

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

**ZONING BOARD OF APPEALS
REGULAR MEETING
MAY 16, 2011
7:15 P.M.
TOWN HALL ANNEX - MEETING ROOM A**

PRESENT: Miriam Sayegh, Chairwoman; Barbara Frees, Vice-Chairman; Lori Bufano, Secretary; John Comiskey; John Weiss; Joe Fiteni, Alternate; Peter Shiue, Alternate; Steven Davidson, Alternate

ABSENT:

A. CALL TO ORDER

Ms. Sayegh called the meeting to order at 7:16 P.M. She briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

B. PUBLIC HEARINGS

**1. #11-04-07 KJC REAL ESTATE OLD HUCKLEBERRY HILL RD
DEVELOPMENT, LLC**

Ms. Sayegh called the Hearing to order at 7:16 P.M. and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. She stated that the hearing was continued from the previous meeting, and she indicated that the applicant had requested another continuance of the hearing until the next meeting scheduled for June 20, 2011.

Ms. Bufano read into the record a letter dated May 16, 2011 from J. Casey Healy to Wilton Zoning Board of Appeals requesting the aforementioned continuance.

There being no further comments, at 7:19 P.M. the public hearing was continued until June 20, 2011.

2. #11-05-08 SATTERWHITE 23 OWN HOME AVENUE

Ms. Sayegh called the Hearing to order at 7:19 P.M. and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

Mr. Shiue arrived at 7:19 P.M.

Ms. Bufano read the legal notice dated May 2, 2011 and details of the application and the hardship as described on the application.

Present were Robert and Cat Satterwhite, applicants.

Mr. Satterwhite discussed hardships impacting the subject property, noting that the parcel 1) is pre-existing nonconforming, having been built in the 1930s prior to zoning laws; 2) consists of only 0.33 acres but is located in and constrained by R-1A zoning; 3) is a corner lot, constrained by two front yard setbacks. He referred to a posted site plan, noting that the only possible location for the proposed site modifications is in the backyard as proposed.

Mr. Satterwhite explained further that a rear adjoining neighbor is protected somewhat by sloping topography in the rear; and a row of trees provides some screening for a side neighbor.

Ms. Sayegh raised the issue of the requested site coverage variance, explaining how seriously the Board considers and reviews such variance requests. She asked whether the applicant had considered removing the existing asphalt drive and replacing it with gravel/stone to reduce the overall site coverage impact. Mr. Satterwhite stated that they had considered various options but did not have any plans to rip up the existing driveway.

It was also noted by the Board that square footage associated with a flagstone patio appeared to have been counted in full towards overall site coverage instead of at fifty percent. Per direction of the Board, Mr. Nerney calculated revised site coverage percentages, noting that proposed site coverage would be 16.36% if the flagstone patio is correctly calculated at half its square footage; and would be 12.63% if the paved driveway (consisting of 560 square feet) were replaced with gravel in addition to correcting the flagstone patio calculation.

Discussion ensued regarding the issue of site coverage and Ms. Sayegh asked whether the applicant would be willing to consider replacing the asphalt driveway with gravel.

Mr. Weiss stated that he was comfortable with the application as proposed, noting that the subject lot is so tiny and the addition to the already small home so modest.

ZBA Minutes – May 16, 2011 - Page 3

Mr. Satterwhite, when pressed for a response, indicated that it would not be the applicant's preference to modify the driveway as suggested. He cited both cost and upkeep considerations, referencing the recent snowy winter and the difficulty of shoveling a gravel surface, although he acknowledged that such issues might not be considered valid from a hardship perspective. In response to a suggestion to perhaps shorten the driveway, Mr. Satterwhite stated that it is already a short driveway which is only able to accommodate 2-3 cars packed in tightly.

Mr. Fiteni felt that the applicant had exhibited adequate hardship for the variances requested, noting that the additional lot coverage percentage requested, when applied to such a small pre-existing lot, actually amounted to a very small quantity of square footage.

Mr. Bufano concurred.

Mr. Shiue suggested a hybrid approach to addressing the issue, noting that perhaps the applicant could pull up a portion of the pavement to bring site coverage down to the 15% level permitted, and replace the remainder with a pervious substance.

Towards that end, Ms. Sayegh suggested that the applicant might consider installing a small apron of Belgian block in order to reduce the overall site coverage.

A brief discussion ensued regarding the appropriateness of utilizing Belgian block on the property. Ultimately the applicant indicated that while he wished to be cooperative, he did not wish to implement any of the driveway modifications proposed by the Board. When asked if he wished to continue the hearing so that he might have more time to think about various options, he stated that he did not.

At this time, Ms. Sayegh seated members Bufano, Fiteni, Frees, Sayegh and Shiue.

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

3. #11-05-09 WILSON 116 VALEVIEW ROAD

Ms. Sayegh called the Hearing to order at 7:50 P.M., seated members Bufano, Comiskey, Davidson, Frees, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read the legal notice dated May 2, 2011 and details of the application and the hardship as described on the application.

Present was Lee Wilson, applicant.

Mr. Wilson reviewed details of the subject application. He explained that the major

hardship for the site was created when the Planning and Zoning Commission rezoned the parcel from R-1A (one-acre zoning) to R-2A (two-acre zoning) in 1987, which change necessitated the variance sought this evening. Addressing the possibility of locating the units in the rear, he explained that all of the bedrooms are located in the back of the house and since the residence is only one story, such an installation would be extremely noisy. He noted further that there are more woods on the side where the units are proposed whereas the other side of the house is very close to the adjoining neighbor. He also explained that the proposed location is the most logical and easiest for servicing the units in the future since the incoming service wires will also need to be changed/relocated in connection with the proposed work.

Mr. Davidson questioned the validity of citing convenience and/or disruption of sleep as valid hardship issues. Mr. Wilson felt that the units need to be located in a place where they can be properly serviced. He explained that the home is small (approximately 1900 square feet in total) on a little over one acre of land, noting that if it were a larger home and located on two acres (as required in the R-2A zone) the scenario would be different. He felt that adequate sleep is not only necessary but is also a quality of life issue.

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

There being no further comments, the public hearing was closed at 8:03 P.M.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Ms. Sayegh called the Regular Meeting to order at 8:04 P.M., seated members Bufano, Fiteni, Frees, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

- 1. #11- 04-07 KJC REAL ESTATE OLD HUCKLEBERRY HILL RD
DEVELOPMENT, LLC**

Tabled.

- 2. #11- 05-08 SATTERWHITE 23 OWN HOME AVENUE**

The Board discussed the subject application. Ms. Sayegh briefly reviewed the general rules for granting a variance, citing Sections 29-13.B.6.b and 29-13.B.6.c. of Wilton zoning regulations.

It was the general consensus of the Board that adequate hardship had been exhibited by the applicant. The following supporting facts were cited: 1) the pre-existing nonconforming nature of the lot and since most of the home is already located in the

ZBA Minutes – May 16, 2011 - Page 5

setback; 2) the lot's small size within and constrained by an R-1A zoning district; 3) the lot's corner location, constrained by two front yard setbacks; 4) and the modest and well thought-out nature of the proposed addition to minimize the variances being sought.

The Board shared some concerns over the site coverage issue, but ultimately felt that the existing driveway is quite small and the lot itself is so undersized that it would be difficult to do anything on the parcel without requiring variances. It was agreed that if a site coverage variance were granted, it should be for the corrected level of 16.36% (reflecting the flagstone patio recalculation) as opposed to the 17.6% requested.

Mr. Davidson expressed some concern that if there were a number of similar site coverage variance requests from other properties in this neighborhood there could potentially be concerning overall levels of site coverage for the area, but he agreed that this individual owner had demonstrated the necessary hardship to grant the variances requested.

MOTION was made by Ms. Bufano, seconded by Ms. Frees, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to permit structural additions to an existing residence with a proposed front yard setback of 23.2' and 33.1' in lieu of the required 40'; a proposed side yard setback of 29.2' in lieu of the required 30'; proposed building coverage of 10.3% where a maximum coverage of 10% is allowed and a proposed site coverage of 16.36% where a maximum coverage of 15% is allowed; on grounds that sufficient hardship was demonstrated since it is pre-existing nonconforming, and it is a very undersized lot located in and constrained by one-acre (R-1A) zoning.

3. #11-05-09 WILSON 116 VALEVIEW ROAD

The Board discussed the subject application.

Board members Fiteni and Davidson were disinclined to approve the application since they felt alternative locations were available that would not require a variance. Mr. Davidson also felt that hardships cited by the applicant fit more into the category of items (e.g. convenience, flow, etc.) that would not justify the granting of a variance as explained earlier in the evening by Ms. Sayegh.

Mr. Shiue felt comfortable with approving the application as proposed, noting that it makes sense with respect to impacts on surrounding neighbors, and he felt that the need for sleep can be considered in the category of a safety issue.

Ms. Bufano agreed, noting further that the structure was built in 1954 and since zoning regulations at that time would have permitted locating the units as proposed, she felt a hardship was demonstrated.

Ms. Sayegh felt that the applicant has a hardship due to the pre-existing nonconforming

ZBA Minutes – May 16, 2011 - Page 6

nature of the site. She also noted that the installation as proposed would not be disruptive to the neighbor.

Ms. Frees concurred regarding the pre-existing nature of the site and the lesser impact of the proposed location on neighbors. She also felt that the units would be nearer the incoming service (when relocated) and therefore would be better from a safety perspective.

Mr. Weiss was sympathetic to the noise issue but he felt that the units could be moved back slightly and therefore not require as large a variance.

Mr. Comiskey agreed that the units could probably be located elsewhere, but he was sympathetic to the noise and quality of life issue. He felt that the location proposed is the best available given the heavily wooded nature of the area.

MOTION was made by Ms. Frees, seconded by Mr. Comiskey, and carried (4-1) to **grant** the variance of Section 29-5.D to allow the installation of two (2) condenser units and a generator with a closest side yard setback of 20’8” in lieu of the 40’ setback required; on grounds that sufficient hardship was demonstrated since it is a pre-existing nonconforming use and since the location of the building is pre-existing. Mr. Davidson opposed.

D. OTHER BUSINESS

1. Minutes – April 18, 2011

MOTION was made by Ms. Bufano, seconded by Ms. Frees, and carried (5-0-3) to approve as amended the minutes of April 18, 2011. Board members Davidson, Sayegh and Weiss abstained.

E. ADJOURNMENT

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

Respectfully submitted,

Lorraine Russo
Recording Secretary