

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

**ZONING BOARD OF APPEALS  
REGULAR MEETING  
NOVEMBER 15, 2010  
7:15 P.M.  
TOWN HALL ANNEX - MEETING ROOM A**

**PRESENT:** Barbara Frees, Vice-Chairman; Lori Bufano, Secretary; John Comiskey; John Gardiner; Steven Davidson, Alternate

**ABSENT:** Miriam Sayegh and Peter Shiue (notified intended absences)

**A. CALL TO ORDER**

Ms. Frees, acting as Chairwoman in the absence of Chairwoman Sayegh called the meeting to order at 7:15 P.M. She briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

**B. PUBLIC HEARINGS**

**1. #10-10-16 DE STEFANO 42 HUNTING RIDGE LA**

Ms. Frees called the Hearing to order at 7:16 P.M., seated members Bufano, Comiskey, Davidson, Frees, and Gardiner, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read the legal notice for application #10-11-17 (Wilkins) dated November 2, 2010. Ms. Frees noted that the subject application (#10-10-16) was previously opened and continued to this evening's meeting.

Present was Rob Sanders, architect.

Mr. Sanders reviewed details of the application for building coverage of 7.41% in lieu of the permitted 7%, noting that the applicant is also now proposing to reduce site coverage from a pre-existing, nonconforming 13.4% to a conforming 12%. He distributed a GIS survey map of the site, noting that the original ranch style residence on the site had a footprint of 4000 square feet with an additional 8000 square feet of asphalt driveway.

He read from Wilton Zoning Regulations, citing the intent and purpose of such regulations, noting in particular that the applicant had made a concerted effort to develop the site in a socially responsible manner. He explained that the applicant had lessened the

## ZBA Minutes – November 15, 2010 - Page 2

environmental imprint of the site, increasing insulation, water recapture, drainage, etc. but, as a result of the increased exterior wall insulation, had inadvertently exceeded the permitted building coverage percentage of 7%. He stated that there are extreme environmental hardships on the site, referring in particular to increased wind and thus increased cold/heat impacts due to the site's high elevation. He noted that there is approximately a 60-foot contour difference between Hunting Ridge Road and the subject residence.

He stated that the site was surveyed several times throughout the course of construction to confirm compliance with setback regulations, but he explained that it was not until the fourth survey that the building coverage issue was uncovered. He noted for the record that the applicant had discontinued all work/construction that would have impacted building coverage in any way as soon as the discrepancy was discovered.

Referencing the building coverage issue, Mr. Sanders explained that originally the building coverage was determined to be 7.5% but the applicant had managed to reduce that number down to the requested 7.41% level by eliminating a wood shed and a porch area that was not fundamental to the structure. He noted that the subject property is consistent with the surrounding neighborhood in terms of its size and site improvements. He stated that the applicant had tried to address the coverage by acquiring additional land from adjoining property owners but without success.

He distributed into the record letters of support from the surrounding neighbors.

He concluded his presentation by emphasizing the hardship of unusual topography/exposure of the site; the applicant's achieved reduction of site coverage to conforming levels; and the extensive use of advanced energy construction measures and water conservation features on the site.

In response to questions from the Board, Mr. Sanders stated that the original building coverage for the site, prior to the current modifications, was less than 5%.

Mr. Nerney noted that the applicant's reduction of site coverage is consistent with the community's and the Commission's ongoing encouragement of the use of pervious paving materials so as to reduce site coverage percentages and improve water conservation/drainage throughout the Town. He recommended that if the Board decided to approve the application that it be conditional upon plans as submitted.

Ms. Frees asked if anyone in the audience wished to speak for or against the application.

The homeowner, Mr. DeStefano, thanked the Board for hearing the application again, noting that the applicant had made a concerted effort to submit an application that the Board could approve.

## **ZBA Minutes – November 15, 2010 - Page 3**

Ms. Bufano read into the record a letter dated November 3, 2010 from Jamie Hewitt and Ralph Walker to Miriam Sayegh; a letter dated September 17, 2010 from John DiRocco to Miriam Sayegh; a letter dated September 20, 2010 from Lee Wachter to Miriam Sayegh; a letter dated September 9, 2010 from Kathleen and Bill Brennan to Miriam Sayegh; and an emailed letter dated September 20, 2010 from Bruce and Elizabeth Likly to Zoning Board of Appeals.

Mr. Sanders noted that he had recently received a follow-up email from Bruce Likly complimenting the landscaping that was installed to address screening concerns he had raised in his email of September 20, 2010.

There being no further comments, the public hearing was closed at 7:50 P.M.

### **2. #10-11-17 WILKINS 93 W. MEADOW RD**

Ms. Frees called the Hearing to order at 7:51 P.M., seated members Bufano, Comiskey, Davidson, Frees, and Gardiner, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read details of the subject application and the hardship as described on the application, noting that the legal notice had been read at the start of the first hearing.

Present were Rob White and Rob Sanders, architects.

Mr. White submitted into the record a copy of the postal return receipt from the Department of Public Health as well as elevations, floor plans, photos and a site development plan for the subject property.

He cited constraints of the subject site, noting that the existing house, built in 1951, is nonconforming with respect to the front yard setback, and the site is bisected by a watercourse/wetlands, resulting in a significant amount of wetlands-regulated areas on the parcel. He also noted substantial sloping on the site from front to rear, adding to the site's difficulty of conforming to zoning setback regulations.

He reviewed proposed site improvements, referring to construction of an addition with entry deck as well as storage space around an existing garage foundation, with stairs and a studio over the reconstructed garage. He noted that the existing garage barely accommodates two vehicles and has no remaining space for storage. He referenced various photo perspectives of the site.

In response to questions from Ms. Frees, Mr. White explained that about 50% of the proposed addition space will be in the setback, with about 50% as of right; the shed

## ZBA Minutes – November 15, 2010 - Page 4

encompasses about 160 square feet; and the garage height is being raised but the footprint will remain unchanged.

In response to a question from Mr. Gardiner, Mr. White acknowledged that some of the proposed encroaching shed square footage could be eliminated if the applicant utilized some of the proposed office area as storage space. Mr. Sanders explained that the shed is positioned as proposed because of the topography of the site, allowing ease of trash/equipment storage and access on the upper street level as opposed to the lower site elevations. Mr. Gardiner pointed out that the Board is not allowed to consider issues of aesthetics when considering variance requests.

Mr. Comiskey noted for the record that it appeared possible to move the proposed shed a bit so that it could be in conformance with the front setback line while still maintaining ease of access for lawn mower, bikes, and other equipment.

Ms. Bufano read into the record a letter dated November 15, 2010 from Nabil and Kristina Fares to Zoning Board of Appeals; a letter dated November 15, 2010 from Steve and Kathy Tafuro to Zoning Commission; and an emailed letter dated November 1, 2010 from Brian T. Roach (Aquarion Water Company) to Mr. Sanders.

Ms. Frees asked if anyone wished to speak for or against the application.

Lucia Sato, 11 East Meadow Road, expressed concern with the extra water flow directed toward their property, noting that they are downhill from the subject site and already experience flooding on their property. She expressed additional concerns with sight line issues, proximity of construction to the pond, and with the applicant's alleged need for a shed. She felt that a shed, if actually necessary, could be constructed elsewhere on the property.

Mr. Davidson referred to the Fares' letter of opposition to the variance and asked if the applicant had discussed with the Fares the five issues raised in their letter. Mr. White stated that they had not, but addressing the concern regarding sight line obstruction, he noted that the applicant has been careful to stay within the existing line of projections, and he noted that the proposed building area is more than 120 feet away from the intersection. He explained further that the bulk of the proposed construction involves rebuilding the garage which he noted will not extend beyond the existing footprint.

In response to further questions from Mr. Davidson, Mr. White noted that other locations on the site were considered but the applicant tried to minimize soil disruption and disturbance to wetlands. He confirmed that the shed would not have any plumbing or electricity and would strictly be a shed of approximately 12 feet in height.

Mr. Sanders stated for the record that the application is within the purview of both the

## **ZBA Minutes – November 15, 2010 - Page 5**

Inland Wetlands and Conservation Commissions, noting that the applicant fully intends to conform to all of their requirements.

There being no further comments, the public hearing was closed at 8:28 P.M.

The Board took a break at 8:28 P.M.

The Board returned from break at 8:33 P.M.

### **C. APPLICATIONS READY FOR REVIEW AND ACTION**

Ms. Frees called the Regular Meeting to order at 8:33 P.M., seated members Bufano, Comiskey, Davidson, Frees, and Gardiner, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

#### **1. #10-10-16 DE STEFANO 42 HUNTING RIDGE LA**

The Board reviewed details of the application.

Mr. Comiskey applauded the architect's presentation and efforts, but felt that the hardship was self-created. While he was impressed with the energy efficiency of the construction, he felt that such types of design elements did not outweigh the statutory requirement for establishing proper hardship.

Ms. Frees stated that the request is essentially for a variance after the fact and she noted that in such instances the Board must ask whether it would have been inclined to grant the request if the applicant had submitted its application prior to construction. In that regard, she felt that an equally beautiful and energy efficient residence with all of the associated outbuildings could have been built in a conforming manner on the site without the need for such a variance.

Mr. Gardiner felt that the positive aspects of the application were that all surrounding neighbors support it; site coverage would be reduced to a conforming level; and the applicant offered to reduce some of its building coverage nonconformity by removing certain construction elements. He felt that the encroachment was clearly unintended, noting in particular that it did not increase the applicant's living space in any way. In summary, he stated that the building coverage encroachment was a misfortune with no negative impact on the neighborhood, the site, or the underlying spirit of the regulations.

Mr. Davidson was very impressed with the progressive elements of the design and its underlying motivation, but he questioned whether that was reason enough to set aside the definition of what is required by statute to demonstrate adequate hardship. He had mixed feelings about the application, noting that while all the neighbors supported it he did not

**ZBA Minutes – November 15, 2010 - Page 6**

know how he would have felt had the application been submitted prior to the work being completed.

Ms. Bufano stated that she, too, was having difficulty seeing a hardship.

MOTION was made by Mr. Comiskey to **deny** the variance for lack of proof of legal hardship due to the fact that the existing site would not have interfered with the correct design of the structure; the hardship is self-created; and there is no evidence that the property could not have been utilized in a reasonable fashion.

Mr. Gardiner stated that everyone seems to like the house and none of the surrounding neighbors consider it problematic. He felt that the applicants have made many concessions. He stated that a hardship could be found in the topography of the site, referring in particular to its high elevation which makes it subject to blowing winds and the vicissitudes of winter. He acknowledged that such a hardship argument could be considered a bit of a reach but he felt that it would not violate any of the principles that the Board is required to uphold.

The motion was seconded by Mr. Davidson and carried (4-1). Mr. Gardiner opposed. The variance application was therefore **denied**.

**2. #10-11-17 WILKINS 93 W. MEADOW RD**

The Board discussed details of the application.

Ms. Bufano acknowledged some neighbor concerns, but noted that the applicant tried to position the proposed construction to be unobtrusive to surrounding neighbors. She felt that she could comfortably approve the application, noting that the home is already nonconforming, but she recommended that the applicant engage an engineer to address potential runoff issues/impacts.

Ms. Frees concurred, but noted that the same runoff issues would exist even if the applicant complied with the required setback limitations. Overall, she felt that it was a reasonable use of the property.

Mr. Comiskey did not support opposing comments cited in the Fares' letter of objection, noting in particular that the referenced sight line would not be affected by the proposed construction. He did acknowledge that the shed could probably be relocated somewhat to be less encroaching, but overall he did not have a problem with approving the application.

Mr. Gardiner expressed concern with the proposed shed since he felt there were other storage possibilities that could have been utilized, thus eliminating the need for the shed

**ZBA Minutes – November 15, 2010 - Page 7**

and its resulting encroachment into the setback.

Mr. Davidson agreed that the grade level argument for the siting of the proposed shed did not really rise to the level of a hardship although, overall, he felt that the application was a reasonable request, citing in particular the pre-existing nonconforming nature of a large portion of the residence.

The Board briefly discussed the possibility of denying the application without prejudice so that the applicant could come back before the Board with other alternatives, but the Board ultimately decided to take a vote on the application as submitted.

MOTION was made by Ms. Bufano, seconded by Mr. Davidson, and carried (4-1) to **grant** the variance on grounds that sufficient hardship was demonstrated, given the pre-existing nonconforming nature of the property and the pre-existing setback situation, as well as the large amount of wetlands on the property. Mr. Gardiner opposed.

**D. OTHER BUSINESS**

**1. Minutes – October 18, 2010**

MOTION was made by Mr. Gardiner, seconded by Ms. Bufano, and carried unanimously (5-0) to approve the minutes of October 18, 2010.

**2. Approval of 2011 Meeting Schedule**

MOTION was made by Mr. Gardiner, seconded by Ms. Bufano, and carried unanimously (5-0) to approve the 2011 Meeting Schedule.

**E. ADJOURNMENT**

MOTION was made by Ms. Bufano, seconded by Ms. Frees, and carried unanimously (5-0) to adjourn at 9:10 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary