

## TOWN OF WINCHENDON



### Zoning Board

Telephone (978)-297-5419

#### Public Hearing/Special Meeting

February 15, 2023

Town Hall 2<sup>nd</sup> Floor Auditorium

109 Front Street, Winchendon MA 01475

**Present:** Chair Cynthia Carvill, Rob Bushay, Brandon S. Fournier, Evelyn Higgins, Richard Stancombe  
Nicole Roberts- Planning & Land Use Coordinator

**Materials:** Notice of Public Hearing February 15, 2023  
Minutes- 11/16/22, 12/21/22

**7:00PM:** Chair C. Carvill called the meeting to order.

**Announcements:** C. Carvill stated the board members will receive updated ethics and open meeting law training information via email.

**Public Comment:** None.

**Minutes:** 11/16/22

R. Bushay motioned to accept the 11/16/22 minutes as presented, 2nd by R. Stancombe.

**Bushay (Y) Fournier (Y) Higgins (Y) Stancombe (Y) Carvill (Y) 5-0**

R. Bushay motioned to accept the 12/21/22 minutes as presented, 2nd by E. Higgins.

**Bushay (Y) Fournier (Y) Higgins (Y) Stancombe (Y) Carvill (Y) 5-0**

**New Business:** Changing all hearing times to start at 7:05PM

R. Bushay motioned to change all future hearing times to start at 7:05PM, 2nd by R. Stancombe.

**Bushay (Y) Fournier (Y) Higgins (Y) Stancombe (Y) Carvill (Y) 5-0**

C. Carvill asked to take the hearings out of order and take the 7:10PM hearing before the continued hearing at 7:05PM as it will be significantly shorter.

**Public Hearing:** 102 Royalston Road North, Kayla and Chad Landry

R. Stancombe read the public hearing notice. There were no conflicting interests from the board members. C. Carvill swore in the applicants.

7:10PM- R. Bushay motioned to open the hearing, 2nd by R. Stancombe.

**Bushay (Y) Fournier (Y) Higgins (Y) Stancombe (Y) Carvill (Y) 5-0**

Chad Landry explained their lot is very narrow in shape and the coop falls within the 100 ft buffer zone. They brought the chickens onto the property in 2019, and have since received complaints from the neighbor. They got rid of several roosters to reduce the noise, and have also contained their chickens to an enclosed run. The coop is 6 x 8 ft, and they currently have around 20 chickens, 2 of them being roosters.

Abutter at 104 Royalston Road North came forward to express her concerns. Her main concern was regarding the noise of the roosters. She also reported the chickens used to wander into her yard before they were contained to the run.

Audry LaBrie was present representing the Agricultural Commission, and stated for transparency she lives on the corner of Brooks Rd and Royalston Rd North. Back in the 1950-70's that area was all farm land. It was then developed by a builder who took the bare minimum amount of frontage required, 200ft, to put in as many homes as possible. Due to this, there will most likely be several variance requests in the future due to the size and shape of the lots. She asked the board keep that in consideration for this request.

C. Carvill wanted to express the importance of this variance request is regarding the setback. It is a unique property regarding the size, shape, and topography. B. Fournier suggested adding some conditions such as moving the coop to the opposite side of the lot.

R. Stancombe motioned to close the hearing, 2nd by R. Bushay.

**Bushay (Y) Fournier (Y) Higgins (Y) Stancombe (Y) Carvill (Y) 5-0**

R. Bushay motioned to grant the variance for the coop to be 100 ft away from the neighboring property lot 202- 104 Royalston Road North, any future coop must fall in the same footprint and location, and the chickens need to be contained to the lot, for the following reasons: the size, shape, and topography of the lot, and the hardship that is presented by the lot. 2nd by R. Stancombe.

**Bushay (Y) Fournier (Y) Higgins (Y) Stancombe (Y) Carvill (Y) 5-0**

The board decided to set a follow up date to revisit in 1 year.

**Public Hearing:** 6 Island Road, Winchendon, MA 01475- Cindy Lu Fitch

R. Bushay motioned to reopen the hearing, 2nd by B. Fournier.

**Bushay (Y) Fournier (Y) Higgins (Y) Stancombe (Y) Carvill (Y) 5-0**

There were no conflicting interests from the board members.

Attorney Vincent Pusateri was present on behalf of the applicant.

The current project proposed includes removal of the roof and adding a second level with additional deck, on the existing property. Previously, the original plan was much larger and the building department

issued the permit. Soon after they began on the construction, the applicant was asked to come before the board due to concerns with the project in regards to exceeding the 50% rule. V. Pusateri reviewed a few of the zoning bylaws to support his case regarding the previous concerns with the plans. He stated the details of the project and discussed with the board members. The proposed story would add an additional 8.5ft compared to the current height.

Attorney Keith Glenny was sworn in, representing the abutter Ryan McCauley. He read the bylaw regarding the Monomonac overlay zoning district and explained the purpose behind it, to give leeway to the home owners due to the unique sizes of the lots. It states "to allow owners reasonable use of their properties without detriment to abutters and the general community". He pointed out that Mr. McCauley is the sole abutter of Ms. Fitch's property. A main concern regarding the project was the conflicting measurements of the square footage and proposed height of the addition. The median ground level measurement was unclear and there was no permit pulled for all the fill that was brought in around the home, now causing water issues. The filled in level cannot be used for a median ground level measurement, it needs to be taken where it was when the property was built. K. Glenny stated it was important to note that R. McCauley's home was built in 1974, and C. Fitch's property was built in 1975. It was built as part of a common plan in the neighborhood to not block the view of the abutter. This was not a preexisting non-conforming lot. The fact that a permit may have been issued for a deck that shouldn't have been approved, does not make it preexisting non-conforming, it still needed to comply with zoning, which means it was approved by mistake. If the measurement is over 50% of an increase, the bylaws prevent a special permit being issued. On the building permit application, it is listed as 976 sq. ft. and 1,952 finished. sq. ft. The height is not listed at all on the building permit application. It would not be recognized as a hardship for the applicant, but it would cause detriment to the abutter.

Ryan McCauley was sworn in. He clarified a few points regarding his neighbors property. He stated the main entrance originally had a small set of steps leading to the door. When Cindy Lu Fitch moved in, the realtor recommended replacing them due to the condition, and that is when the stairs were taken down and the side deck was installed. There is no history of a permit from 2016 to install a deck.

C. Carvill requested to set up a meeting with the building inspector to inquire about the permit from December and the property history.

N. Roberts will contact the assessor to update the property measurements. She will also follow up on with the Conservation Commission regarding the status of the enforcement order on the property.

R. McCauley will provide pictures from his home/view.

V. Pusateri will work on getting a certified engineered plan in time for the next meeting that will include the height of the house- with details on the roof line and the height of the chimney, the current square footage, and proposed square footage. He will get the individual measurements of each level, the deck, and the entire living space. They will review the Zoning obstruction provision, which may or may not relate to the Monomonac Road East Provision.

R. Stancombe wanted to state for the record that on November 8, 2022, R. McCauley approached him at the voting polls and mentioned a permit was pulled on this lot. He let R. McCauley know he could not discuss the permit with him. He asked in general, is a special permit required/allowed when the property would increase by over 50%. R. Stancombe replied the applicant would need to apply for a special permit for any of those cases. No further details were discussed.

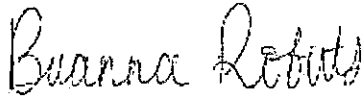
B. Fournier motioned to continue the hearing to March 15, 2023 at 7:05PM, and close the meeting.

2nd by R. Bushay

**Bushay (Y) Fournier (Y) Higgins (Y) Stancombe (Y) Carvill (Y) 5-0**

**The meeting was adjourned at 9:27PM.**

Respectfully submitted:



Brianna Roberts, Planning Board Recording Secretary

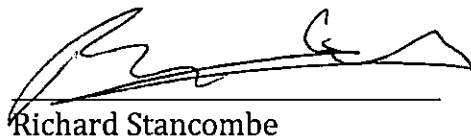


Cynthia Carvill, Chair

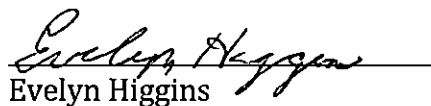
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Raymond Benoit



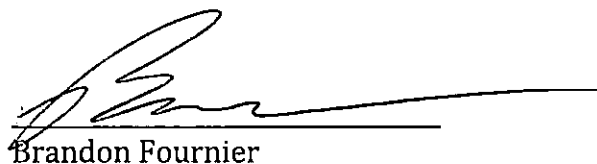
Rob Bushay



Richard Stancombe



Evelyn Higgins



Brandon Fournier