

ZONING BOARD
OF
APPEALS
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TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

**ZONING BOARD OF APPEALS
REGULAR MEETING
MARCH 17, 2014
7:15 P.M.
TOWN HALL ANNEX - MEETING ROOM A**

PRESENT: L. Michael Rudolph, Chairman; John Comiskey, Secretary; Scott Lawrence; Brian Lilly; Gary Battaglia, Alternate; R. Andrew McNee, Alternate

ABSENT: Libby Bufano, Al Nickel (notified intended absences)

A. CALL TO ORDER

Mr. Rudolph called the meeting to order at 7:15 P.M. He briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

B. PUBLIC HEARINGS

1. #14-03-05 YOVINE 140 CATALPA ROAD

Mr. Rudolph called the Hearing to order at 7:15 P.M., seated members Comiskey, Lawrence, Lilly, McNee and Rudolph, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

Mr. Lilly noted for the record that although he lives just down the street from the applicant, he did not know him personally and therefore it would not affect his decision in any way.

Mr. Comiskey read the legal notice dated March 4, 2014 and details of the application and the hardship as described on the application.

Present was Brian Yovine, owner/applicant.

Mr. Yovine briefly reviewed details of the application, noting that they would like to screen in the existing deck on the property. He referenced quality of life issues (i.e.

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mosquito problems) and their hope of gaining more use of the area.

Mr. Battaglia arrived at approximately 7:19 P.M.

In response to a question from Mr. Rudolph regarding a previously granted variance, Mr. Nerney explained that a variance was granted in 1993, part of which granted extension of a deck of approximately 140 square feet with a rear yard setback of 15 feet in lieu of the required 50 feet. He noted that this is what the applicant is requesting to enclose.

Mr. Yovine confirmed that they would just be enclosing the existing deck, not increasing its size in any way or going any closer to the rear yard setback, except for a slight roof overhang, which is already reflected in the 15-foot rear yard variance request.

In response to another question from Mr. Rudolph, Mr. Yovine explained that although the survey indicates a 17'2" rear yard setback distance, the roof overhang of approximately 6"+ would decrease that distance to the property line (i.e. increase the proposed setback incursion), and thus the request for a 15-foot rear yard setback. He noted further that the previously granted variance was also for 15 feet.

Mr. Nerney explained that surveyors often measure to the foundation wall, although other architectural features (such as the soffit in this case) often extend farther to allow for runoff away from the foundation. He stated that the Board, if so inclined, could approve the application as per submitted plans and testimony provided during the hearing.

It was further noted by the applicant that hardship exists on the property in connection with a brook that rings the property, a tributary that cuts across and severs the property, as well as the lot's nonconforming size/shape, in which a 200 x 200 foot square (currently required by zoning regulations) would not be able to fit.

Mr. Rudolph asked if anyone wished to speak for or against the application.

There being no further comments, the public hearing was closed at 7:29 P.M.

2. #14-03-06 SMITH/O'BRIEN 26 LOVERS LANE

Mr. Rudolph called the Hearing to order at 7:29 P.M., seated members Battaglia, Comiskey, Lilly, McNee and Rudolph, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

Mr. Lilly noted for the record that his son delivers a Boy Scout wreath to this property each year, but he indicated that he does not personally know the family and therefore his decision would not be affected in any way.

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Mr. Comiskey read the legal notice dated March 4, 2014 and details of the application and the hardship as described on the application.

Present were Kevin O'Brien, land use consultant; Walt Smith, owner; and Marilyn Smith, Walt Smith's daughter.

Mr. O'Brien distributed photos of the existing barn and side view of the house where the barn is proposed to be moved/added. He explained that the applicant was granted a variance last fall to add onto the existing residence but, subsequently, determined that a better solution (one that would simultaneously address the existing barn's state of disrepair), would be to relocate the barn to the side of the house and utilize/incorporate it as part of the proposed addition. He noted that this approach would reduce the barn's current nonconformity on the site (3.6' existing front yard setback versus 22 feet proposed); although he acknowledged that it would increase slightly the incursion into the front yard setback that was granted last fall in connection with the proposed addition.

Mr. O'Brien cited hardships/constraints on the site, including wetlands in the rear, proximity to the Comstock Brook, as well as significant slope/topography issues.

He noted that the proposed site modifications would allow the barn to be relocated and restored, thereby removing an existing nonconformity in connection with the barn's current location.

In response to a request from Mr. Lilly, Mr. O'Brien agreed to submit into the record barn renderings/elevations posted this evening so that they could become part of the official record. He also passed around the aforementioned renderings/elevations for Board review.

Mr. Nerney noted that the proposed site modifications would supersede plans proposed as part of the earlier variance application last fall. He explained that the original variance would still be out there, i.e. recorded on the Town's land records, and although the Board can't mandate extinguishment of said variance, he noted that the applicant has indicated a willingness to extinguish the previous variance.

Mr. O'Brien confirmed that the applicant has no objection to extinguishing the previous variance subject to approval of the subject variance this evening.

In response to further questions from the Board, Mr. Smith noted that the barn is not on the Historic Register and there is no date plaque on the structure.

Mr. O'Brien confirmed that as much of the old barn will be utilized as possible in the reconstruction/rebuild process, although he acknowledged that the exterior/siding will

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probably be new. He also confirmed that the size of the footprint would be exactly the same.

Responding to concerns expressed by Mr. Rudolph, Mr. Nerney noted that the Board could consider some conditional language whereby the variance would be approved “pursuant to submitted plans”, which would lend additional predictability to the outcome.

In response to a question regarding the correct address for the site, Marilyn Smith explained that the parcel’s address is a peculiarity of old-time Wilton, noting that it was originally assigned 23 and 25 Lovers Lane, which was modified to 26 Lovers Lane in later years.

Mr. Rudolph asked if anyone wished to speak for or against the application.

There being no further comments, the public hearing was closed at 7:49 P.M.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Mr. Rudolph called the Regular Meeting to order at 7:49 P.M., seated members Battaglia, Comiskey, Lawrence, Lilly, McNee and Rudolph, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

1. #14-03-05 YOVINE 140 CATALPA ROAD

The Board briefly discussed the application. It was the consensus of the Board that hardship for the requested variance was adequately demonstrated.

MOTION was made by Mr. Lilly, seconded by Mr. Rudolph, and carried unanimously (5-0) to **grant** the variance of Section 29-5.D to allow the enclosure of an existing deck with a 15-foot rear yard setback in lieu of the required 50 feet; as per submitted “Improvement Location Map”, prepared by John P. O’Brien and dated January 13, 2014 (with the understanding that said enclosure will not encroach any closer than 15 feet to the rear yard property line), and Elevations/Views #1-7, dated November 22, 2013; on grounds that sufficient hardship was demonstrated due to the nonconforming nature of the 0.74-acre lot located in a 2-acre residential zoning district, the natural shape of the property, and the river running in the rear.

2. #14-03-06 SMITH/O'BRIEN 26 LOVERS LANE

The Board briefly discussed the application. It was the consensus of the Board that hardship was adequately demonstrated. Mr. Rudolph and Mr. Nerney both confirmed that the renderings/elevations submitted this evening were to be included as part of the variance application file and considered part of the official record.

MOTION was made by Mr. Comiskey, seconded by Mr. Lilly, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to allow a building addition with a 22.0-foot front yard setback in lieu of the required 50 feet; as per submitted "Zoning Location Survey, Proposed" dated February 20, 2014, prepared by Ryan and Faulds; and as per 7-page packet of plans/elevations, 5 of 7 pages dated February 10, 2014, submitted during public hearing of March 17, 2014; on grounds that sufficient hardship was demonstrated due to the topography of the site and the fact that much of the residence is located in the setback and thus any reconstruction/additions would require a variance.

D. OTHER BUSINESS

1. Minutes – February 18, 2014

MOTION was made by Mr. Lilly, seconded by Mr. Battaglia, and carried (5-0-1) to approve the minutes of February 18, 2014 as amended. Mr. Lawrence abstained.

Mr. Rudolph referenced a seminar on land use given some years ago by Town Counsel and asked whether Board Members might have an interest in attending another such seminar if offered. It was the general consensus that such a seminar would be a valuable learning tool for the Board. It was determined that it could perhaps be scheduled in connection with the April ZBA meeting, depending on the length of the agenda and availability of Town Counsel. Mr. Nerney indicated that he would monitor incoming applications for April and discuss scheduling details further with Chairman Rudolph as the date gets closer.

E. ADJOURNMENT

MOTION was made by Mr. Battaglia, seconded by Mr. Comiskey, and carried unanimously (6-0) to adjourn at 8 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary