Those present - Cathy Stover, Phil McDuffy, Bill Dunkel, Tom Johnson, Vance Bell, Dawn Bower, Chris Cummings, Kate Wright

Motion by Vance, seconded by Chris to adopt proposed changes in section 503 of zoning regs, all approved.

Next order of business to all get on the same page by Randall Di’Stephano for a variance waiver. We will meet again on August 2 at 6:00 pm as a zoning board of administrators. This public hearing will be a combination of in person and zoom. The meeting information was sent to members of the zoning commission and neighbors of Di’Stephano.

1. We need to be all on the same page prior to the meeting
2. Do we have any questions for the lawyer before the meeting - what is required of us? What can or cannot we ask, say?

Bill shares screen of Chronology and Questions to Ask - see attached document.

Bill ~ Cathy may be able to help us with the chronology.

Bill reviews what DiStaphano’s plans are. Question of septic distances - would Wheeler Brook be compromised with a septic above Wheeler Brook?

Bill visited the site earlier. It was obvious that after a small amount of level land, the land became steep.

The town has no jurisdiction about septic approval - that is up to the state.

The Agency of Natural Resources (ANR) approved the septic plan.

Phil ~ asks to clarify what the ANR does - they do not necessarily look at slope but distances only. He wonders if the site is too steep. He tried to get information from the state. They said they would do due diligence regarding law. They do not review septic regarding environmental issues. The house plan submitted showed that the house violated zoning regs.

Ellen received application for zoning permit, but there was not a sketch of the site plan. The application specifically states that the owner must be aware of the zoning regs, as well as submit a sketch of the plan.

On 4/6/22 Zoning Administrator, Alison Cummings, approved the zoning permit. She has acknowledged her approval was a mistake. She was under a lot of pressure at work, and assumed DiStephano would know how to look at setbacks, as a builder. Permit went into effect on …..

DiStephano set up pouring of the foundation which led to concern by neighbors since they did not realize the location of the house until then.

DiStphano told Bill he had a zoning permit and did not realize anyone was upset until after the foundation was poured.

On the 6th or 7th Bill visited the site, and saw the foundation. Met John Boynton, who was trying to measure the setbacks.

Bill - originally under the impression that the foundation was 12 feet from Boynton’s property line. It seems to be more like 21 feet. Should be at least 25 feet from Boynton’s propert. 41 feet from center line on Wheeler road. Should be 65 feet.

Phil ~ doesn’t know what is happening, but wants to know, and come up with corrective actions so it does not happen again. He will put together a summary of functional timeline.

1. A lister told someone at the worksite the day the foundation was poured to stop work.
2. Wednesday afternoon - worker had told Ellen he was told to stop work
3. Ellen gives him Alison Cumming’s number
4. Another lister said they were aware of this issue the day before the pouring
5. Conversation between Alison and Ellen McDuffy at a later date stated to Ellen that Alison had ordered a stop order. There was a long enough period of time to stop the work.

Bill doesn not want to speculate without Alison being present what occurred. It can be discussed at the public hearing. Listers have no authority to issue a stop work order.

Bill wanted to make sure we all understand the ground rules.

On the 9th DiStephano requested a dimensional waiver hearing, which is allowed by our zoning regs and state regs.

Stop order was in place after the foundation had already been poured.

Bill’s aim was to make sure everything was properly warned, while moving the process along as quickly as possible.

Letters mailed to adjacent landowners on ………..

Aug 2 public hearing is scheduled

All abutting landowners will have the opportunity to speak. ZBA will probably not have to say anything.

Bill wants to make sure chronology is accurate.

Alison should be able to say what she needs to at the public hearing.

Do we have questions about the process of the hearing?

Vance - is there access to the original site plan for the septic system? Did it include setbacks?

Phil - there was no site plan submitted by DiStephano to the town, but only to the ANR.

Bill - what questions does the PC have for the town attorney? Do we have questions for people that are not present at this meeting?

Phil - wants to calm the waters - the appeal puts onus on landowner to prove why he should be granted a variance. His question for the lawyer is about wny the permit was granted (do I have that correct?) He will release an email about the chronology of events.

Bill - does the owner need to convince us that he should get a variance, or would it be based on the regs only?

Phil - believes the onus is on the owner.

Bill - believes the opposite - it is based on only the regs. Does the fact that DStephanoi failed to provide a sketch change the situation?

Phil - this needs to be a hearing about the regs agreed upon by the town. This foundation should never have been started.

Bill - that may be but the hearing will be where that is discussed.

Phil - it may affect property values.

Bill - that is not what is to be discussed in this meeting. We need to talk to the town attorney about all this.

Bill - Cathy - any questions?

Cathy - is it only the foundation that is in, not the septic yet?

Bill - believes no septic/leach field yet.

Cathy - will attend the Aug 2 meeting in person and hopes things will be resolved

Bill - hard to imagine how we will be able to resolve this with everyone happy. Our jobs are to abide by the regulations and law. Hopes all will agree that ZBA has been fair.

Bill - does the PC have any questions for the lawyer?

Bill will share the chronology Kate for minutes.

Cathy tried to get ahold of Alison and was “totally ignored.”

Bill - she is free to bring that up at the public hearing

Phil - if we are not happy with the outcome it can always be brought to environmental .

Tom - wants to clarify Bill’s comment about DiStefano's mistake - seems the primary mistake is the setbacks were not looked into as part of the application, and that there was no sketch provided. So, incomplete application. Then town made a mistake in approving it.

How does that affect how we proceed?

Dawn - with DiStefan being a builder he should have know what had to be taken care of in permit application

Bill - DiStefan said he normally only works on interiors.

Dawn - Is this DiStefan’s first time building in Windham?

Vance - Would like to see the original septic plan

Phil - He has created a published analysis of septic plan.

Bill - could septic not go anywhere else, and could house not go anywhere else? And does this have any bearing on his request for variance? The purpose of the hearing is for the ZBA to take feedback from the public. Believes we have 45 days after the hearing to come to a decision. Does the hearing provide more fact finding? Guesses that mostly our purpose at the hearing is simply to listen, then we will deliberate.

Ellen - This is the only place he can place the house on this side of the stream. He has 20 acres but wanted to put it on this side of the stream.

Motion to adjourn by Vance -seconded by Tom and Dawn, all approved. Meeting adjourned at 7:49.