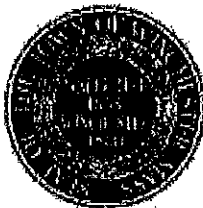


# TOWN OF WINCHESTER



## PUBLIC MEETING NOTICE and AGENDA

### REMOTE PARTICIPATION

(Due to State of Emergency COVID-19)

Pursuant to MGL Ch. 30A, Sec. 18-25 All meeting notices and agendas must be filed and time stamped by the Town Clerk's Office and posted at least 48 hours prior to the meeting (excluding Saturdays, Sundays and Holidays) on [www.winchester.us](http://www.winchester.us)

Board/Committee Name: Board of Appeals  
Date: February 11, 2021  
Time: 7:00PM  
Place: REMOTE PARTICIPATION - Zoom

#### Join Zoom Meeting

<https://us02web.zoom.us/j/89067623781?pwd=akZkUDAzV05GVktycEo4NHg1VTNqZz09>

Meeting ID: 890 6762 3781

Passcode: 795384

One tap mobile

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+13126266799,,89067623781#,,,,\*795384# US (Chicago)

#### Dial by your location

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+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

Meeting ID: 890 6762 3781

Passcode: 795384

Find your local number: <https://us02web.zoom.us/j/kcNVvcGxbU>

Submitted by: Janine Viarella

Email: [jviarella@winchester.us](mailto:jviarella@winchester.us)

Agenda: #3914 – 138 Forest Street - continued petition  
Rules and Regulations  
New Business  
Review Draft Decisions



**REMOTE PARTICIPATION PUBLIC HEARING CONTINUED TO FEBRUARY 11, 2021 AT 7:00PM.**

BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

The WINCHESTER BOARD OF APPEALS will hold a REMOTE PARTICIPATION PUBLIC HEARING on THURSDAY, ~~OCTOBER 15, 2020~~ at 7:00 P.M. on the following matter:

PETITION NO. 3914 - That of TIM O'DONNELL concerning the property at 138 FOREST STREET, WINCHESTER, MA. The petitioner seeks Site Plan Review under Section 9.5.1 of the Winchester Zoning By-Law so as to demolish the existing single family dwelling and construct a new single family dwelling where the total floor area of the building will be greater than 5,000 square feet. The petitioner also seeks Site Plan Review under Section 9.5.1 of the Winchester Zoning By-Law so as to change the slope over 6% of existing grade of an area more than 500 square feet. The property is located in the RDB (Single Residence) zoning district and contains 30,628 +/- square feet.

WINCHESTER BOARD OF APPEALS

Petition may be viewed on the Board of Appeals web page [www.winchester.us](http://www.winchester.us)

Link to the meeting can be found on the Board of Appeals web page and the Government Calendar [www.winchester.us](http://www.winchester.us)

**TOWN OF WINCHESTER**  
**BOARD OF APPEALS**  
**Decision No. 3925**  
**7 Grassmere Avenue**

**Name of Petitioner:** Samantha Allison and Mann A. Shoffner

**Application For:** Special Permit under Section 3.5.5 of the Winchester Zoning By-Law in accordance with Chapter 40A Section 9 of the Massachusetts General Laws so as to be permitted to construct an addition that will be located closer to the side property lines than permitted as of right. The property is located in the RDB (Single Residence) zoning district and contains 11917 +/- square feet.

**Date of Hearing:** January 21, 2021

**Board of Appeal:** Dorothy Simboli, Mark Waterbury and Mark Regan

**Decision:** **Granted**

**Vote of the Board:** Unanimous

**Conditions:** The following conditions apply to the grant of this Special Permit:

1. Construction of the proposed addition shall be in substantial conformity with the plans and information submitted with the petition, including the following:
  - a. Form 2 Application for Zoning Hearing, dated December 1, 2020
  - b. Form 2F Special Permit (Non-conforming, 1 and 2 family) Supporting Statement, Requested Findings, dated December 1, 2020
  - c. Town of Winchester Assessors Map, undated
  - d. Plot Plan, Keenan Survey 8 Winchester Place, Suite 208, Winchester MA 01890 (dated December 2, 2020)
  - e. Ten-page set of plans prepared by HM Architects 611 Main Street, Suite 300, Winchester MA 01890 (dated December 1, 2020) including the following:
    - i. DD.2 – Proposed First Floor Plan
    - ii. DD.3 – Proposed Second Floor Plan
    - iii. DD.4 – Front (East) Elevation
    - iv. DD.5 – Rear (West) Elevation

- v. *DD.6 – Left (South) Elevation*
  - vi. *DD.7 – Right (North) Elevation*
  - vii. *DD.8 – Five Color Photos/ Renderings of Existing and Proposed Views*
  - viii. *C-0 – Drainage /Grading plan- Existing Site Plan*
  - ix. *C-1 – Drainage /Grading plan- Proposed Site Plan*
  - x. *L-3 – Proposed Planting Plan*
- f. Materials Summary from Harrison Mulhern Architects, undated.
  - g. Letters from five neighbors supporting the proposed addition.
  - h. Driveway Pavement Design by Olmsted Design dated January 2021.
2. All representations made by the petitioners at the public hearing and not memorialized are hereby incorporated into the decision.
  3. Obtain land parcel, as specified in proposed plot plan, from 11 Grassmere as a condition of approval.
  4. Obtain Standard Order of Conditions from the Winchester Conservation Commission as a condition of approval.
  5. Install the driveway pavement and walkway pavement in accordance with the Olmsted Design drawings.

**Facts:**

The petitioners own the property at 7 Grassmere Avenue. It is a 2 ½ story wood framed house with two small sheds. They propose the construction of a garage with a home office above, removal of a shed and landscaping. The garage is a tandem two car garage: one car wide, two cars deep.

The property is non-conforming at its front setback (17.4 feet, 25 feet required) and its left side setback (9.8 feet, 15 feet required). The house was built in 1928 and the non-conformities are original to the house.

The neighbor at 11 Grassmere is selling a parcel of land to the petitioners to construct the addition on the left side of their house.

The petition was reviewed by the Winchester Planning Board (January 18, 2021) and recommended favorable action, 4-0-1, noting one member objected to the 5-foot setback and another wanted the curb cut to be reduced.

The application was reviewed by the Winchester Conservation Commission on January 11, 2021. On the November 24, 2020 meeting, members were satisfied with the revised plan, and decided that a Standard Order of Conditions would be appropriate. In a follow-up memo to the ZBA dated November 25, 2020 the Winchester Conservation Commission stated that they have continued the public hearing at the request of the applicants, stating “we have drafted our standard order of conditions for the

project, and we have no residual concerns about wetland protection with the plans submitted. If nothing else changes (from the ZBA) we are ready to approve this project”.

The petition was reviewed by the Winchester Design Review Committee (January 6, 2021) and they voted for favorable action by a vote of 6 to 0, noting that property is to be transferred from the neighboring parcel to allow construction of a two car, single width garage. The materials and detailing are to match the existing house. Favorable action is conditioned on the paving materials and colors reflecting the distinction between the driveway and the new walkway.

The Historical Commission reviewed the petition on January 11, 2021 and voted for favorable action 6-0 with no conditions, finding no adverse effects on a historic or cultural resource.

The petition was reviewed by the Engineering Department on January 12, 2021. They noted that they had previously reviewed the project through the Notice of Intent process with the Winchester Conservation Commission and included a memo, dated November 9, 2020, with five comments that needed to be addressed. Two issues remained as of the January 12, 2021 memo. The comments in the letter with respect to the compensatory storage requirements and erosion control measures on the neighboring property had not been addressed. Engineering requested responses to the two comments.

Engineering, on January 20, 2021, in a follow-up memo, stated that the applicant had resolved the compensatory storage requirements, but had not addressed the erosion control measures on the neighboring property.

In a letter dated January 19, 2021 the neighbor, at 11 Grassmere Avenue, granted a temporary construction easement for the proposed construction and erosion control measures stating “such measure may be taken as needed”.

**Discussion:**

Pursuant to Section 3.5.5 of the re-codified Zoning By-Law, the Board of Appeal may grant a Special Permit to enlarge or extend an existing non-conforming one or two-family dwelling where the proposed modifications “will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.” The existing non-conformities for this petition are at front setback (17.4 feet, 25 feet required) and the left side setback (9.8 feet, 15 feet required). The relief requested is the left side setback (5 feet, 15 feet required).

The location and size of the proposed garage addition is a compromise driven by several factors unique to this property and neighborhood. The right side of the property affords sufficient space to build a large garage and connecting structure. However, the topography of the property would make this very difficult to build and ultimately an unattractive addition to the neighborhood. The neighborhood has narrow, winding roads, so parking off street is of great concern. The property is within the 100-year

floodplain; infiltration of stormwater and compensatory storage are critical design factors on this property.

The left side of the property is level, but the existing structure is already within the required setback on that side. The prior owner of the property proposed construction of a large addition on the right side of the property. Although the neighbors objected to the addition, the prior owners prevailed in court, and could construct the addition by right.

The current property owners can build the large addition on the right side of the property by right. This is a significant consideration in the board's decision process. The addition on the right side of the property would be detrimental to the character of the neighborhood and to the public views of the pond.

Recognizing the preferred location for a garage addition was on the left side of the house, where the property is level, the petitioner reached an agreement with the neighbor to acquire a parcel of land that would allow an addition to be built. However, this would require zoning relief for the side setback.

The addition proposed is attractive and matches the design and style of the original structure. In order to minimize the land required and impact on the neighborhood views, the design incorporates a tandem two car garage, with a single car width.

Based on all the information presented at the hearing, including the submissions of the Petitioners, the Board finds that the proposal will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Under Section 9.4.2, the re-codified By-Law requires that this Board also consider and address how the following criteria have an effect on this petition:

1. Community needs which are served by the proposal.  
*The board finds that the placement of the tandem garage on the left side of the house and removal of a shed maintains and improves the public and neighborhood views of the pond. The board also notes that this proposal is significantly better than the "by-right" option that the petitioners have on the right side of the property.*
2. Traffic flow and safety, including parking and loading.  
*The tandem garage and driveway will provide sufficient parking that should reduce the use of street parking on the narrow road.*
3. Adequacy of Utilities and other public services.  
*Not material to this decision*
4. Impacts on Neighborhood character, including historic the extent to which:
  - a. Building forms and materials are compatible with the prevailing scale and character of buildings in the neighborhood.

*The addition is consistent with the style and materials of the current house. The 1 ½ story addition is lower than the main structure and setback 12 feet from the main house, minimizing its visual impact on the property.*

- b. Architectural features add visual character to the neighborhood; and  
*The use of a tandem two car garage, versus a two-car design, minimizes the width of the structure and improves and maintains views of the pond*
- c. Patterns and proportions of windows are consistent.  
*The window patterns and proportions are similar to the existing structure.*
- 5. Adequacy of proposed screening and buffering.  
*The addition will be screened by ornamental trees and shrubs along the property line.*
- 6. Impacts on the natural environment.  
*Grading, new retaining walls and new landscaping will improve the property. The work will open-up water views. The standard order of conditions will protect the pond and wetlands of the property.*
- 7. Fiscal impacts, including impact on town services, tax base and employment; and  
*Not material to this decision*
- 8. Impacts on Historic Resources, as defined in Section 10 of this Bylaw.  
*The house is in a neighborhood that is on the National Register of Historic Places. The Historic Commission finds no adverse effect on a historic or cultural resource. Construction of the "by-right" addition on the right side of the property would have been detrimental to the historic nature of the neighborhood.*

Thus, the Petitioners' request for a Special Permit to construct an addition to the existing nonconforming structure is granted, subject to the above-described conditions and limitations.

Board of Appeals

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Mark Regan

Date of Decision: February 11, 2021,

**TOWN OF WINCHESTER**  
**BOARD OF APPEALS**  
**Decision No. 3921**  
**3 Edgewater Place**

**Name of Petitioners:** Matthew and Jennifer Croatti

**Application For:** Site Plan Review under Section 9.5.1 of the Winchester Zoning By-Law so as to demolish the existing single family dwelling and construct a new single family dwelling where the total floor area of the building will be greater than 5,000 square feet.

The property is located in the RDB (Single Residence) zoning district and contains 41,160 +/- square feet.

**Date of Hearing:** December 17, 2020

**Board of Appeals:** David Bae, Mark Regan and Mark Waterbury

**Decision:** Granted

**Vote of the Board:** Unanimous

**Conditions:** The following conditions apply to the grant of Site Plan Approval:

1. Form A2.1 titled "Elevations," dated 10/20/20, by SV Design.
2. Form A2.2 titled "Elevations," dated 10/20/20, by SV Design.
3. Construction of the proposed single family home and attached garage shall be in substantial conformity with the plans submitted with the petition as follows:
  - a. Town of Winchester Assessors Map (2 pages) for 3 Edgewater Place dated May 25, 2006.
  - b. Proposed Plan of Land Showing Proposed House Location for 3 Edgewater Place, Winchester, MA, Scale: 1" = 20', dated November 2, 2020 by Jarosz Land Surveying.
  - c. Proposed "Planting Plan," undated, for 3 Edgewater Place, Winchester, MA, Scale: 1" – 15', by SV Design.
  - d. Form titled "Rendering," depicting "Front Elevation" undated, for 3 Edgewater Place, Winchester, MA by SV Design.
  - e. Form titled "Rendering," depicting "Lake Elevation" undated, for 3 Edgewater Place, Winchester, MA by SV Design.



- f. Proposed Site Plan for 3 Edgewater Place, Winchester, MA, Scale: 1" – 500', dated July 30, 2020 by Frederick w. Russell, PE.
  - g. Form A1.0a – A1.0b titled "Lower Level Floor Plan" for 3 Edgewater Place, Winchester, MA, dated October 20, 2020 by SV Design.
  - h. Form A1.1a – A1.1b titled "First Floor Plan" for 3 Edgewater Place, Winchester, MA, dated October 20, 2020 by SV Design.
  - i. Form A1.2a – A1.2b titled "Second Floor Plan" for 3 Edgewater Place, Winchester, MA, dated October 20, 2020 by SV Design.
  - J. Form A1.3a – A1.3b titled "Roof Plan" for 3 Edgewater Place, Winchester, MA, dated October 20, 2020 by SV Design
4. All representations made by the Petitioners at the public hearing and not memorialized are hereby incorporated into this Decision

**Facts:**

The Petitioners own the single-family two story structure located at 3 Edgewater Place, Winchester, MA. The structure is a split level built in 1958. It is 4,751 square feet of finished space containing 5 bedrooms and 4.5 bathrooms. The property also contains a 3 car garage, a tool shed, and in-ground pool.

Petitioners have applied for Site Plan Approval under Section 9.5.1. of the Winchester Zoning By-Law so as to demolish the existing single family dwelling and construct a new single family dwelling where the total floor area of the building will be greater than 5,000 square feet.

The Winchester Engineering Department on December 11, 2020 agreed with the design of the proposed infiltration system, on the condition that it be relocated outside of the Town-owned drainage easement that parallels the western property line. Engineering department concluded, "[t]he revised plan titled "Site Plan – 3 Edgewater Place in Winchester, Massachusetts – Post Development Conditions", dated August 10, 2020 submitted with the Site Plan Review application has adequately addressed this issue."

On November 16, 2020, the Winchester Conservation Commission voted in favor of petitioners and approved the project with the conditions outlined in the WPA Form 5 – Order of Conditions dated September 8, 2020.

On December 2, 2020, the Winchester Design Review Committee, voted favorable action 5-1 with one abstention.

On November 23, 2020, the Winchester Historical Commission voted 7-0 in favor of petitioners finding, "that the plans as submitted have no adverse effect on a historical or cultural Resource."

On December 16, 2020, the Winchester Planning Board voted 4-0-1 for unfavorable action on Petitioners' application due to the proposal's (1) departure from the character, materials, and scale of buildings in the vicinity, (2) adverse effects on the historical resource of the surrounding neighborhood, (3) impediment to the views of the Mystic Lakes from Edgewater Place.

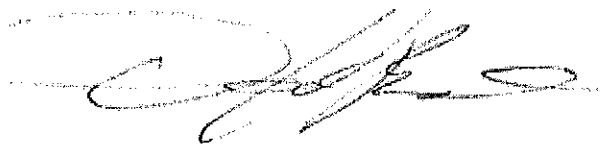
**Discussion:**

Petitioners have applied for Site Plan Approval under Section 9.5.1. of the Winchester Zoning By-Law so as to demolish the existing single family dwelling and construct a new single family dwelling where the total floor area of the building will be greater than 5,000 square feet.

The first two objections to the proposal from the Planning Board address historical concerns. However, the Historical Commission approved the proposal with no conditions. The Board finds that the Historical Commission's approval resolves the historical concerns addressed by the Planning Board.

The Planning Board's third objection addresses number 6 under Section 9.5.1. of the Winchester Zoning By-Law requiring new construction to "[m]inimize obstruction of scenic views from publicly accessible locations." The Board finds that the new proposed building is similar in size and footprint as the existing structure thereby "minimizing" any obstruction to scenic views.

**Board of Appeals**



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David M. Bae

**Date of Decision:** February 9, 2021