing these applications is scheduled for next Wednesday, February 23, 2016. Adding that meeting will be open to the public but they will not have an opportunity to speak.

3. *Public Hearings on the petitions of:*

Member Sullivan read the notice for the first public hearing into the record for:

JOSEPH & VALERIE ZELEZ who seek variance relief from Sections 3-40.5(1) and 2-20 (lot access) to allow for construction of a house on a lot having less than the required, or no, frontage/width and for access other than across the frontage (via Butternut Rd.). Subject property is known as 56 City View Blvd. (Parcel 27R-22) and zoned Rural Residential.

In favor of the petition was the applicant Joseph Zelez. Mr. Zelez indicated he is seeking a variance to allow him to build a single family retirement home on his property. Mr. Zelez proceeded to explain how he felt this meets the requirements for granting a variance.

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- He felt this is a hardship because in order for him to access the property that he would be building on he would have to pass a wetland which according to Dave Fallis of the DEP is approximately 5,000 s.f. wetland, in addition he would have to have the Army Corps of Engineers come in as well and this would take years to get permission, the time allotted by the Board for the permit would probably not be enough time.
- He felt this would not be a detriment to the neighborhood as the house would almost be invisible.
- He also felt it does not derogate from the intent of the ordinance. He informed the Board there was a variance granted by the bank in 1979 which allowed for 2 building lots but at that time he only built on one of the lots and he lost the variance for the other lot after that.

Members inquired as to who the home would be for? Mr. Zelez replied it would be for his wife and him it would be a small retirement home. Would it only be accessible by right of way? Yes. Members inquired if he was asking for main relief frontage? Yes, not coming across frontage. How much reduction frontage? Mr. Zelez replied if he were to come off Butternut there would be no frontage. Member Bacchiocchi inquired if he would be accessing the lot from right of way from butternut. Member Williams inquired as to if he maintains the right of way? Yes, how far away from adjoining lot lines? Zelez no property but own and city view.

Further discussion regarding possibly subdividing the lot and taking a portion of the land out of chapter 61A which it is currently in. Planner Vinskey also noted the frontage on City View is 143 requires but it still requires 150, adding the notice was written to entertain both options. Vinskey noted one of the concerns is that the way right of way as zoning concerned doesn't exist as street.

Further questions from the Board?

Member Bacchiocchi inquired as to when the lot was purchased in 80. How long been in existence? Since 60s.

Discussion among members as to who maintains the right of way? Would there be ample space for emergency vehicles? Mr. Zelez felt there would be no problem with the access for emergency vehicles. Would there be ample area at the right of way on Butternut to have another right of way?

Member Sullivan asked if there was anyone who would like to voice their support?

Member Sullivan asked if there was anyone who would like to voice their opposition?

There being no further discussion Member Bacchiocchi MOTIONED, seconded by Associate Williams to close the hearing. All in Favor.

Member Sullivan read the notice into the record for:

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LEE HELLIWELL who seeks a special permit per Section 3-40.4(2) to allow for a conversion of a single-family dwelling to a two-family. Subject property is 208 Tannery Road and zoned Rural Residential.

The petitioner addressed the Board informing them he would like a special permit to allow him to build an addition to his home to allow his mother to move in with him. The addition would be connected by way of the garage. There would not be any separate utilities. The petitioner proceeded to present diagrams to the members indicating the addition would be on the right side of the garage. Member Sullivan informed the Board he has driven by the area and didn't see any major issues with this. Member Bacchiocchi agreed adding it is far back off the road. Alternate Williams also felt the application has done his due diligence as well.

Vinsky felt the Board should reference the plans in their decision,

Member Sullivan asked if there was anyone who would like to voice their support?

Richard Lefebvre ~ 200 Tannery Road  
No objection to what doing.

Member Sullivan asked if there was anyone who would like to voice their opposition?  
No one.

Member Bacchicco MOTIONED, seconded by Alternate Williams to close the hearing. All in favor.

Member Sullivan read the notice into the record for:

CARLOS & MARIA QUILES who seek variance relief from Sections 3-40.5(1), 3-170.8(1), 4-20.1 and 2-20 (lot layout) to allow for division of a lot in two, each to contain an existing or proposed house but having less than the required frontage/width and/or area and/or not conforming to lot layout requirements. Subject property is 276 Shaker Road and zoned Rural Residential and Water Resource Protection.

Representing the applicants was Attorney Mark Beglane. Attorney Beglane informed the Board currently the applicants own one single family home on one lot that consists of approximately 3.5 acres; the property is zoned rural residence but is also located in the water resource protection district which has a minimum lot area of 2 acres. He gave some history regarding his client, he informed the Board his client has recently been diagnosed with an inoperable brain tumor which may cause him to lose his sight as well as his ability to walk. He also added they currently have their son, their daughter and her daughter's 3 children living with them. They are here requesting a variance to allow them to build a second home on their land which will be handicapped accessible, as well as including space for a care giver if required in the future.

Attorney Beglane continued they could go the Planning Board for a waiver of the frontage requirement but they would still have to meet the 2 acre requirement, he also noted that if they were to put an addition on the current home it would be more expensive than building a new home. Discussion among members as to putting an addition on the current home rather than building a new home. Member Bacchiocchi felt the key

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would be to move into the modified section of the home. Attorney Beglane inquired if this could be done without being considered a 2 family home. Vinskey felt as long as the addition is not a lockable part. Member Bacchiocchi stated the requirements for granting a variance are greater than a special permit. Attorney Beglane felt part of the hardship would be the financial aspect of the demolition and modifications. Member Bacchiocchi added the part of the definition of hardship doesn't take into account personal circumstances, adding he understands it's a difficult situation. Attorney Beglane felt the fact its part in the aquifer district adds to the hardship if it wasn't located in the water resource district they could go to the Planning Board, adding most of the other lots are smaller with the less square footage than required. He also felt the Board could put conditions on the decision regarding protecting the aquifer. Lot would not have 2 acre minimum. Further discussion regarding the fact the lot does not have the acreage needed for the 2 separate lots. This would create either one lot conforming to the frontage requirement and one non-conforming.

Member Sullivan inquired if they considered all the options? Attorney Beglane felt the second house would be better a better option and it would be a smaller house on a smaller lot. Member Sullivan felt the petitioner is asking for large relief when there are other options available.

Alternate Williams felt the proposal should be narrowed down to one proposal; she would like a definitive answer as to frontage or variance request.

Member Sullivan asked if there was anyone who would like to speak in favor?

Member Sullivan asked if there was anyone who would like to voice their opposition?

Opposed?

Daniel Leasy ~ 287 Shaker Road

Voiced concerns regarding the lack of frontage, being located on the aquifer, when the other additions were done it caused sand and erosion problems and he has been reluctant do to anything about it, he also felt a variance should not be granted because it is in his opinion a self-imposed hardship, he reiterated the fact he felt they do not have the right to seek a variance.

Thomas Regan ~ 300 Shaker Road

Voiced his concerns they already have 3 additions on the home itself and a huge addition 4 or 6 car, garage bigger than house, they have regarded their property and pitched the driveway, which has caused problems with his property. He showed photos of the additions, rights of way. He also felt if this gets approved a storm drain will be needed. They cleared the whole lot by taking trees down they took frontage away and made their own problem. He also noted the family moved 3months ago, whole family gone; he was told they moved to FL.

Joe Zanolli ~ 299 Shaker Road

Feels there probably is water running into the brook and added the additions they have put on are larger than the home.

Comments?

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Attorney Beglane suggested conditions could be written up to address the water concerns.

Member Bacchiocchi MOTIONED, seconded by Alternate Williams to close the hearing. All in favor.

Member Sullivan read the notice into the record for:

GUIDO MARCHESI who seek variance relief from Sections 3-60.5(1) and 4-20.1 and a dimensional special permit per Section 3-60.4(2) to allow for division of a lot in two, each to contain an existing house but having less than the required frontage/width, area and side yard setbacks. Subject property known as 11 Allen Ave. and zoned Residence B.

Representing the petitioner was John Masuck of R Levesque Associates. The petition before the Board is for 2 homes that are currently located on one lot at 11 Allen Avenue. The lots consists of 100 feet of frontage with an area of 10,800 s.f., they are proposing a variance to allow to subdivide the lots into 2 separate lots to have the homes on their separate lots. They will have less than the required front setback and side but meet the rear set back.

Member Sullivan felt if there was any harm done it has already occurred, it's been developed. Members voiced their concerns that the second house was built in the 1980's and were curious as to how this occurred. Member Sullivan reiterated the fact its' already been developed, if there is any harm it's already been done. The Board briefly questioned how the second house could have been built? Board members asked if the Marcassi owns both. Yes.

It was noted permits were issued for the second house.

In favor?

Antoinette McLean

Informed the members she was living with in one of the homes and is hoping to purchase it. The house known on plan as 11B.

In favor?

Eve Crampton

Realtor and also felt they would have had to have permits.

In favor?

16 Allen Avenue ~ Browns'

Rent from Phil Zych

In favor?

Opposed?

Member Bacchiocchi MOTIONED, seconded by Alternate Williams to close the public hearing.  
All in favor.

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### 4. Annual election of officers (item tabled from 1/6)

Member Sullivan stated he felt the officers were fine the way they currently are. Alternate Williams moved seconded by Member Bacchiocchi to keep Marty Newman as Chair.

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### 5. Review and discussion of Board procedures/rules; dim.special permit requirements (item tabled from 1/6)

Vinskey began the discussion by briefly reviewing one of the items the Board previously mentioned was possible having the applicants have a survey done on the property. Board members felt they should table this discussion until Chairman Newman was present.

The Board briefly discussed the possibility of accepting applications by E Mail. Vinskey suggested the Chair could possibly do that. The Board also discussed the components of the application giving note to the requirements of the hardships; the Board felt it should be spelled out in the variance application as to what the hardship is. Vinskey added the applicant's should be putting an addendum to the application which should specify exactly the hardship in regards to variances they may be seeking.

The Board discussed possible meeting dates; the Board was unclear as to the availability of members for the March meeting. There possibly could be a meeting of February 24, 2016.

### 6. Review and approval of previous meeting minutes (12/23 & 1/6)

The Board tabled the meeting minutes of 12/23/15 and 1/6/16 until the next meeting.  
Gary tannery road something togethrthst,copy of.  
Motion adjourns at 8:25. Gryksofy.AIF.

### 7. Board deliberations/decision (on any above public hearing which has been closed)

The Board continued until their next meeting for deliberations.

### 8. Other Business/Future Agenda Items

Member Bacchiocchi would like to have a copy of the Tannery Road.

### 9. Adjournment: Member Bacchiocchi MOTIONED, seconded by Alternate Williams to adjourn at 8:26. All in Favor. MOTION PASSES.