

**Winthrop Board of Appeals
September 28, 2023
Meeting Minutes
Harvey Hearing Room**

Board members in attendance: Darren Baird, Thomas Chiudina, Jason Wright, John Young

Town Staff members in attendance: Rachel Kelly

Board members Absent: Jaime Stern, Marc Chapdelaine

Meeting called to order at 6:35 followed by roll call.

138 Tafts Avenue (032-2021)

Legal counsel 138 Tafts Avenue requested the Board rescind a vote for a previously closed application, due to an appeal from an abutter.

A motion to rescind the vote was made by Jason Wright. The motion was seconded by John Young. All members voted in favor.

40 Willow Avenue (016-2023)

The applicant requested to withdraw the application without prejudice. A motion to approve the withdrawal without prejudice was made by Tom Chiudina. The motion was seconded by John Young. All members voted in favor.

61 Coral Avenue (034-2023)

The applicant requested a continuance until the October 26th meeting. A motion to continue the hearing was made by John Young. The motion was continued by Jason Wright. All members voted in favor.

1039 Shirley Street (019-2023)

The hearing was continued from the August 24th meeting. The homeowner installed a white vinyl fence that was blocking the line of sight when entering and exiting their driveway. The Building Department issued an Order to Correct to the homeowner after receiving notice of the fence. The Applicant requested that the Board void the Order to Correct, Code Violation #B 2387, and the Notice of Violation. The Chair opened the meeting up for public comment.

Josh Castellano, 86 Ingleside Avenue
Submitted letter in opposition to the fence.

Terri Newman, 7 Triton Avenue
Concerned about the fence. Asked for enforcement of the Order to Correct. Can not see when exiting their driveway and can't see cars coming down the street.

Chuck Newman, 7 Triton Avenue
You cannot see beyond the fence or what is coming down the street.

A motion to close public comment was made by Jason Wright. The motion was seconded by John Young. All members voted in favor.

During discussion the Board felt that there was not enough evidence to showcase what the fencing realistically looks like and how it is installed.

A motion to uphold the Building Department's issued Order to Correct with the condition that fines will be waived pending the timely removal of the fence was made by John Young. The motion was seconded by Tom Chiudina. All members voted in favor.

7 Frances Street (013-2023)

Homeowner was issued a cease-and-desist letter from the Winthrop Building Department for building an outdoor grilling area with counter tops and closed top pergola. The structure was built near the abutters.

Winthrop legal counsel submitted a "Opinion and Memorandum of Counsel" as a response to the request for clarification from the August 24th meeting. The Memorandum addressed if the outdoor kitchen was subject to the provisions of 17.16.C.5.

The hearing was not re-opened for public comment. It was noted that a letter of support for the application was submitted by Peter Gill, direct abutter.

The Board Chair noted that it was if the Board was inclined to grant relief from the side yard requirements and if there will be no structured within the side yard. Proper relief would be the incursion of setback. The only incursion is the roof of the outdoor kitchen, and it is an incursion that is beyond the 15 inches that is permitted.

Legal counsel for the applicant noted that the encroachment on the side yard setback was de minimis and would only apply to accessory buildings, and with this not being an accessory building it would not fall into the setback requirements.

The Chair noted that requiring the homeowner to move the existing structure to comply with the standards of the bylaw seems to not be an equitable solution.

A motion was made by Tom Chiudina that the Board grant the relief requested for rear yard setback, per the plans submitted as well as the required 10 foot set back from the principal structure bidding that the enforcement of the zoning would be a hardship to the applicant. Granting de minimis relief would not be a substantial variance to the intent of the bylaw and not create a public safety hazard or be detrimental to the neighborhood.

The motion was seconded by John Young.

Two voting members voted in favor of the motion. The third voting members voted against the motion. The motion does not carry.

14 Townsend Street (030-2023)

The application is to add an addition and 3rd story onto an existing single-family home. Wants to add onto the house to create living space for family. The applicant supplied photos of neighboring houses of similar size and height.

The Chair opened the meeting up to public comment.

Zack Brennen, 77 Tafts Avenue. Provided photos and letter to the Board. In opposition of the work to be done. Concerned with shadows cast across their yard. Also concerned with losing water view that currently exists. Would rather see dormers installed to expand living space.

Jim Nestor, 18 Townsend Street. In opposition of the work to be done. Does not understand why the application is in front of the board.

A motion to close public comment was made by Jason Wright. The motion was seconded by John Young. All members voted in favor.

The applicant was provided an opportunity to respond to public comments. The applicant does not feel that the expanded house will not interfere with any ocean views.

The Chair noted that the Board's jurisdiction does not cover views.

The Board noted that the currently submitted plans do not feature the final height of the building once built, or square footage and some dimensions. The board requested that the applicant come to the next meeting with new drawings containing the missing information. The applicant agreed.

A motion to continue the hearing until the November meeting was made by Jason Wright. The motion was seconded by John Young. All members voted in favor.

170 Grovers Avenue (032-2023)

The homeowner presented the application to create a new driveway on the property and to build a carport over the new driveway. The carport will be connected to the existing house. The tree in front of the house would need to be removed.

The Chair opened the meeting up to public comment.

Alyssa Gamble, abutter across the street. Concerned about the street tree that will need to come down. It is large and very old and can't be replaced.

A motion to close public comment was made by Tom Chiudina. The motion was seconded by Jason Wright. All members voted in favor to close public comment.

The applicant was given the opportunity to respond to public comments. The applicant stated that 2 ½ parking spaces would remain in front of the house, even with the creation of the curb cut. Only losing about 1 off street parking space.

The Board noted that the applicant needed to provide stamped architectural drawings for the construction work to be completed. The applicant agreed to have an architect create drawings and would present them to the board.

A motion to continue the hearing until the October meeting was made by Tom Chiudina. The motion was seconded by Jason Wright. All members voted in favor.

332 Revere Street (033-2023)

The architect representing the project presented the work to be done. The project included an addition onto the rear of the house. The addition would exceed 25% of the floor area of the house.

The Chair opened the meeting up to public comment.

Danny Frezionie, 328 Revere Street. Direct abutter. In favor of the work to be done. Wants to see his neighbor get what they need. They are good neighbors and everything they do is a positive change and whatever they do will be beautiful. Refusing the work to be done would be a sad thing.

A motion to close public comment was made by Tom Chiudina. The motion was seconded by Jason Wright. All members voted in favor.

After review of the Building Department's denial letter, the board concluded that this addition was a conforming addition on to a non-conforming structure. This does not require relief granted from the Board of Appeals.

The Board voted to overturn the denial letter based on 17.28.030B. The motion to overturn the letter was made by Jason Wright. The motion was seconded by John Young. All members voted in favor. No action will need to be taken by the Board.

Adjourn

A motion to adjourn the meeting at 9:08 was made by Jason Wright. The motion was seconded by John Young. All members voted in favor.