

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

**ZONING BOARD OF APPEALS
REGULAR MEETING
JULY 21, 2014
7:15 P.M.
TOWN HALL ANNEX - MEETING ROOM A**

PRESENT: L. Michael Rudolph, Chairman; Brian Lilly, Secretary; Libby Bufano; Scott Lawrence; Gary Battaglia, Alternate; R. Andrew McNee, Alternate; Andrea Preston, Alternate

ABSENT: Albert Nickel (notified intended absence)

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. ELECTION OF SECRETARY

MOTION was made by Mr. Rudolph, seconded by Mr. Battaglia to nominate Brian Lilly for Secretary.

Nominations were closed and the motion passed unanimously (7-0) to elect Brian Lilly as Secretary.

C. PUBLIC HEARINGS

1. #14-07-10 MITCHELL 152 HURLBUTT STREET

Mr. Rudolph called the Hearing to order at approximately 7:17 P.M., seated members Battaglia, Lawrence, Lilly, McNee and Rudolph, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly read the legal notice dated July 8, 2014 and details of the application and the hardship as described on the application.

Present were Kevin Quinlan, architect; and Jennifer Falcone-Mitchell and Robert

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Mitchell, owners.

Mr. Quinlan reviewed details of the application, noting that the applicant is requesting 6 small variances for the property. Although the house dates back to the 1800s, he explained that it is not part of Historic District #4 and therefore is not restricted by any historical regulations.

He reviewed in detail the requested variances, noting in particular that the roof pitch would increase, creating attic space for storage and HVAC equipment only, and not for occupiable, living space; and building and site coverages would be reduced from 4.4% and 4.5% to 3.6% and 4.1%, respectively.

Mr. Quinlan explained that the plan is to improve roof lines and address leaky roof issues due to the existing flat roofs, noting that the applicant is operating within the framework of prior variances that were already issued and is essentially just improving on them. He explained in detail each of the requested variances/site modifications, with reference to a posted survey, noting that they are asking for very little that is outside of the existing footprint and most of the renovations would be taking place on the second floor.

He entered into the record two letters of support from surrounding neighbors and he noted that an adjacent neighbor John Hess was also in the audience to speak in support of the application this evening.

In response to a question from the Board, Mr. Quinlan stated that most of the land is wetlands, referencing in particular a large, back portion of the property and its extremities. In response to a question from Ms. Bufano regarding the proposed relocation of an existing hot tub and its associated hardship, Mr. Quinlan explained that the hot tub currently encroaches into the rear yard setback and its proposed relocation would pull it back away from the property line and make it more conforming with respect to that setback. He noted further that the existing spa/deck plus stone patio currently extends about 32 feet beyond the exterior wall of the house but would only extend about 22 feet out per the proposed plans.

Addressing the issue of hardship, Mr. Nerney noted that the property is located in a 2-acre zone but is very odd-shaped and would not, in fact, qualify as a building lot today. He explained that the area upon which the residence sits consists of approximately ½-acre+/-, which is only about a quarter of what one would typically see today. He explained further that this configuration/uniqueness of the lot prevents the property owners from enjoying reasonable use of the land and is the reason that the owners are running up against setback issues as discussed.

The applicant explained that he contacted the Inland Wetlands Department and was advised that it was not necessary at this point to flag the wetlands on the site.

John Hess, adjoining neighbor located at 150 Hurlbutt Street, explained that his property is located behind the subject residence, noting that their two properties share a well which is located on the Hess property.

Mr. Quinlan reviewed in detail all existing and proposed setbacks to the north, south, east and west and noted for the record that the applicant may be lowering the roof a bit more as compared to what is depicted on the proposed plans.

Mr. Mitchell explained that this is the second 1812 period house that he has restored, noting that the intent is to remove the many inconsistent architectural elements that currently exist on the residence and restore it to its proper period architecturally. He also noted that there are currently buckets of water in the house due to existing roof problems.

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

Mr. Hess spoke again, noting that this is a borderline blight issue. He explained that the house had been on the market for a number of years and there were 240 showings but no prospective buyer (except for the applicant) was willing to take on the numerous renovations/repairs that are required. He encouraged the Board to approve the application as submitted, noting that the shape/configuration of the property represents a huge hardship to the land, and all surrounding neighbors are in favor of the proposed site modifications.

Mr. Lilly read into the record a letter dated July 17, 2014 from David and Julie Fowler and an email dated July 15, 2014 from Sharon Kress; both in favor of the application as proposed.

There being no further comments, at approximately 8:12 P.M. the public hearing was closed.

D. APPLICATIONS READY FOR REVIEW AND ACTION

Mr. Rudolph called the Regular Meeting to order at 8:12 P.M., seated members Battaglia, Bufano, Lawrence, Lilly, McNee, Preston and Rudolph, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

1. #14-07-10 MITCHELL 152 HURLBUTT STREET

The Board discussed the application. It was the general consensus of the Board that most of the proposed modifications would represent an improvement to the property and would, in some cases, reduce existing encroachments. However, Mr. Rudolph expressed difficulty with finding justification for the hot tub relocation, which was delineated as #5

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in the application's "Variance Description". Both Mr. Rudolph and Mr. Lilly expressed concern with the wording of #5, noting that no mention was made by the applicant regarding relocation of the area around the hot tub, leaving room for some ambiguity with respect to that portion of the proposed renovations.

Mr. Nerney pointed out that the plans graphically demonstrate exactly what will be done with respect to the hot tub/spa as well as proposed decking and stone patio work, and he noted that any approval could be tied to the plans as submitted. It was also noted that the legal notice specifically references relocation of the existing hot tub as well as various other structural modifications to the residence. Mr. Nerney noted further that the applicant is proposing to incorporate the relocated hot tub into the modified reduced deck and thus would be reducing an existing nonconformity on the site.

A straw poll was taken and it was determined that four of the five voting members were willing to approve all 6 proposed variances as per the submitted plans. Mr. Rudolph remained opposed to variance #5 as heretofore noted.

MOTION was made by Mr. Lilly, seconded by Mr. Lawrence, and carried (4-1) to **grant** variances of Section 29-5.D to allow a slight extension of an existing front porch with a 26-foot front yard setback in lieu of the required 50 feet; to allow squaring-off an existing faceted front corner resulting in a 26-foot front yard setback in lieu of the required 50 feet; to allow construction of a new covered entry porch with landing & steps, with a 24.3-foot front yard setback in lieu of the required 50 feet; to allow squaring-off the existing left rear corner and allow construction of a new covered porch with steps, with a 19.2-foot side yard setback in lieu of the required 40 feet; to allow relocation of an existing hot tub (spa) to a more conforming location, with a 45.6-foot rear yard setback in lieu of the required 50 feet; and to deconstruct the existing roof forms and second floor walls and then construct new second floor walls and roofs atop the first floor 'footprint', with a 26-foot front yard setback in lieu of the required 50 feet and with a 19.2 foot side yard setback in lieu of the required 40 feet; as per submitted Zoning Location Survey prepared by Ryan and Faulds dated June 10, 2014; and Elevation Plans A-1, A-2, A-3, and A-4 (dated June 24, 2014), and EX-1, EX-2, EX-3 and EX-4 (dated June 4, 2014) prepared by Kevin Quinlan Architecture LLC; on grounds that sufficient hardship was demonstrated due to the pre-existing nonconforming nature of the house/property and its quite unusual shape/configuration and the fact that the portion of the property upon which the house sits is only .38+/- acres in total out of the full 2.02-acre parcel; with the further observation that the proposed site renovations will realize a reduction in both building and site coverages from 4.4% existing to 3.6% and from 4.5% existing to 4.1%, respectively.

Mr. Rudolph opposed, citing his objection to variance description #5 pertaining to the hot tub relocation.

E. OTHER BUSINESS

1. Minutes – May 19, 2014

MOTION was made by Mr. Battaglia, seconded by Mr. Lawrence, and carried (6-0-1) to approve the minutes of May 19, 2014. Ms. Preston abstained.

F. ADJOURNMENT

MOTION was made by Mr. Lawrence, seconded by Ms. Bufano, and carried unanimously (7-0) to adjourn at 8:32 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary