

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
OCTOBER 17, 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 briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

B. PUBLIC HEARINGS

1. #11-09-18 UGARTE 81 MOUNTAIN ROAD

Ms. Sayegh called the Hearing to order at 7:21 P.M., seated members Davidson, Fiteni, Frees, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. She noted that the hearing was continued from the previous meeting.

Ms. Bufano recused herself and left the meeting. Ms. Frees acted as Secretary for the remainder of the meeting.

Present were Gerry Panico, architect; and Gonzalo Ugarte, homeowner.

Mr. Panico reviewed details of the revised plan (revision date October 17, 2011), noting that the originally proposed 3-car garage was reduced in size to 2 bays and the height of the structure was reduced from a slope of 45 degrees to 30 degrees. He noted that as a result of the aforementioned revisions, in addition to the removal of some asphalt from the driveway, the previously requested variances for building and site coverage would no longer be necessary. He explained that building coverage is now proposed at 9.9% where

ZBA Minutes – October 17, 2011 - Page 2

10% is the maximum permitted, and site coverage is proposed at 14.9% where 15% is the maximum permitted, and he formally withdrew the request for coverage variances.

Referencing the applicant's request for 7-foot side yard setback in lieu of the required 30 feet, Mr. Panico cited rock ledge, topography and the layout/siting of the home with respect to the lot itself as hardships constraining the subject property. He stated that this is the best possible garage location for the site and the family's needs. He referenced a letter of support from the adjoining neighbor Bruce Yeko dated October 10, 2011 and entered into the record this evening.

Ms. Frees read the aforementioned letter into the record.

In response to a question from Mr. Comiskey regarding the feasibility of locating the proposed garage closer to the residence, Mr. Panico cited slope/topography issues in other areas of the site, in addition to the fact that siting the garage near the front entrance would completely cover the front of the house. Mr. Ugarte also explained that snow is plowed into that area due to the slope of the property and, further, that re-siting the garage would prevent the plower from turning around on the site.

Mr. Comiskey did not feel that the applicant's explanation adequately addressed issues with the land, noting that a snow blower could be used to blow the snow into an alternate location.

Mr. Ugarte explained further that the alternate garage location proposed would impede a vehicle's turning radius when exiting from the garage and he noted that the slope of the area causes treacherous driving conditions during winter months.

In response to a question from Mr. Nerney, Mr. Panico confirmed that a second story loft is not proposed for the garage.

Mr. Weiss asked if the applicant could provide a site plan with topography noted on the plan since he felt that the slope issue was not clearly presented. Mr. Panico stepped out for a moment at 7:40 P.M. to try to locate such documentation in his car, during which discussion of the application was halted.

Mr. Panico returned at 7:41 P.M. and indicated that he did not have more detailed topographical information available for Board review.

Mr. Ugarte reaffirmed slope issues for the site, noting that it is difficult to visualize from the map submitted. Ms. Sayegh reminded the applicant that all Board members had previously visited the site and thus were familiar with its conditions.

Ms. Sayegh noted for the record that no one other than the applicants was present in the

ZBA Minutes – October 17, 2011 - Page 3

room and therefore she did not ask if anyone wished to speak for or against the application.

There being no further comments, the public hearing was closed at 7:44 P.M.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Ms. Sayegh called the Regular Meeting to order at 7:45 P.M., seated members Davidson, Fiteni, Frees, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

1. #11- 09-18 UGARTE 81 MOUNTAIN ROAD

The Board discussed details of the application.

Mr. Fiteni felt that alternatives were available for relocating the proposed garage further away from the property line. He did not feel that the applicant's contention that it would not look nice covering the front entrance of the house represented an adequate hardship to justify a 7-foot side yard setback.

Mr. Davidson was pleased that the applicant had modified the proposed plans so as to be able to withdraw the two previously requested coverage variances. He was satisfied with the applicant's proof of hardship, referencing in particular slope/topography issues on the site. He questioned whether the proposed plan modifications would result in any issues with proper legal notice for the application.

Mr. Nerney explained that the Town has been advised by counsel that eliminating variances and/or amending an application such that it becomes less encroaching does not result in legal noticing issues. He noted that if proposed revisions resulted in material differences (e.g. siting the subject garage with the same side yard setback but in a different location on the property) then it would become problematic from a legal noticing perspective and a new application would have to be submitted.

Board members Shiue, Sayegh and Frees were pleased that both building and site coverage variances were withdrawn. They were in agreement that the site is uniquely challenging with respect to topography/slope issues as well as the existence of ledge. Ms. Frees cited the adjoining neighbor's support of the application (the only property potentially affected in any significant way) and the fact that there is no streetscape issue associated with the proposed site modifications. Mr. Shiue felt that there might be a bit of wiggle room to relocate the garage slightly, but overall he felt that the proposed location makes sense; he expressed concern that relocating it could necessitate additional asphalt on the driveway and thus result in increased site coverage.

ZBA Minutes – October 17, 2011 - Page 4

Mr. Weiss felt that hardship was present on the site but he was not convinced that the proposed variance represented the least amount of encroachment possible. He indicated that he would vote against the application if he were a voting member.

Mr. Comiskey indicated that he would also vote against the application if he were a voting member, noting that the proposed garage could, in his opinion, be relocated to an alternative location with a larger side yard setback.

MOTION was made by Ms. Sayegh, seconded by Mr. Davidson, and carried (4-1) to **grant** a variance of Section 29-5.D for a garage addition with a 7'0" side yard setback in lieu of the required 30', per plans revised/submitted October 17, 2011, on grounds that sufficient hardship was demonstrated given the difficulty of the topography, the layout of the home with respect to the lot, existing ledge, and the pitch of the land. Mr. Fiteni opposed.

D. OTHER BUSINESS

1. Minutes – September 19, 2011

MOTION was made by Ms. Frees, seconded by Mr. Fiteni, and carried (6-0-1) to approve the minutes of September 19, 2011. Mr. Comiskey abstained.

Board members Frees and Sayegh cited periodic issues with locating applicant's properties throughout Town, suggesting that perhaps Google directions could be included with applicants' submissions, or maybe mailboxes could be identified with balloons and/or ribbons to facilitate property identifications. Mr. Nerney indicated that staff would give some thought to the matter and get back to the Board.

Mr. Nerney also noted that all Town Board/Commission members have been requested to pick up meeting packages in an effort to reduce Town mailing costs over the past year or two. He noted that the Zoning Board of Appeals is the only remaining Board to whom packages are still being mailed. Several members expressed concern with picking up packages. There was no agreement/resolution of the matter.

It was the consensus of the Board to approve the proposed 2012 ZBA Meeting Schedule.

Ms. Sayegh requested that officer nominations and vote be postponed from the December meeting until the January meeting.

E. ADJOURNMENT

MOTION was made by Mr. Davidson, seconded by Mr. Weiss, and carried unanimously (7-0) to adjourn at 8:20 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary