



**TOWN OF WAYLAND**  
MASSACHUSETTS  
01778  
**BOARD OF APPEALS**

TOWN BUILDING  
41 COCHITUATE ROAD  
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Zoning Board of Appeals  
Minutes  
11/18/2014

Attending the hearing was Chair, E. Michael Thomas, Eric Goldberg, Aida Gennis, Thomas White, Michael Connors, and associate members Shaunt Sarian, Linda Segal and Arjie Shapiro. Also in attendance was Building Commissioner Jay Abelli and Norma Badger took the minutes.

Application of DANIEL and ELENA MARTYNICK for any necessary approvals, special permits and/or variances as may be required to change, alter, extend a pre-existing, non-conforming structure by more than 20% (construct a second floor) under the Town of Wayland Zoning By-Laws Chapter 198 Sections 201, 203, 401.1.2, and 401.1.3. The property is located at 178 WEST PLAIN STREET which is in a SINGLE RESIDENCE DISTRICT. (14-28)

Panel hearing the matter: E. Michael Thomas, Eric Goldberg, Aida Gennis, Thomas White, and Michael Connors. Michael Connors will write the decision.

The applicant Dan and Elena explained they moved to Wayland six years ago, and the house is presently a ranch. They have one child and now his wife is pregnant again and now will be needing more space. Tried to see if it was more feasible to move or add on. They are comfortable where they are and would like to stay. Went to a builder and then found out they had to go to Zoning. After everything they will have 4 bedroom and 3 baths. They are nonconforming due to frontage and lot area. Will be staying within setbacks. E. Michael Thomas asked, they will be maintain the footprint and will look more like a colonial instead of a ranch.

Comments from the Board: Eric said there was a house across the street that did the same thing. Linda asked about the mature trees and how they will protect them. The applicant said they will have to shave up one branch but plan on keeping the trees. Linda just wanted to note.

Eric motioned to move to although it increasing the nonconformity it will not be more detrimental. E. Michael Thomas second the motion...all in favor 5-0

Eric moved to grant special permit in accordance with the plans submitted and all necessary approvals from all other departments necessary, Aida second All in favor 5-0.

Linda updated the board on the long range planning and last chart they distributed showed the zoning by-law line had been revised and now the budget was back in. Linda conveyed to the chair of the finance committee that there was a meeting when the planning board met and spoke about. They discussed and agreed to put back in the budget the monies to revised the by-law. Just want to let the board know that it has been revised from the dead.

Application of DAVID and LILLIAN WATKINS for any necessary approvals, special permits, and/or variances as may be required to modify Special Permit #12-28 dated July 3, 2013 (construct a 12' x 32' deck in rear yard and replace an existing side yard fence with a new fence over 6' in height within required front, side and rear yard setback) under the Town of Wayland Zoning By-Laws Chapter 198 Sections 201, 203, 401.1.2, 702, 702.1, 703.1, 703.2, and 801-Table of Dimensional Requirements (front, side and rear yard). The property is located at 63 EDGEWOOD ROAD, which is in a SINGLE RESIDENCE DISTRICT. (14-27)

Panel hearing matter: E. Michael Thomas, Eric Goldberg, Thomas White, Michael Connors and Argie Shapiro. Eric Goldberg will write the decision.

The applicant David Watkins explained to the board that the zoning board had approved the house and is currently being developed with a new firm – Keystone Development and they took the opportunity to re-evaluate the design. In the back of the house there was going to be a patio with a deck on top. The patio was modified to put a deck on it. He explained they originally had taken off the decks. The new developer reconfigured the retaining wall and bluestone and thought it would be a deck. Dave said the builder started the deck and was stopped when warned. David Watkins showed pictures without the deck and with the deck. The original deck was bigger and was all on the top and bottom. Put an egress in the bottom to exist the basement instead of the garage. Tried to keep the lot level and had a retaining wall and would be pretty high. Showed the deck they are trying to build. The house has been framed, siding on it. The other request is a fence. The south side of the lot there is currently a six foot fence. The existing fence is in two parts and when they were doing the excavation the fence came apart. Do not know exactly who's property it is sitting on. David Watkins showed the plot plan and the fence is clearly on his line but some portions are right on the line. Part of fence is six feet and other parts are loose and not stable. Proposing to put fence on the border. Railroad tires are on his property. Linda Segal asked if you are extending the fence toward the front lot line do they regulate that? E. Michael Thomas said they do. E. Michael Thomas said fences and walls up to six feet are exempt and fences that do not are not exempt. Eric said notwithstanding cannot do a special permit for a fence over 6'. It becomes a structure within a setback. E. Michael Thomas said this would be a newly allowed intrusion within the setback. A new intrusion into the setback. Linda said when you go through the neighborhood there is only one other which is on the other side. There is no other fence in the neighborhood 8'. Not in the character of the neighborhood. David Watkins said they have a structure going up that high and part of the design, the retaining wall comes up about 2-1/2 feet, and would be creating privacy from the neighbor. E. Michael Thomas said he can get 6' of privacy and do not give special permits for new intrusions, so the fence has to be 6'.

Public: Sandra Brennan of 61 Edgewood Road, wanted to caution members using the plans because she has two sets of plot plans and need to take a look at the submitted plot plan. Showed the plot plan and explained the lot lines were off. Just wanted to mention it. Eric said they are not boundary police, the issue here is do they vote to issue a special permit for an 8' fence. The boundary is a civil issue and they could not be involved. Sandra proceeded to show a photo of the existing deck and does not know if it is the size proposed. The deck is at eye level even though the house is eye level. The problem she has is that it would need high screening. The houses go in and out and everyone has a back yard and likes their privacy. Could move the deck down or its just stair cases that bring you to the back yard. To break it up and bring it down, it could be cut in half and no egress door in the basement and would bring it lower. She would like some planting as part of the plans. Eric asked if she would rather see a green wall outside her window and she said yes she would because she never had that view before. Greenery would be great. Eric asked how much space is between her window and deck, she said about 7'. Sandra showed the board her plot plan and where her kitchen window is. E. Michael Thomas said there is about 16' from the deck and would have enough room for screening.

Todd Boulay, representing Margagret Boulay of 65 Edgewood Road. First would like to discuss the instability to the current fence that was due to the runoff for the land to be built up. The runoff has caused it, has a gully running and has videos and photos of it. They did not have a silt fence set up and it finally went up in August to protect the conservation. It has been built up to make a lake of at least 30' long, it has pushed things down the hill and runoff. Pointed out the gully. Todd said he is a little disappointed with the board by approving this and raising the land and built the basement on top of that, no reason to raise the house up and this owner has bullied his mother from the beginning. Eric stopped Todd and let him know that it is not relevant to their Zoning Application and unfortunately are not here to talk about bullying. Eric said they are here about a deck and fence which the applicant has applied for. Todd continued on and would not let up and said this is a process of what he is doing. E. Michael Thomas asked if he had a problem with the deck and Todd said he does have a problem with it and the two different lot lines. E. Michael Thomas said the submitted drawing with the application submitted is what they have to use. E. Michael Thomas said this is not for them to police. Jay Abelli, Building Commissioner verified to the board that the plot plan is a foundation as built and is in accordance with the plans and proposed elevations. E. Michael Thomas said they are done with that matter of the plot plan and have passed that by and are not revisiting that and the house which is being built legally with the special permit. E. Michael Thomas said what was not permitted is the deck and now is in jepordy. Eric told Todd he could view it any way he wanted but what is being built has been approved and the board is not hear to listen to anyone accuse anyone of bulling not here to hear that and here to hear about the deck which had not been approved. Todd Boulay wanted to know who or where is could go to speak of his concerns of this house and other issues involved with this property that has gone on. E. Michael Thomas said he could talk to the board of selectmen. E. Michael Thomas said they are here for two things the deck and fence. Todd said the fence is suppose to go on the property line, E. Michael Thomas said the applicant was going to build it where it is. E. Michael Thomas said he would highly recommend that the applicant build the fence on his property. Todd said Alf Berry, Town Surveyor said you cannot build a fence less than 10' to road. E. Michael Thomas said he cannot build beyond the property line.

Michael Connors proposed to deny the 8' fence. E. Michael Thomas second the motion. All in favor. 5-0

Todd Boulay said when the fence goes in he would like to make sure there is no runoff problem. E. Michael Thomas said that if he builds a 6' fence then they have no jurisdiction to condition the fence since a 6' fence is allowed by right. Linda asked about if ConCom asked to put the silt fence in and David said no it was done on a volunater basis. Thom asked about the retaining wall that was there and now not. E. Michael Thomas asked if the structure he is building is the one they approved and David said yes and Jay Abelli also agreed. The builder said the pitch was brought down and was able to keep the natural grade closer to what it is.

Todd Boulay asked about the size of the deck. Thinks it is a bit high and screening would be good to do on both sides. Todd mentioned a tree that was taken down that was on their property and E. Michael Thomas again mentioned this was not before them and do not have jurisdiction over that. Todd kept trying to go above this case and E. Michael Thomas said this was not before them. Todd told the board that he would like to bring in the media and bring in lawyers because this owner is a member on a board within the Town and he has been threatening and bulling his mother.

#### Member Comment:

Eric said there is nothing wrong with asking for a deck but what bothers him is what was proposed in the rendering is not out of wack and it is unfortunate that they are here now. The neighbors were expecting a patio and not a deck. Bottom line is that he sees no reason to find against it and do understand both neighbor's concern of the screening and would make it a condition. The screening should be substantial and extensive. The deck is blocked on the other side and that property cannot see it. Linda asked if the deck could be shortened, but E. Michael Thomas said it would be nice but

could not. Would agree with Eric said Thomas White and unfortunate they are here to amend the original decision but does not see the deck as a big issue. Seems more logical. Michael Connors also agrees that it is unfortunate it is in front of them and the abutter that would be mostly affected, the screening would be a proper solution. Argie said she was troubled by the deck without a permit and if the abutter would like the screening would seem fair, does not feel like telling the applicant to tear down the deck and feels that would be extreme.

E. Michael Thomas proposed that the previous decision be amended to allow construction of the deck already in place. And maintenance of deck and finalization of the deck shall be substantially screened from the kitchen window of 61 Edgewood Road to the view; board could not come up with a correct condition for screening.

Eric Goldberg suggested to continue the hearing for another night and have the applicant come back with a screening plan so they can approve that plan and put it in the conditions. E. Michael Thomas retracted his motion, there was no second motion. Hearing was continued to December 9, 2014 at 8:20 p.m. to approve a screening plan

Michael Connors motioned to adjourn at 9:40 p.m., E. Michael Thomas second the motion. All in favor.

December 9, 2014  
Approval Date

  
By: Norma Badger