

ZONING BOARD
OF
APPEALS
Telephone (203) 563-0185
Fax (203) 563-0284



TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

**ZONING BOARD OF APPEALS
REGULAR MEETING
DECEMBER 16, 2013
7:15 P.M.
TOWN HALL ANNEX - MEETING ROOM A**

PRESENT: John Comiskey, Secretary; Libby Bufano; Brian Lilly; Albert Nickel; R. Andrew McNee, Alternate; L. Michael Rudolph, Alternate

ABSENT: Timothy Meyer (advised intended absence)

A. CALL TO ORDER

Mr. Comiskey, acting as Chairman in the absence of a sitting Chairman, 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. #13-12-20 COLE 135 & 145 DE FOREST ROAD

Mr. Comiskey called the Hearing to order at 7:17 P.M., seated members Bufano, Lilly, McNee, Nickel and Rudolph, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly, acting as Secretary, read the legal notice dated December 3, 2013 and details of the application and the hardship as described on the application.

Mr. Nickel noted for the record that he knows two neighbors of the property but he indicated that it did not represent a conflict of interest for him.

Present was J. Casey Healy, attorney for the applicant.

Mr. Healy referenced a survey prepared by Roger Stalker, dated October 3, 2013 and briefly reviewed a history of the two subject properties (at 135 & 145 DeForest Road), consisting of 1.0 and 0.2+ acres, respectively. He stated that the garage at 145 DeForest Road was built in 1947, and the residence at 135 DeForest Road was built in 1948, both of which are legally nonconforming structures which pre-date residential one and two-

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acre zoning regulations, and where garage side yard setbacks are currently nonconforming at 7.1' and 8.1'.

Mr. Healy explained that the applicant is proposing to merge the two properties to eliminate some of the existing nonconformities, which would enlarge the overall property to 1.2+ acres in the two-acre zone and would eliminate the 8.1' side yard setback that currently exists on the smaller parcel. To further reduce existing nonconformities, Mr. Healy stated that a shed would be removed, a generator would be relocated, and a propane tank would be buried, all of which are currently located within the setback. He also noted that an existing shed roof and roof overhang would be removed to further reduce site coverage down to 14%.

Addressing the issue of hardship, Mr. Healy explained that the properties were created/developed in 1947 and 1948, prior to one-acre and two-acre zoning regulations. He noted further that the proposed site modifications would reduce existing non-compliance on the property, which is encouraged by zoning regulations.

In response to a question from Mr. Comiskey, Mr. Nerney explained that if the Board grants the variances as proposed this evening, said variances should be contingent upon the information proffered by the applicant, i.e. that the two lots must first be consolidated. He noted that zoning staff would not issue a building permit until evidence of the consolidation was submitted.

Mr. Healy confirmed that some existing driveway pavement on the site will be removed and replaced by pervious material to further reduce site coverage.

In response to a question from Mr. Lilly, Mr. Healy explained that if the lots were merged as proposed, and if none of the other proposed site modifications were done (e.g. removal of several existing structures and some pavement), then building and site coverages would be 8.25% and 19.33%, respectively, instead of the proposed 8.1% and 14%.

In response to a question from Mr. Rudolph about a portion of the garage addition being located within the setback, Mr. Healy acknowledged that fact but observed that the incursion would be no greater on the south side than what currently exists, in addition to the fact that other existing encroachments would be removed, as indicated earlier. He also noted that the garage structure would actually be narrower than what currently exists and some paved driveway would be removed and replaced by an entirely gravel drive.

Mr. Comiskey 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. #13-12-21 HAMPTON

320 BELDEN HILL ROAD

Mr. Comiskey called the Hearing to order at 7:29 P.M., seated members Bufano, Comiskey, McNee, Nickel and Rudolph, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly, acting as Secretary, read the legal notice dated December 3, 2013 and details of the application and the hardship as described on the application.

Present was Kevin Quinlan, architect, on behalf of the owners.

Mr. Nickel indicated for the record that he knows Kevin Quinlan but he did not feel it represented any conflict of interest for him.

Mr. Quinlan reviewed details of the property, noting that the house was built in 1940, thus predating zoning for the Town, and it is located very close to the road. He explained that the proposed deck is fairly modest and would sit next to a previously approved addition (shown in yellow on the submitted plans) for which a variance was granted in 2005.

He noted site constraints, including location of wetlands and an existing septic tank and pump chamber. He explained that alternative locations were explored but found to pose problems either with Inland Wetlands Department or the Health Department. He noted that from both front and side views, the entire deck would be invisible from public rights-of-way. He felt that, given the undersized 0.6-acre parcel which is located in and constrained by two-acre zoning, the proposed deck represents a reasonable and customary usage of the property.

In response to questions from the Board, Mr. Quinlan confirmed that no changes are proposed in connection with the previously approved variance; and no part of the proposed deck is closer to the setback line than the existing sunroom is; in fact, he noted that the sunroom is actually closer by at least a few feet.

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

Helen Richards, 311 Belden Hill Road, expressed concern about the proposed deck, noting that she lives across from the property on Belden Hill Road. Mr. Quinlan reviewed elevations, confirming for Ms. Richards that the deck would be invisible from both Belden Hill and Wolfpit Roads, and that it would tuck behind the sunroom completely from the front view. Ms. Richards' concerns were assuaged.

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

C. APPLICATIONS READY FOR REVIEW AND ACTION

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

1. #13-12-20 COLE 135 & 145 DE FOREST ROAD

The Board reviewed/discussed the subject application.

Mr. Lilly stated that the proposed reduction in both site and building coverages for the site makes him very positively disposed towards the application. He felt that the applicant was doing the best he could, given the pre-existing nonconforming nature of the garage.

Mr. Rudolph questioned whether the Board was essentially permitting the applicant to increase the nonconforming use by adding on to the north side of the existing garage within the setback area, referring to the area that is between the side setback line and the existing north face of the garage. Mr. Lilly noted that while a portion of that addition is located within the setback, the application actually reduces existing nonconformity on the site by greater than the amount located in that setback area, referring in particular to items slated to be removed (shed, generator, propane tank, some paving, etc). Mr. Nerney noted further that the applicant would also be reducing existing nonconformity by consolidating the two nonconforming lots, thereby extinguishing the smaller (nonconforming) lot. From a visual standpoint, he noted that it would look very similar to what it is today, except for the addition of the second story. Mr. Lilly also reminded the Board that coverage percentages will be reduced as a result of all the proposed site modifications.

MOTION was made by Mr. Lilly, seconded by Ms. Bufano, and carried unanimously (5-0) to **grant** variances of Section 29-5.D to allow the addition of a third garage bay and a second floor to an existing garage with side yard setback of 7.1' in lieu of the 40' required; building coverage of 8.1% in lieu of the 7% allowed; and site coverage of 14.0% in lieu of the 12%; as per submitted "Zoning Location Map" prepared by Stalker Land Surveying, Inc., dated October 3, 2013; and with the understanding that variances are granted contingent upon the applicant merging the two existing parcels before construction begins; on grounds that adequate hardship was demonstrated due to the pre-existing nonconforming nature of the property/structures,

2. #13-12-21 HAMPTON 320 BELDEN HILL ROAD

The Board reviewed/discussed the subject application.

Mr. Lilly noted that the house is pre-existing nonconforming and the lot is an undersized .694+/- acre parcel in a two-acre zone. He noted further that the proposed deck would be hidden from view from Belden Hill and Wolfpit Roads and its construction would not result in any overage in coverage on the site. Overall, he felt that the requested variance was necessary because of the pre-existing, nonconforming nature of the home.

Other Board members concurred.

MOTION was made by Mr. Nickel, seconded by Mr. Comiskey, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to allow an elevated deck with a 29-foot front yard setback in lieu of the required 50 feet; as per submitted “Map of Property” prepared by Roland H. Gardner, Surveyor, dated November 20, 2013 and Hampton Residence elevations submitted by Kevin Quinlan, received November 25, 2013; on grounds that adequate hardship was demonstrated due to the pre-existing nonconforming nature of the property/residence and the undersized lot which is located in and constrained by two-acre zoning regulations.

D. OTHER BUSINESS

1. Approval of Minutes – November 18, 2013

MOTION was made by Mr. Comiskey, seconded by Ms. Bufano, and carried (3-0-3) to approve the minutes of November 18, 2013. Board Members Bufano, Comiskey and Lilly voted to approve. Board members McNee, Nickel and Rudolph abstained.

E. ADJOURNMENT

MOTION was made by Mr. Lilly, seconded by Mr. Comiskey, and carried unanimously (6-0) to adjourn at approximately 8:05 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary