

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

**ZONING BOARD OF APPEALS
REGULAR MEETING
JUNE 20, 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; Steven Davidson, Alternate
Joe Fiteni, Alternate; Peter Shiue, Alternate

ABSENT:

A. CALL TO ORDER

Ms. Sayegh called the meeting to order at 7:20 P.M. She noted that KJC Real Estate Development, LLC and I.Park Norwalk, LLC would be continued until next month's meeting at the request of the applicants.

B. PUBLIC HEARINGS

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

Ms. Sayegh called the Hearing to order at 7:20 P.M. She referenced a letter dated June 20, 2011 from J. Casey Healy to Wilton Zoning Board of Appeals requesting a continuation of the hearing, and granting an extension of the deadline to close the hearing, until July 18, 2011.

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

There being no further comments, at 7:21 P.M. the public hearing was continued until July 18, 2011.

Ms. Sayegh scrambled the agenda to next address Public Hearing #3 (I.Park Norwalk, LLC).

3. #11-06-11 I.PARK NORWALK, LLC KENT RD & “DANBURY RD TOWN LINE”

Ms. Sayegh called the Hearing to order at 7:21 P.M., seated members Bufano, Comiskey, Frees, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read the legal notice dated May 27, 2011 and details of the application and the hardship as described on the application. Ms. Sayegh noted that the applicant had submitted a letter dated June 20, 2011 requesting a continuation of the hearing until July 18, 2011.

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

Allan Cramer, 1 Danbury Road, indicated that he would speak to the application at the next meeting.

There being no further comments, at 7:28 P.M. the public hearing was continued until July 18, 2011.

Ms. Sayegh briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

2. #11-06-10 PETTIT 84 STONEBRIDGE RD

Ms. Sayegh called the Hearing to order at 7:28 P.M., seated members Bufano, Comiskey, Fiteni, Frees, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

Ms. Sayegh recused herself and left the room, in consideration of a financial relationship that she had with the applicant approximately 15 years ago, although she noted that the relationship was long over. Ms. Frees acted as Chairwoman for the remainder of the hearing.

Ms. Bufano read the legal notice dated May 27, 2011 and details of the application and the hardship as described on the application.

Present was Stephen W. Pettit, applicant.

Mr. Pettit submitted into the record additional photos of the site and he posted a survey for review by the Board. He explained that the side yard setback requirement for his property was increased from 30 feet to 40 feet back in 1972, three years after they

ZBA Minutes – June 20, 2011 - Page 3

purchased the parcel, resulting in a legal, pre-existing nonconforming property. He reviewed the proposed plans, noting that the applicant wishes to construct a second floor, four-foot bump-out with a 34-foot side yard setback, which will match the rest of the house and roofline and which will not further violate the existing nonconforming side yard setback. He noted that the only neighbor who would have even a bare view of the house in winter, Donald I. Grossman at 278 Rivergate Drive, had written a letter to the Board dated May 14, 2011 (which was included in the application), stating that he had no objection to the proposed addition. Mr. Pettit explained further that the house was probably sited as it is (in the narrower rear section of the property) due to the location of a pond in the front of the house, which limits expansion possibilities on the site.

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

Ms. Bufano read into the record the letter from Donald I. Grossman to Wilton Zoning Board of Appeals dated May 14, 2011.

There being no further comments, the public hearing was closed at 7:40 P.M.

Ms. Sayegh returned to the meeting room.

4. 11-06-12 ETTIE 17 OVERIDGE LANE

Ms. Sayegh called the Hearing to order at 7:41 P.M., seated members Bufano, Davidson, Frees, Sayegh, and Weiss, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read the legal notice dated May 27, 2011 and details of the application and the hardship as described on the application.

Present were Kevin Quinlan, architect; and Suzanne and Derek Ettie, homeowners.

Ms. Ettie submitted into the record three letters of support, as well as additional photos.

Mr. Quinlan stated that the primary hardship for the applicant is the 0.72+/- acre subject parcel that is located in, and constrained by, R-2A zoning requirements. He noted that the two proposed dormers are within the existing footprint, and the proposed garage overhang will help keep water/ice out of the garage and away from the building and is thus a safety consideration.

Mr. Quinlan referenced a posted survey recently done indicating that the greater part of an existing shed, thought to be on the applicant's property, is actually located off the property on a commonly owned/shared private road. He explained that the requested building and site coverage variances of 8% and 14.9%, respectively, reflect the impact of

ZBA Minutes – June 20, 2011 - Page 4

relocating the shed entirely onto the property (an additional 162 square feet) if the Board were to require its legalization. He noted for the record that the net impact of a prior front porch addition is approximately 3.09 square feet, amounting to an additional .000098 in coverage which, when rounded out to the second decimal place, is negligible.

Ms. Ettie stated that she spoke to approximately 10 neighbors in the area, all of whom indicated support for the proposed site modifications.

Ms. Bufano read into the record three letters of support from: Elisa and Gerard Pollino dated June 17, 2011; Neil and Vicky Street sent via email June 19, 2011; and Fran and Frank Walters sent via email June 19, 2011.

A question arose regarding the issue of coverage attributable to the shed. Mr. Quinlan explained that existing building and site coverages are 7.4% and 14.3%, respectively, but if the shed were required to be moved completely onto the subject property, then the relative coverages would increase to 8% and 14.9%, as requested in the variance application.

Town Planner Nerney explained that, under Connecticut Statutes, if a building violates setback requirements it becomes a legal nonconforming structure in terms of its location after three years. With respect to the shed issue, he explained that it is essentially a civil matter between the respective property owners, noting that the Board could not compel them to relocate the shed since it has been in its current location long past the three-year timeframe.

Ms. Sayegh confirmed that the matter is not within the jurisdiction of the Zoning Board of Appeals and she noted for the record that the Board is not proffering any opinion on the matter.

At this time, the applicant agreed to withdraw the two variance requests pertaining to building and site coverages. Mr. Quinlan confirmed again for the record that the net addition of 3.09 square feet to the existing building footprint, resulting in a coverage increase of .000098 [3.09 divided by 31450], would be de minimus when rounded to the second decimal place, and therefore it would not be necessary to request any additional coverage variance.

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

There being no further comments, the public hearing was closed at 8:14 P.M.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Ms. Sayegh called the Regular Meeting to order at 8:14 P.M., seated members Bufano, Comiskey, Fiteni, Frees, 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. 11-06-10 PETTIT 84 STONEBRIDGE RD**

Ms. Sayegh recused herself and left the meeting room.

The Board briefly discussed the application.

It was the consensus of the Board to approve the application, noting that 1) the lot is constrained by its unusual shape and the existence of a pond on site; 2) the property was compliant with respect to setbacks when it was developed in 1969; 3) the proposed modifications are minimal; 4) the neighbor most impacted has no problem with the proposed plans.

MOTION was made by Ms. Bufano, seconded by Mr. Fiteni, and carried unanimously (5-0) to **grant** the variance for a second-story addition with a 34-foot side yard setback on grounds that sufficient hardship was demonstrated, due to its pre-existing nonconforming nature and since it would not further violate the existing side yard setback.

Ms. Sayegh returned to the meeting room.

- 3. #11-06-11 LPARK NORWALK, LLC KENT RD & "DANBURY
RD TOWN LINE"**

Tabled.

4. #11-06-12 ETTIE

17 OVERIDGE LANE

Mr. Fiteni, Mr. Shiue, and Mr. Comiskey were unseated. Mr. Davidson, Ms. Sayegh, and Mr. Weiss were seated.

The Board briefly discussed the application.

It was the consensus of the Board that the primary hardship is the undersized nature of the lot which is located in and restricted by R-2A zoning. Board members also noted that the two requested dormer variances are within the current footprint of the pre-existing nonconforming building; and the requested 2-foot garage overhang, which extends over an already paved area, does not violate the spirit of the variance process.

Mr. Davidson noted for the record that the conversation between Town Planner Nerney and Mr. Comiskey regarding the issue of the off-site shed and its potential legalization was very valuable and, with Ms. Sayegh's additional input, helped the Board to focus on the relevant issues.

MOTION was made by Ms. Sayegh, seconded by Ms. Frees, and carried unanimously (5-0) to **grant** variances for 1) a proposed garage overhang with a 39 foot front yard setback in lieu of the required 50 feet; 2) a proposed northerly shed dormer with a 46.4 foot front yard setback in lieu of the required 50 feet and 3) a proposed southerly gable dormer with a 38.2 foot rear yard setback in lieu of the required 50 feet; on grounds that sufficient hardship was demonstrated due to the undersized nature of the lot and its pre-existing nonconforming use, in addition to the fact that there was no objection from neighbors.

D. OTHER BUSINESS

1. Minutes – May 16, 2011

MOTION was made by Mr. Davidson, seconded by Ms. Bufano, and carried unanimously (8-0) to approve the minutes of May 16, 2011.

E. ADJOURNMENT

MOTION was made by Ms. Sayegh, seconded by Mr. Fiteni, and carried unanimously (8-0) to adjourn at 8:28 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary