

## WEST WINDSOR DEVELOPMENT REVIEW BOARD

Draft Minutes  
December 11, 2012

Present: Glenn Seward, Shannon Harrington, Hal Pyke, Barbara Truex, Jane Hoisington, Jesus “Jesse” Rivera, Robert Loyd, Martha Harrison

1. Call to Order – DRB Chair Glenn Seward called the meeting to order at 6:30 PM.
2. Changes to the agenda – None
3. Public Hearing - Glenn opened the public hearing on application #2509 by Jesus Rivera for a variance of the front yard setback to build a 28' x 26' x 20' garage at 115 Horseshoe Drive (parcel #2-85). The proposed development is subject to review under Sections 2.3-2 and 6.8 of the West Windsor Zoning Regulations. Glenn asked if there are any conflicts of interest or if there has been any ex parte communication. The DRB members all said no. Glenn reviewed the definition of an interested person and swore in Jesse and Robert. Jesse said the size of the garage could be reduced but he needs the garage for storage. Glenn said Section 2.3-2 requires side and rear setback of 50' and a front setback of 30'. Because the proposed development doesn't meet the front setback, Glenn said, the DRB needs to review it according to the variance criteria in Section 6.8. Glenn noted that the DRB may only grant a variance if all the criteria are met. Glenn read the first criterion. Glenn asked Jesse if there are restrictions in the lot that prevent him from meeting the setbacks. Jesse said yes and noted the location of the existing house. Jesse provided a larger map of the property. Jesse said he would like to place the garage in the proposed location so he has room to access it from the driveway. Barbara asked Martha about the setback from the pond. Martha noted a memorandum attached to the application stating that, according to the State Wetland Ecologist, the state does not have jurisdiction. Shannon asked Jesse to confirm the location of the pins marking the property line, which he did. Barbara noted that the existing house is too close to the property line and asked if it was granted a variance. Jesse said he didn't know if a variance was required when the house was built. Jesse said a 30' setback would put the garage too close to the pond. Barbara asked if the garage will overhang into the right-of-way. Jesse said the overhang will be at least 1' which would put it on the property line. Jesse said he could build a smaller garage. Barbara asked if it's going to be a 2-car garage. Jesse said yes, but he would probably only put in one 12' garage door and use the other side for storage. Glenn asked Jesse if he has considered moving it over so he could drop it down the hill a little. Jesse said he could move it but he doesn't want to put another driveway across his yard. Glenn asked Jesse if he could access the garage further south on Birchwood Road. Jesse said yes. Shannon asked Jesse if he could meet the 30' setback in a different location. Jesse said no; not without cutting his large pine trees. Martha offered the DRB the permit for the existing house, which indicates inaccurately that the closest property line is 30'. Martha noted that, in addition to being the Zoning Administrator, she is an abutter but she is waiving her rights as an interested party. Martha also gave the DRB and the applicant an email from Tom Montanari, the abutter on the south side. Glenn read the second variance criterion. Glenn asked Jesse if he could place the garage 50' from his boundary with Tom Montanari. Jesse said it's going to cost him \$20,000 to \$30,000 to build the garage in the proposed location; if he has to cut trees and have the ground leveled out, it

would cost him \$40,000 and then it's not worth it to him. Glenn read the third criterion and said it does not appear that Jesse created the hardship. Jesse said he guesses that he did create it. Glenn read the fourth criterion. Glenn said the DRB will consider the letter from the abutter in their deliberations. Jesse said Tom does not want it to impact his property and Jesse agreed with that. Jesse said he does not want to build something that nobody wants to look at. Barbara asked if Birchwood Road serves more than one property. Robert said no; it's a dead end. Glenn read the fifth variance criterion. Glenn noted that Jesse indicated that he would be willing to consider a smaller structure. Jesse said yes. In order to meet the 30' setback, Jesse said, he would have to move it further down Birchwood Road. Shannon noted that a setback of less than 30' for any structure would require a variance. Glenn said if there's some way Jesse can get the 30' he wouldn't have to deal with the DRB. There was discussion about alternative locations. Jesse noted the location of his well as a limiting factor. Shannon noted a big culvert further south on Birchwood Road. Jesse said if he moved the garage closer to the woods on the south side, it would be 80' from the house. Jesse said he could probably do that if he had a driveway off Birchwood Road. As there were no other comments, **Glenn moved to close the public hearing and enter deliberative session. Hal seconded the motion, which passed unanimously.**

4. Public Hearing – After the deliberative session on the Rivera property, Glenn opened the public hearing on application #2506 by Stuart Markowitz for conditional use approval to build a 22' x 18' x 14' garage in a Class 3 wetland/wetland buffer at 777 Skyhawk Lane (parcel #3-33). The proposed development is subject to review under Sections 2.3-4, 3.14, 4.12, and 5.3 of the West Windsor Zoning Regulations. Glenn noted that there are no representatives or interested parties present. Glenn said the property is located in the Resort/Residential district which requires 30' foot setbacks in the front, side and rear. Glenn said Section 3.14 indicates the requirement for conditional use review and approval by the DRB. Barbara asked what type of wetland is present on the property. Martha said it's a Class 3 wetland. Martha noted that Section 3.14 requires a 50' buffer from "all wetlands currently under federal or state jurisdiction." Martha also noted the email from District Wetland Ecologist Patricia Greene-Swift. Shannon said there is no buffer for a Class 3 wetland but you need an Army Corps permit if you're going to impact 3,000 or more square feet. Barbara said the area looks like it has already been filled at some point. Jane was concerned about where the water is going to go if the applicant puts fill in the wetland and whether it might impact the road or the neighbor. Shannon said the contractor will have to divert the water. Regarding Section 4.12(3), Glenn said we have received indication from the state and the Army Corps that filling in the wetland is acceptable. Shannon noted the email from the contractor to the Army Corps indicating that the total disturbed area will be about 900 square feet. Shannon asked if that is a reasonable estimate of disturbed area for an 18' x 22' building. Glenn said the disturbed area should certainly not be anywhere near 3,000 square feet. Glenn read the conditional use criteria from Section 5.3. Shannon asked if there are any conditions associated with prior permits. Martha noted that there is a zoning permit for the existing house, an Exemption Determination from the Agency of Natural Resources Wastewater Management Division, and an Act 250 Jurisdictional Opinion indicating that the lot "qualifies as a pre-existing lot under Act 250." Glenn noted that there was no erosion control plan submitted with the application. Shannon noted that Patricia Greene-

Swift asked the applicant to impact the wetland as little as possible. Barbara suggested sediment control. **Glenn moved to close the public hearing and go into deliberative session. Hal seconded the motion, which passed unanimously.**

5. Minutes – November 13<sup>th</sup>: After the deliberative session on the Markowitz property, **Barbara moved to approve the minutes of November 13<sup>th</sup>. Glenn seconded the motion, which passed with Shannon and Jane abstaining.**

6. Adjourn – **Glenn moved to adjourn at 7:50 PM. Barbara seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison