

**WATERVLIET CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
MEETING AND PUBLIC HEARING MINUTES
JUNE 30, 2022**

Site Address: 8327 Terrace Ave.

Property #: 11-21-2220-0172-00-1

Applicant: William Pater

Request: The lot currently has a home on it but does not possess a garage. Pater would like to construct a garage on the south (roadside) part of the house. Pater would also like to extend the easterly 18 feet of the proposed structure to 3 feet into the 25 foot setback line from Terrace Ave. to achieve a nominal 24 foot garage depth without having to remove several large trees. Watervliet Township Zoning Ordinance No. 77, Article V - Schedule of District Regulations, Sec. 5.12 - Yard, Height and Lot Size Requirements for Principal and Accessory Uses, mandates a road side setback in this district of 35 feet, however, Article XX - Definitions, Sec. 20.26 Yard, Front grants property owners of platted subdivision thru lots fronting on the lake the option of taking a lesser setback, either from the road or the lake frontage not to be less than 25 feet. Mr. Pater has chosen to use the 25 foot option from the road frontage. As such, a 3 foot variance for a net distance of 22 feet from the road would have to be granted for this structure to be built as requested.

Present: Mark Vander Linden, Deane Fizzell, Carl Spessard, Robert Wallace, Stephen Myers, Thys Van Hout.

Also Present: William Pater, Mary Joan Hoadley, James Hoadley.

Chairman Spessard called the meeting to order at 2:00 p.m.

The minutes of the May 11, 2022 meeting were read. T. Van Hout made a motion to approve the minutes as read. M. Vander Linden seconded and the motion carried unanimously.

At this time Chairman Spessard entertained a motion to close out of the regular meeting and enter the scheduled public hearing. S. Myers made a motion to close out of regular session and enter the public hearing. R. Wallace seconded and the motion carried unanimously. The hearing was opened at 2:05 p.m.

The Zoning Administrator read the formal request into the record.

The Chair first recognized W. Pater. Pater presented the Board with five photographs showing the current layout of the property and structures. The first photo illustrated several large trees on the north side of the house that have the risk of having to be cut down if he is forced to move the house forward. The second photo, he explained, shows a large tree juxtaposed to foundation work that he undertook last fall in an effort to save the tree. He continued that the third photograph shows the roadside of the lot, pointing out several trees on that side of the property that he would like to remain. He explained that in order to spare the trees, the extension of the garage can only occur on the easterly 18 feet. He added that the extension will only protrude toward the road side property line for 3 feet saying that he wishes to have a garage depth of 24 feet, noting that his pickup truck is 22 feet long. Pater told the ZBA that he would take their direction and use their "infinite wisdom" to proceed. He noted that a dumpster is on site and will move accordingly.

R. Wallace told Pater that he thinks he is making a better decision with razing the existing structure and build anew, than trying to rehab the existing structure and adding on. C. Spessard, pointing to the site plan submitted by Pater, noted two wall extensions on both the east side and west side of the current structure and inquired if they were in the side yard setback. Pater said they were and, that because they are legal non-conforming, he would like to retain those in the design of the new structure to add a little "curb appeal" to the new home. He added that he would like to depart from the common box shaped home so frequently found around the lake.

S. Myers noted that in the aerial view of the property the house does not appear to be sitting squarely on the lot and asked Pater if he planned to address that issue. Pater did say that he would prefer to square the home up on the lot. Myers then pointed out that, it appears, if he did square the house on the lot that would cause a side yard encroachment on the northeast corner of the home. Pater replied that the new design would be square on the property and within the required ten foot side yard setbacks and added that only the two legal non-conforming "bump-outs" would be retained.

R. Wallace asked Pater if the proposed home would have a basement. Pater replied that it would. Wallace then asked if he planned on adding a second story, to which Pater replied that he does. Wallace then asked if the addition of living space above the garage was planned. Pater said that was the plan, to which Wallace replied, "So, you're going to end up with 3 times the living space." Pater said that would be a fair assessment. Wallace then told Pater that the dilemma now comes from the fact that if the current house is being razed and the plan is to increase the livable floor plan by 3 times, a simple design of 3 feet into that additional living space is all that would be needed to obtain the 24' garage he's requesting, thus supplanting the need for the variance being requested today.

Pater concurred with that statement and stated that he would move the house forward and cut the trees down to accommodate the shift toward the lake. S. Myers told Pater that he was disappointed with the comment about the trees and added that currently having a modest size structure, ... "doesn't seem to be a huge hardship when adding three levels." The Chair then recognized James Hoadley. Hoadley stated that he was confused as to how the ZBA could be conducting a hearing for a variance on a tear down and rebuild when there have been no site plans submitted. Hoadley stated that he was not there to object to the variance being requested but questioned, that if granted, would he still be

bound to honor the variance as granted. He was told that there would be a review process once a site plan is submitted. At that time, proper placement of the proposed structure and fixed non-conforming points would be verified and approved by the Building Department and the Zoning Department which would include any approved variances. S. Myers asked Pater how much further would the proposed garage protrude past the existing garage to the east. Pater said it would protrude one foot past the overhang of the garage to the east. At this time Pater did declare that if the ZBA granted the requested variance today he would sign an affidavit that he would protect the trees and would not move the house forward of the existing foundation - with the exception of a small screened in porch on the northwest corner of the house which would be on posts. M. Vander Linden, addressing the Zoning Administrator, asked that if the variance was granted, would it be for the entire width of the home? He was told that the variance would be restricted to only the easterly 18 feet that was being requested. C. Spessard asked if there was any written correspondence submitted relating to the topic at hand. He was told there was none. With that said, C. Spessard entertained a motion to close out of the public hearing portion of the meeting and reenter regular session. R. Wallace made the motion to close out the public hearing and reenter the regular meeting. C. Spessard seconded and the motion carried unanimously.

The public hearing was closed at 2:31 p.m.

On return to the regular meeting, S. Myers stated he felt that if the variance was granted at this point, knowing that the structure causing the hardship was being demolished, it would be tantamount to ignoring the 25 foot setback requirement. He added that with the demolition of the existing structure, he now has a clean slate to design a home that can accommodate and meet all the required setbacks. He added that the 25 foot rule for lake front property owners is already a special rule which gives property owners a great deal of flexibility.

J. Hoadley stated that permitting Mr. Pater to move more toward the road than pushing it toward the lake, would be less detrimental to the neighborhood than pushing a home further out in front of homes that are currently, more or less, in line with each other. He asked the Board to take that into consideration.

C. Spessard noted that in the past when a home owner did not have a garage and wished to have one but could not do so without a variance, those variances were typically granted. Wallace interjected by stating that "He doesn't need a variance. He can build any size garage he wants," and explained that all he needs to do is reconfigure or design the home to accommodate it. "I see no reason for this board to grant a variance when he doesn't need one," Wallace concluded.

At this time, C. Spessard entertained a motion on the requested variance.

R. Wallace made a motion to deny the variance as requested. T. Van Hout seconded. A roll call vote is as follows: M. Vander Linden, yea; T. Van Hout, yea; R. Wallace, yea; S. Myers, yea; C. Spessard, yea.

The motion carried unanimously.

With there being no further business before the Board, S. Myers made a motion to adjourn. M. Vander Linden seconded. With all in favor, the meeting was adjourned at 2:37 p.m.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Robert Lohr", with a long horizontal flourish extending to the right.

Robert Lohr
Zoning Administrator