

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

**ZONING BOARD OF APPEALS  
REGULAR MEETING  
NOVEMBER 21, 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

**ABSENT:** Steven Davidson

**A. CALL TO ORDER**

Ms. Sayegh called the meeting to order at 7:18 P.M. She briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

**B. PUBLIC HEARINGS**

**1. #11-11-19 McMENAMEY/CUGNO 67 BELDEN HILL ROAD**

Ms. Sayegh called the Hearing to order at 11:21 P.M., seated members Bufano, Fiteni, Frees, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read the legal notice dated November 7, 2011 and details of the application and the hardship as described on the application.

Present was Joe Cugno, architect, on behalf of the applicant.

Mr. Cugno submitted into the record proof of proper notifications to CT Department of Public Health and South Norwalk Electric and Water.

Mr. Cugno stated that variances in connection with ongoing site modifications for the subject property were previously approved by the Planning and Zoning Commission (PZC) via Section 29-5.C.8 of zoning regulations pertaining to historic/architecturally-significant buildings. He explained that extensive damage was uncovered during construction, revealing complete decay of a number of exterior walls and roof structure.

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He referenced a September 26, 2011 report submitted to the Wilton Building Department, with photographs documenting the extent of the damage. He explained that the applicant wishes to move forward with construction as previously approved by the PZC, but since the areas in question were deemed irreparable, the applicant must now build those areas up to current code, resulting in increased ceiling heights and a consequent increase to the overall height of the structure. Consequently, the applicant is now applying for a 22.5-inch increase in the height of the structure, as well as a front yard setback of 37.5' to accommodate a small bump-out area for a chimney.

Mr. Cugno cited hardships for the site, noting that the structure, which was built in 1814, is sited very close to the street. He also referenced topography/grading issues and rock ledge/outcroppings that constrain the site. He noted that an entire hillside area would have to be blasted out in order to relocate proposed areas of encroachment.

In response to a question from Mr. Weiss, Mr. Cugno submitted into the record an email dated September 29, 2011 from Chief Building Inspector Bob Root confirming that the areas in question are considered beyond repair and advising the applicant to apply for a demolition permit.

In response to further questions from the Board, Mr. Nerney explained that the applicant is precluded from going back before the PZC because the aforementioned Section 29-5.C.8 of zoning regulations does not allow for replacement of historic/architecturally-significant structures, but rather is intended solely to protect/preserve such buildings, and thus the applicant's appearance this evening before the Zoning Board of Appeals for relief.

Mr. Cugno explained further that while zoning regulations generally allow for a one-to-one replacement of an existing structure, the Building Department requires that such a structure must be brought up to current building code when greater than 50% is being replaced. He confirmed that the applicant intends to salvage as much as possible of the original materials for use in the reconstruction.

Ms. Bufano read into the record a letter of support dated November 17, 2011 from Therese M. Goodwin to Zoning Board of Appeals.

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

There being no further comments, the public hearing was closed at 7:45 P.M.

**2. #11-11-20 SLAUGHTER 75 HONEY HILL ROAD**

Ms. Sayegh called the Hearing to order at 7:46 P.M., seated members Bufano, Comiskey, Frees, Sayegh, and Weiss, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read the legal notice dated November 7, 2011 and details of the application and the hardship as described on the application.

Present were Mrs. Rizzo, on behalf of the applicant; and Mr. Gerstenmaier, the applicant's builder.

Mrs. Rizzo explained that as a result of extensive tree damage caused by Hurricane Irene, the applicant is being forced to repair the home. She noted that current building code requires a minimum knee wall height of 5'0", where 3'10" currently exists, and an average ceiling height of 7'0" where 5'10" currently exists, thus necessitating a request for a 2'10" increase in the height of the roofline ridge, and a 3'8" increase on the roofline eave within an existing front yard setback of 49.3' where 50' is required. She referenced a posted rendering indicating the proposed roofline as compared to the existing roofline, and she noted that no walls would be moved outward nor would there be any change in the existing footprint of the structure. She also stated that there will be an overhang over the portico, but noted that there would be nothing on the ground in connection with such overhang.

Referencing hardship on the site, Mrs. Rizzo explained that the proposed renovations are being undertaken as a result of a tree falling into the pre-existing, nonconforming house during Hurricane Irene. She noted the low ceiling and knee-wall heights of the dormered bedroom, and the inability of her children to stand up in the room. She noted the applicant's wishes to make the 1740-built house safe.

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

There being no further comments, the public hearing was closed at 7:55 P.M.

**3. #11-11-21 WOODS 29 SPOONWOOD ROAD**

Ms. Sayegh called the Hearing to order at 7:55 P.M., seated members Bufano, Frees, Sayegh, Shiue and Weiss, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read the legal notice dated November 7, 2011 and details of the application and the hardship as described on the application.

Present were Jim Murphy, attorney; and Dennis Peters, project designer; on behalf of the applicant.

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Mr. Murphy distributed three sets of handouts, including an Assessor's map of the subject site and surrounding parcels; photos of the site; and a summary of the application details and hardship criteria. He reviewed a brief history of the parcel, noting that on June 18, 1964 the 1.06 acre parcel was rezoned R-2A (Residential two-acre), just one month after it had been approved as part of a one-acre (R-1A) subdivision, rendering it immediately nonconforming. He explained that the proposed 370 square-foot addition (equivalent approximately to the size of a 1.5-car garage) onto the relatively small home is for the applicant's aging parents and would increase the parcel's site coverage from its current 14% level to 15%. He noted that 15% site coverage would be considered conforming if the parcel were still located in a one-acre zone. He noted that the site will continue to be compliant with respect to all other bulk/area requirements. Referencing submitted photos, Mr. Murphy noted that the proposed addition would not encroach on surrounding neighbors due to the ample amount of separation between the subject parcel and surrounding homes.

Mr. Murphy reviewed hardships for the site, referring in particular to the up-zoning of the parcel just one month after it was created; the fact that such a large portion of the home is one-story and thus very inefficient from a site coverage perspective; and the sloping driveway which makes a paved surface imperative for the sake of safety.

In response to further questions from the Board, Mr. Murphy explained that building up on the existing first story would not be an option given the advanced age of the intended residents; and utilizing the existing screened porch/deck for the proposed new living quarters would significantly reduce available living space for the rest of the family. He emphasized that the hardship is driven primarily by the 1964 up-zoning of the parcel and therefore the applicants qualify for the variance as requested.

Mr. Peters explained further that the applicant placed a self-imposed cap on its design criteria in an effort to keep proposed site coverage to the maximum permitted in a one-acre zone. In that regard, he noted that the family will be vacating the existing family room to provide additional space for their elderly parents/grandparents.

In response to a question pertaining to the parcel's existing 14% site coverage, which is greater than what is permitted in a two-acre zone, Mr. Peters explained that coverage regulations were not in place when the residence was constructed back in the mid 1960s.

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

There being no further comments, the public hearing was closed at 8:25 P.M.

The Board took a short recess at 8:25 P.M.

The Board returned from recess at 8:36 P.M.

Ms. Sayegh noted that this was her last meeting as a member and Chairwoman of the Zoning Board of Appeals. She thanked everyone for their ongoing service, noting that it was an honor to serve over these past years.

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

Ms. Sayegh called the Regular Meeting to order at 8:37 P.M., seated members Bufano, Fiteni, Frees, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

**1. #11-11-19 McMENAMEY/CUGNO 67 BELDEN HILL ROAD**

The Board discussed the subject application. It was the consensus of the Board that hardship was clearly demonstrated, given the pre-existing nonconforming nature of the corner lot, its existing rock ledge, and the grade/topography of the site. Board members noted further that the footprint would remain the same and, aside from the requested height increase, the structure would look very similar to what was previously approved.

MOTION was made by Ms. Bufano, seconded by Ms. Frees, and carried unanimously (5-0) to **grant** the variance for a 37.4' front yard setback in lieu of the required 50' and an increase of 22.5 inches in the height of a pre-existing non-conforming structure with a front yard setback of 37.5' in lieu of the required 50', in accordance with submitted plans, on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the lot, its topography and steep grade, and its corner lot configuration.

**2. #11-11-20 SLAUGHTER 75 HONEY HILL ROAD**

Mr. Fiteni and Mr. Shiue were unseated. Mr. Comiskey and Mr. Weiss were reseated.

The Board discussed the subject application. It was the consensus of the Board that hardship was adequately demonstrated, given the pre-existing nonconforming nature of the lot and the requirement to bring the structure up to current building code. Board members noted further that neither the footprint nor the setback would be changing.

MOTION was made by Mr. Weiss, seconded by Ms. Frees, and carried unanimously (5-0) to **grant** the variance for a height increase of 2'10" on the roofline ridge and a height increase of 3'8" on the roofline eave within an existing front yard setback of 49.3' in lieu of the required 50', per submitted plans, on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the lot and the requirement to bring the structure up to current building code.

**3. #11- 11-21 WOODS**

**29 SPOONWOOD ROAD**

Mr. Comiskey was unseated. Mr. Shiue was reseated.

The Board discussed the subject application. Board members Comiskey, Weiss, Bufano and Sayegh were of the opinion that hardship does exist, given the up-zoning that occurred soon after the property was approved for subdivision in 1964, as well as new coverage requirements that were adopted in the 1990s, all of which created after-the-fact limitations on the property.

Ms. Frees stated that she was having difficulty justifying the existence of a legal hardship on the property. She cited the fact that the applicant is not proposing a modification to an existing structure and she noted that some paving could perhaps be removed from the existing driveway in order to minimize the proposed site coverage of 15%. Mr. Fiteni concurred, noting that he, too, was struggling with the application for similar reasons.

Mr. Shiue stated that he had mixed feelings. He cited the fact that the applicants are not the original owners of the parcel and therefore they were aware of the inherent limitations at time of purchase, although he also acknowledged the modest nature of the proposed addition and the constraints/hardships noted by the applicants.

MOTION was made by Ms. Sayegh, seconded by Ms. Bufano, and carried (4-1) to **grant**, per submitted plans, a variance to allow the construction of an addition resulting in site coverage of 15% in lieu of the 12% permitted, on grounds that sufficient hardship was demonstrated given the fact that the property had undergone several changes through the years, including the up-zoning of the parcel in 1964 and the adoption of site coverage requirements in the 1990s, all of which impacted the property and were outside the control of the applicants, in addition to the fact that the proposed addition represents a modest and reasonable use of the property. Ms. Frees opposed.

**D. OTHER BUSINESS**

**1. Minutes – October 17, 2011**

MOTION was made by Ms. Frees, seconded by Mr. Comiskey, and carried (6-0-1) to approve the minutes of October 17, 2011. Ms. Bufano abstained.

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An issue arose regarding the upcoming December 19<sup>th</sup> ZBA meeting. Since it was determined that none of the current officers would be present at the meeting, Ms. Sayegh asked Peter Shiue to chair the December 19<sup>th</sup> meeting and he agreed.

**E. ADJOURNMENT**

MOTION was made by Ms. Frees, seconded by Mr. Weiss, and carried unanimously (7-0) to adjourn at 9:20 P.M.

Board and staff members remained until 9:45 P.M. to offer best wishes to retiring Chairwoman Miriam Sayegh and to recognize her many years of service.

Respectfully submitted,

Lorraine Russo  
Recording Secretary