



Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

Office of Community Planning and Development

To: Simsbury Zoning Board of Appeals

From: Joseph Hollis, Code Compliance Officer

Date: October 16, 2023

RE: **Application ZBA #23-08** Keith Willis, Owner/Applicant, for a ± 7 -foot variance to the maximum height for an accessory structure from 15' to $\pm 22'$ on the property, pursuant to the Simsbury Zoning Regulations Section 3.5 for the construction of a barn on the property located at 25 Holcomb Street (Assessor's Map D05, Block 301, Lot 007), zone R-80.

Description of Variance:

The applicant is requesting a ± 7 -foot variance to the maximum height for an accessory structure from 15' to $\pm 22'$ on the property, pursuant to the Simsbury Zoning Regulations Section 3.5 for the construction of a barn on the property located at 25 Holcomb Street (Assessor's Map D05, Block 301, Lot 007), zone R-80.

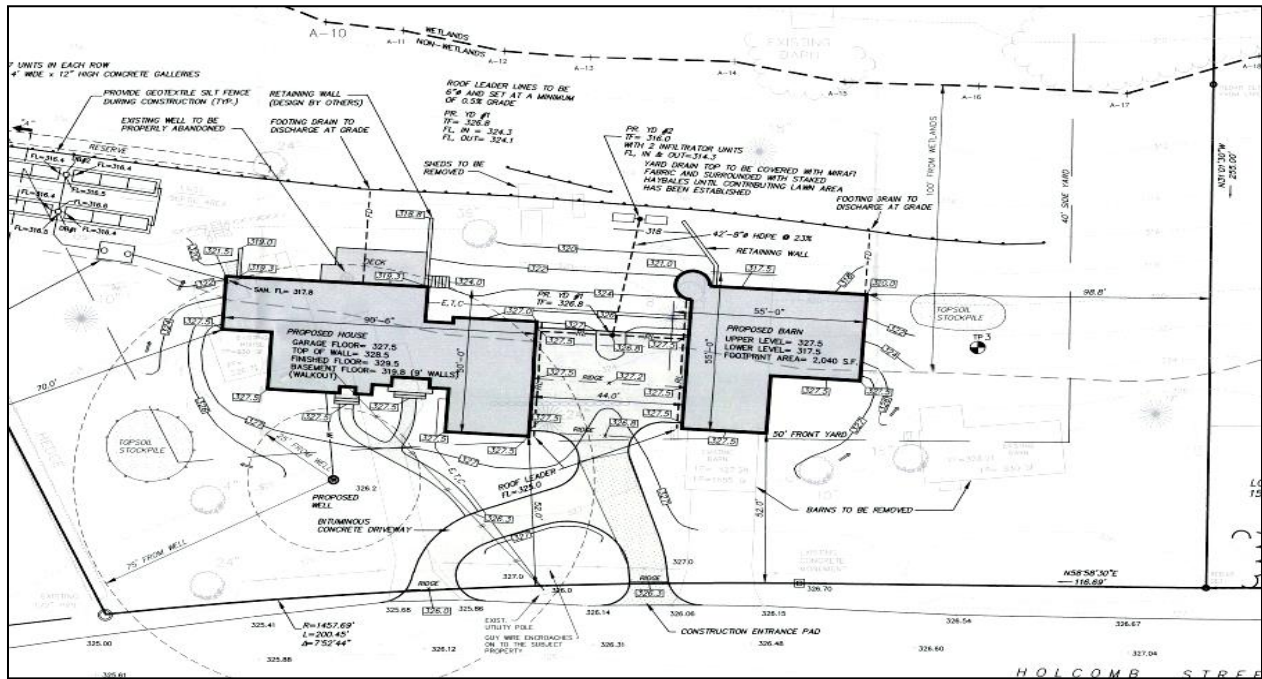
The subject lot is a 22.41-acre lot located within the R-80 zoning district with the primary structure consisting of a 1,448 sq. ft. single-family cape built in 1883. The property includes four accessory structures: a 216 sq. ft. shed, a 720 sq. ft. shed, a 440 sq. ft. detached garage, and an 864 sq. ft. barn.

Graphic 1 (Right): Aerial view of the existing conditions on the property.



In the submitted application, the applicant stated that, "the existing slope pushes the average grade below the level of the driveway and by bringing the driveway to the south of the barn would impact wetlands disturbance".

Graphic 2 (Below): Proposed site plan provided by the applicant



Analysis

As discussed, the proposed barn exceeds the 15ft height limit required by Section 3.5 of the Zoning Regulations. The height limit is in place to ensure accessory structures are subordinate to the principal residence. The applicant has expressed that, in order for the proposal to comply with the height limit while still providing the applicant’s necessary interior ceiling height, the structure would have to be set lower in the ground resulting in more soil disturbance in the wetlands regulated area. Graphic 3 below provides the proposed elevation of the barn. The applicant’s efforts to minimize potential disturbance to the wetland soils is a matter to be solely evaluated by the Wetlands Agency.

The proposal includes the removal of 2 existing non-conforming barns on the property. While the reduction in non-conformities is beneficial for the property, it is separate from the legal hardship.

The applicant has provided an alternative option for compliance with the zoning regulations by lowering the grade of the building without the need for a variance. The application cites the wetlands disturbance as the legal hardship for the variance, however the construction within 100’ of the wetland soils requires a wetland permit regardless of the depth of the structure. Technically, no wetlands are being disturbed as part of the proposal. It appears a legal hardship may not exist and options that eliminate the need for a variance are possible.

Graphic 3 (Below): South elevation of the proposed barn showing grade.



Notice Requirements

The public hearing notice was published in the Hartford Courant on both October 13, 2023 and October 20, 2023. The public hearing notice sign was posted on the property as specified in the Simsbury Zoning Regulations Section 16.C.2, Public Information Notice Sign.

Criteria for Variance Review:

Pursuant to Section 16.C, Variances, a variance from the terms of these regulations shall not be granted by the Board of Appeals unless and until the Board shall make a written finding in its minutes as to all of the following:

1. That special conditions and circumstances exist that are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the area;
2. That these special circumstances relate to the condition of the land or parcel;
3. That the special conditions and circumstances are not related to the circumstances of the applicant and have not resulted from the actions of the applicant or the predecessor in title;
4. That the special circumstances constitute an exceptional difficulty or unusual hardship not of the applicant's making and are not solely a financial detriment;
5. That literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district;
6. That granting the variance requested will not confer upon the applicant any special privilege or use that is denied by these Regulations to other lands, structures, or buildings in the same district;
7. That these circumstances justify the granting of the variance;
8. That the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
9. That the granting of the variance will be in harmony with the general purpose and intent of these Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Staff has provided a sample motion for discussion purposes only as Exhibit A:

Exhibit "A"
Wednesday, October 25, 2023
Simsbury Zoning Board of Appeals

MOVED, the Zoning Board of Appeals approves Application ZBA #23-08 Keith Willis, Owner/Applicant, for a ± 7-foot variance to the maximum height for an accessory structure from 15' to ± 22' on the property, pursuant to the Simsbury Zoning Regulations Section 3.5 for the construction of a barn on the property located at 25 Holcomb Street (Assessor's Map D05, Block 301, Lot 007), zone R-80, based upon the following findings: (to be determined by the Zoning Board of Appeals)

Or

Alternative Motion made by the Board