



Town of Winchester  
BOARD OF APPEALS  
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Janine L. Viarella, Clerk

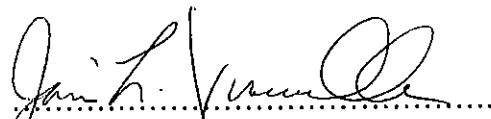
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May 6, 2022

RE: Petition No. 3956 – 334 Cross Street, Winchester, MA

Pursuant to Chapter 40A, Section 15 of the Massachusetts General Laws, you are hereby notified that the Board of Appeals has granted Li Fu and Zhuo Wang Site Plan Review under Section 9.5.1(6) of the Winchester Zoning By-Law so as to be permitted to construct an addition where the total floor area of the single family dwelling will be greater than 3,600 square feet. The property is located in the RG (General Residence) zoning district and contains 10,691 +/- square feet.

Appeals from this decision, if any, must be made pursuant to Chapter 40A, Section 17 of the Massachusetts General Laws and must be filed within twenty (20) days after the date of the filing of this decision in the Office of the Town Clerk.

  
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Janine L. Viarella  
Clerk, Board of Appeals

/jv

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2022 MAY -6 AM 10:38

**TOWN OF WINCHESTER  
BOARD OF APPEALS**

**Petition No. 3956  
334 Cross Street**

TOWN OF WINCHESTER

**PETITIONER:** Li Fu and Zhuo Wang

**APPLICATION FOR:** Site Plan Review under Section 9.5.1(6) of the Winchester Zoning By-Law so as to be permitted to construct an addition where the total floor area of the single family dwelling will be greater than 3,600 square feet. The property is located in the RG (General Residence) zoning district and contains 10,691 +/- square feet.

**DATE OF HEARING:** Heard on March 31, 2022. Continued to April 21, 2022. Decided on April 21, 2022.

**BOARD OF APPEALS:** David L. Feigenbaum (Chair), Robert Tedesco (Vice Chair), William McGonigle

**DECISION:** Site Plan Approval is granted.

**VOTE:** 2-1  
Robert Tedesco and William McGonigle in favor.  
David Feigenbaum against.

**MATERIALS CONSIDERED:**

*Submitted by Petitioner:*

- Letter from Petitioners
- Jan 21, 2022 Plot Plan
- Home Addition Plans, including floor plans, architectural drawings, and photographs of current structure
- Home Addition Permit Set, including floor plans and architectural drawings
- "Plan B" architectural drawings (drafted in response to request from the Board)
- Map of local neighborhood
- Emails from Petitioners dated March 22, 2022, April 2, 2022, April 11, 2022, and April 13, 2022
- "Additional Facts" Power Point Presentation
- "Additional Questions" Power Point Presentation

*Submitted by Town:*

- February 23, 2022 Conservation Commission Comments
- March 7, 2022 Historical Commission Meeting Minutes
- March 9, 2022 Design Review Committee Meeting Minutes

- March 30, 2022 Planning Board Recommendation
- March 31, 2022 Engineering Department Memo

**THE LAW:**

Site Plain Review is required when there is “expansion in which the floor area is equal to or greater than 3,600 square feet (including garage, excluding basement) in the RG-6.5 zoning district.” Winchester Zoning Bylaw (“WZB”) §9.5.1(6).

WZB §9.5.7 sets the standard for Site Plan Review, stating: “Site Plan Approval shall be granted only upon determination by the Board that the plan meets the following standards. The Board may impose reasonable conditions at the expense of the applicant to implement these standards. New building construction and other site alterations shall be designed, after considering the qualities of the specific location, the proposed land use, the design of the buildings, grading, egress points, and other aspects of the development, so as to:

1. Minimize the volume of cut and fill, the number of removed trees six inches in caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, soil erosion, and threat of air and water pollution;
2. Provide adequate stormwater management and other utilities consistent with the functional requirements of the Planning Board Subdivision Rules and Regulations;
3. Maximize pedestrian and vehicular safety both on the site and egressing from it;
4. Provide adequate access to each structure for fire and emergency service equipment;
5. Minimize obstruction of scenic views from publicly accessible locations;
6. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
7. Minimize glare from headlights and lighting intrusion;
8. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
9. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances; and
10. Ensure compliance with the provisions of this Zoning Bylaw, including parking, signs, landscaping, and environmental standards.”

WZB §9.5.8 states that “In the event that the Board of Appeals approves a special permit under these provisions, any construction, reconstruction, substantial exterior alteration or addition shall be carried on only in

conformity with any conditions, modifications and restrictions subject to which the Board shall have made its findings and determination, and only in conformity with the application and site plan on the basis of which the finding and determination are made.”

**DISCUSSION:**

Here, the Petitioners seeks to expand their residence by constructing an addition above their garage. The addition will include a new master bedroom with en suite bathroom, a separate bedroom, closet space for each, and “open space” which will connect to the existing structure. Petitioners’ current structure only includes a single full bathroom, which has caused hardship for Petitioners during the recent COVID pandemic. The proposed addition will convert existing attic space on top of the garage, but still cause a higher roofline to be constructed, one that will rise above the roofline of the current structure. Further, the windows being installed in the addition, to be proportional to the face of the addition, will be larger than the current windows of the existing structure. Finally, and the reason why Site Plan Review was required, the addition will increase the total living space square footage to 3,882 sq. ft., or a 7.8% increase over the 3,600 sq. ft. limit imposed by the pertinent zoning.

At the March 31, 2022 hearing, the Board raised concern over the higher roofline and larger windows included with the addition. The Board requested the Petitioners research the possibility of lowering the garage ceiling so as to lower the floor of the addition so as to lower the overall roofline of the addition. With that, the Board requested the Petitioners research the possibility of smaller windows on the addition that were more proportional to the windows on the existing structure.

The Petitioners met the requests of the Board and presented revised plans at the April 21, 2022 hearing. Though the Board preferred the revised plans, the Petitioners explained that they imposed significant hardships. First, the garage (upon which the addition would be built) included a bathroom and hallway which led into the kitchen. Dropping the garage ceiling, as requested by the Board, would also require reconfiguring this bathroom, hallway, and even the kitchen. Second, even if that reconfiguration was possible, wanted, or warranted, it would increase the cost of the project by approximately 40%, or \$77,000, creating a financial hardship for the Petitioners.

Acknowledging the Board’s concerns about the proportionality of the addition, as originally proposed, the Petitioners proposed using a mix of certain shingle and wood plank siding that would minimize the visual impact of the addition.

Applying the elements of §9.5.7:

1. Minimize the volume of cut and fill, the number of removed trees

six inches in caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, soil erosion, and threat of air and water pollution;

- Given the addition being constructed on top of the current garage, none of these issues were pertinent to the immediate matter.
2. Provide adequate stormwater management and other utilities consistent with the functional requirements of the Planning Board Subdivision Rules and Regulations;
    - Given the addition being constructed on top of the current garage, none of these issues were pertinent to the immediate matter.
  3. Maximize pedestrian and vehicular safety both on the site and egressing from it;
    - Given the addition being constructed on top of the current garage, none of these issues were pertinent to the immediate matter.
  4. Provide adequate access to each structure for fire and emergency service equipment;
    - Given the addition being constructed on top of the current garage, none of these issues were pertinent to the immediate matter.
  5. Minimize obstruction of scenic views from publicly accessible locations;
    - Though the Board preferred the revised plans which allowed for a lower roofline, the hardships involved with those revised plans made them unfeasible for the Petitioners. Consequently, the Board members voting in favor of the petition found that the proposed plans sufficiently minimized the obstruction of any views.
  6. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
    - Given the addition being constructed on top of the current garage, none of these issues were pertinent to the immediate matter.
  7. Minimize glare from headlights and lighting intrusion;
    - Given the addition being constructed on top of the current garage, none of these issues were pertinent to the immediate matter.
  8. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
    - Though the Board preferred the revised plans which allowed for a lower roofline, the hardships involved with those revised plans made them unfeasible for the

Petitioners. Consequently, the Board members voting in favor of the petition found that the proposed plans sufficiently minimized any departure from the scale of buildings in the vicinity, as viewed from public ways and places, and Petitioners' proposed siding further minimized any departure from the local character and scale.

9. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances; and
  - Given the addition being constructed on top of the current garage, none of these issues were pertinent to the immediate matter.
10. Ensure compliance with the provisions of this Zoning Bylaw, including parking, signs, landscaping, and environmental standards.
  - Given the addition being constructed on top of the current garage, none of these issues were pertinent to the immediate matter.

For these reasons, the Board approved the petition by a vote of 2-1, subject to the condition that the Petitioner incorporate the proposed siding that minimized the visual impact of the scale of the addition.

**CONDITIONS:** Petitioner shall implement and incorporate the siding proposed in their supplemental submission (titled "Exterior Material") that included a mix of shingle and wood plank siding, and dark gray architectural asphalt shingle roof, so as to minimize the visual impact of the scale of the proposed addition.

**BOARD OF APPEALS, BY:**

  
William F. McGonigle

**DECISION DATED:**

5/5/2022