

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

**DRAFT  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
JULY 16, 2012  
7:15 P.M.**

**TOWN HALL ANNEX - MEETING ROOM A**

**PRESENT:** Sally Poundstone, Chairwoman; Timothy Meyer, Vice-Chairman; John Comiskey, Secretary; Albert G. Nickel; Joe Fiteni, Alternate

**ABSENT:** Steven Davidson; Brian Lilly; Libby Bufano (notified intended absence)

**A. CALL TO ORDER**

Ms. Poundstone called the meeting to order at 7:15 P.M.

**B. PUBLIC HEARINGS**

**1. #12-07-15 COVIELLO 51 CLOVER DRIVE**

Ms. Poundstone called the Hearing to order at 7:15 P.M., seated members Comiskey, Fiteni, Meyer, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read details of the application and the hardship as described on the application.

Present was Jason Coviello, applicant.

Mr. Coviello briefly reviewed details of his application, noting that the property is a rear lot where the house faces the side instead of the front. Referencing the proposed garage, he explained that the structure would still encroach approximately 3-5 feet into the front yard setback even if the width of the proposed garage were reduced to 20 feet (which he noted would not be wide enough these days to accommodate two cars). He also referenced rock ledge on the site which prohibits pushing the garage further back in order to reduce the proposed encroachment.

Mr. Coviello discussed a flood plain issue that arose during his refinancing process

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whereby recent FEMA map changes categorized a portion of his property as flood plain. He noted that he has hired a consultant to contest the FEMA mapping but will in all likelihood not have a resolution to the issue in the very near future.

In response to questions from the Board, Town Planner Nerney explained that flood plain issues are not under the purview of the Zoning Board of Appeals, noting in particular that construction can be allowed in such areas if compensatory flood storage and proper elevation are provided. He felt that it would be best for the Board to review the application as submitted, noting that other issues, if any, will play out once the applicant hears back from FEMA.

Mr. Nerney explained further that the 100-foot wetlands setback is ecologically-driven, whereas FEMA regulations address issues of public safety and insurance. He noted for the record that the 1956 construction date of the home predates environmental regulations which were enacted sometime in the 1970s.

In response to a question from Mr. Fiteni as to why the applicant requires such a deep garage, Mr. Coviello explained that the extra space will provide much needed storage area since the home has neither a basement nor an attic.

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

There being no further comments, the public hearing was closed at 7:23 P.M.

### **2. #12-07-16 ARAVENA 21 OREMS LANE**

Ms. Poundstone called the Hearing to order at 7:23 P.M., seated members Comiskey, Fiteni, Meyer, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated July 2, 2012, and details of the application and the hardship as described on the application.

Present were Tracy DePaulis and Daniel Aravena, applicants/owners.

Ms. DePaulis reviewed details of the application, noting that the proposed above-garage addition would include a bedroom and bath and would not encroach any further into the setbacks. She referenced the proposed patio and air conditioning unit, noting that there is nowhere else to site the HVAC unit and it would look best in the location proposed.

Mr. Comiskey questioned how the applicant would realize a decrease in total site coverage (as indicated on the application), given the proposed increase in patio size. Ms. DePaulis confirmed that site coverage would decrease, noting that the applicants are proposing replacement of the existing asphalt driveway with pavers, and the use of flagstone for the patio which only counts at 50% towards site coverage.

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In response to a question from Mr. Meyer regarding the distance from the proposed HVAC unit to the nearest neighbor's house, Ms. DePaulis explained that the unit would be approximately 9-10 feet to the property line and then an additional 11.11' to the nearest neighbor's residence.

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

Doug Bayer distributed copies of a statement written by Douglas I. Bayer, dated July 16, 2012, with attached Declaration of Restriction dated January 17, 2007, noting that he was representing Lucy Krupenye, neighboring property owner at 19 Orems Lane.

Ms. Poundstone noted for the record that Attorney Bayer had done some work for her about 5 years ago and that she had worked with him on the Planning and Zoning Commission, but she did not feel that either connection would affect her ability to act objectively on the application.

Mr. Fiteni indicated that Attorney Bayer had also done some work for him in the past but he did not feel it would pose any conflict of interest for him.

Mr. Bayer summarized the major points of his aforementioned statement, noting in particular that if the applicant were to build the proposed garage addition, it would leave only 12 feet between the applicant's living space and Ms. Krupenye's property and only about 25 feet in total between the two houses.

Mr. Bayer reviewed a brief history of the subject property, noting that the applicants had sought a number of variances in late 2006, one of which was the same above-garage variance as the applicant is currently requesting. He noted that an agreement was reached at that time between Ms. Krupenye and the applicants (which was recorded on the Wilton land records) whereby the parties agreed that no structure would ever be built over the applicant's garage, in return for which Ms. Krupenye dropped her objections to the other variances requested in 2006 and did not appeal the Zoning Board of Appeal's decisions at that time.

Mr. Bayer reminded the Board that it is a Board of equity and, as such, is charged with balancing the rights of an individual homeowner/applicant with the overall effects of a proposed application on neighboring properties and the Town in general. Consequently, he felt that the Board should not grant the requested variances, especially when doing so will lead to a civil lawsuit between the parties. He stated that, even if the Commission does not consider the existing agreement between the parties, it should deny the application for the garage addition since it will be a significant structure near the property line and will worsen already existing noise and light impacts on Ms. Krupenye's property. In summary, he stated that the scope of the project is well in excess of what the Board should grant.

Addressing the proposed HVAC unit, Mr. Bayer noted that the unit could be sited on the other side of the house where there would be greater distance to any nearby property owner and where it would not have the significant noise impacts on Ms. Krupenye's property as currently proposed. Regarding the proposed patio, he stated that the applicant could still enjoy the use of a significant patio yet still remain within the 20-foot setback.

Ms. Krupenye noted that the applicant's home was originally 840 square feet prior to the granting of the 2006 variances, at which time the home was expanded to 1850+/- square feet. She explained the nature of the covenant between her and the applicants, noting that they had agreed not to build above the garage nor install any windows on the southerly side of the second floor that faces her property. She noted further that the applicant had since installed flood lights that shine into her residence.

Ms. Krupenye explained further that she subsequently constructed an addition onto her home in 2008 in order to move her living quarters farther away from the applicant's expanded living area, but she did not install any windows on the second floor out of consideration for the applicants. She stated that the applicant's current garage proposal is in direct violation of the agreement, representing a huge and unbearable hardship to her due to noise and privacy issues.

Ms. Krupenye stated that the proposed HVAC location would result in noise impacts on her property, noting that the unit could be placed on the other side of the home where no neighbors would be impacted. She urged the Board to uphold zoning regulations and not grant the applicant's request which would impact her privacy and lower the value of her property.

In response to questions from the Board, Mr. Nerney explained that a covenant is a private agreement which the Town does not enforce and, as such, it shouldn't form the basis for either an approval or a denial. He suggested that the Board query both parties about issues of hardship.

Mr. Meyer asked the applicant to respond to the points made by Mr. Bayer and Ms. Krupenye, especially with respect to the agreement between the parties.

Ms. DePaulis explained that she was pregnant when she was forced to choose between their first garage proposal in 2006 or complying with Ms. Krupenye's demands that they never build over their garage. At the time, she stated that they chose to cut their losses so as to be able to expand their house via the variances that were requested at the time, since Ms. Krupenye had agreed not to appeal those variances (if granted) in exchange for the aforementioned garage agreement. However, since then she noted that Ms. Krupenye had expanded her house to be as large as theirs and she had built over her garage as well. Ms.

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DePaulis stated that her son has never had a bedroom (which the requested garage addition would provide) because they decided not to fight Ms. Krupenye on this issue at the time.

Ms. Poundstone explained that the Board can only deal with issues that are within its purview.

Ms. DePaulis requested that the Board just consider their hardships as presented. She entered into the record a petition of support for the variances requested, signed by 13 property owners on Orems Lane and Danbury Road.

Mr. Bayer responded, noting that: 1) the renovations made by Ms. Krupenye to her residence are not relevant to this application; 2) the neighbors who signed the aforementioned petition are not as directly impacted by the proposed work as Ms. Krupenye; 3) even if the Board finds that an adequate hardship is demonstrated, it needs to balance what is being requested by the applicant with the rights of other property owners and the Town.

Mr. Comiskey stated that he would feel more comfortable if he had additional time to review all the submitted materials further and to be able to visit the site again.

The majority of the Board concurred. However, the applicants indicated that they would prefer that the matter be decided this evening.

Ms. Krupenye noted for the record that she had never intended to add on to her house, but ultimately constructed the addition due to the hardship imposed upon her by the applicant's addition and its resulting privacy/lighting impacts on her property. She concluded by emphasizing the excessively large size of the requested addition in relation to the size of the land parcel, and also by noting that nowhere else in Wilton are houses sited this close together and therefore no one else in Town would be as impacted by the requested site modifications as would she.

Mr. Aravena responded by noting that his lights are not pointing towards Ms. Krupenye's house but rather are pointing towards his backyard.

After further consideration of the Board's expressed preference to continue the application until its next meeting in September, the applicants reluctantly agreed to continue the hearing until September 17, 2012

There being no further comments, at 8:20 P.M. the public hearing was continued until September 17, 2012.

**3. 12-07-17 MILLER**

**43 OWN HOME AVENUE**

Ms. Poundstone called the Hearing to order at 8:22 P.M., seated members Comiskey, Fiteni, Meyer, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated July 2, 2012, and details of the application and the hardship as described on the application.

Present were Sara Miller and Kenny Rhodes, applicants/owners.

Mr. Meyer noted for the record that he was a former neighbor of Mr. Rhodes but he did not feel it represented any conflict of interest.

Mr. Rhodes explained that due to a buried oil tank that leaked during its removal, an existing retaining wall and steps from the driveway up to the back of the house had to be excavated out and removed. He noted that the only way to access the house currently is from the front yard. He explained that their plan is to relocate the front entry door from the side of the house to the actual front of the house, and to build masonry steps, a walkway, and a landing with portico to provide proper access to the front of the house. He cited the steep grade of the property that makes it nearly impossible and very unsafe to access the front of the house in its present condition.

Mr. Rhodes noted further the applicant's desire to build a second story dormer that will be offset approximately 1-2 feet from the existing footprint on both the front and side of the house. He explained that the only existing full bathroom in the home is located on the second story, but due to the sloping ceiling there is not adequate headroom to shower comfortably or to even hang a mirror on the bathroom wall. He noted that the proposed roof line would not be any higher and therefore not encroach any further than existing.

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

There being no further comments, at 8:29 P.M. the public hearing was closed.

**4. 12-07-18**

**ILOWITZ**

**85 CEDAR ROAD**

Ms. Poundstone called the Hearing to order at 8:29 P.M., seated members Comiskey, Fiteni, Meyer, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated July 2, 2012, and details of the application and the hardship as described on the application.

Present was Andrew S. Ilowitz, applicant/owner.

Mr. Ilowitz reviewed details of his application, noting that the property is pre-existing,

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nonconforming, consisting of 0.63+/- acres in an R-2A (2-acre) zoning district. He explained that the proposed shed style dormer on the western side of the house will not extend beyond the existing roof line below it and the ridge line will not be changed. He noted that it is a simple plan to gain a small bit of height and living space on the second floor.

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

There being no further comments, at 8:38 P.M. the public hearing was closed.

### **5. 12-07-19 WILTON CONGREGATIONAL CHURCH, INC. 77 RIDGEFIELD ROAD**

Ms. Poundstone called the Hearing to order at 8:38 P.M., seated members Comiskey, Fiteni, Meyer, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated July 2, 2012, and details of the application and the hardship as described on the application.

Present was Jonathon Foltz, Executive Chair of Wilton Congregational Church.

Mr. Foltz reviewed details of the application, noting that the applicant is trying to restore and save the two Comstock Barns, which are pre-existing, nonconforming dating back to circa 1850-1860 and which are located next to each other on the corner of Ridgefield and Belden Hill Roads. Referencing one of the barns (known as the “Parsonage Barn”), he explained that the applicant would like to extend the portion going toward the house and away from the road in order to make a usable covered parking area for the parsonage. He explained that the proposed shed roof addition/carport would provide much needed coverage/safe parking for the minister who goes out during all times of the year and at all hours of the day/night as part of his ministry. He noted further that the applicant has received two grants from the State in order to complete the necessary repairs.

Mr. Foltz explained further that the proposed shed roof addition would have no relevant impact on building/site coverage numbers for the parcel, and he noted that the Historic District Commission recently approved a “Certificate of Appropriateness” for the proposed work.

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

There being no further comments, at 8:45 P.M. the public hearing was closed.

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

Ms. Poundstone called the Regular Meeting to order at 8:45 P.M., seated members Bufano, Comiskey, Davidson, Lilly, and Meyer, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

**1. #12-07-15 COVIELLO 51 CLOVER DRIVE**

The Board briefly discussed the application. It was the consensus of the Board that the application was straight-forward and well-documented with respect to existing hardship.

MOTION was made by Mr. Fiteni, seconded by Ms. Poundstone, and carried unanimously (5-0) to **grant** the variance to allow a garage with a 33-foot front yard setback in lieu of the required 40 feet, as per Plot Plan prepared by Advanced Surveying, LLC, for Paula A. Smith & Jason R. Coviello dated May 25, 2011, on grounds that sufficient hardship was demonstrated given the pre-existing siting of the house on the property and the excessive amount of wetlands on the site.

**2. #12-07-16 ARAVENA 21 OREMS LANE**

Tabled.

**3. 12-07-17 MILLER 43 OWN HOME AVENUE**

The Board briefly discussed the application. It was the consensus of the Board that the application was straight-forward and well-documented with respect to existing hardship. Ms. Poundstone noted in particular the topographically challenging aspect of the site and the desirability of preserving the older homes in Town.

MOTION was made by Mr. Comiskey, seconded by Mr. Fiteni, and carried unanimously (5-0) to **grant** the variance to allow an addition of a front stoop/landing, portico, and 3 steps with a 21.5 foot front yard setback in lieu of the required 40 feet; and a variance of Section 29-5.D to allow an addition of a front second story dormer with a 24.5 foot front yard setback in lieu of the required 40 feet, and a 17.6 foot side yard setback in lieu of the required 30 feet, as per Zoning Location Survey prepared for Sara Miller by Advanced Surveying dated June 19, 2012, revised June 30, 2012, on grounds that sufficient hardship was demonstrated given the topographical features of the property and the position of the original home on the property.



**4. 12-07-18 ILOWITZ 85 CEDAR ROAD**

The Board briefly discussed the application. It was the consensus of the Board that the application was straight-forward and well-documented with respect to existing hardship. Mr. Fiteni noted in particular that the site is currently nonconforming and the applicant is not proposing any further expansion of the footprint.

MOTION was made by Mr. Fiteni, seconded by Mr. Meyer, and carried unanimously (5-0) to **grant** the variance to allow construction of a shed style dormer on the western side of the house with a 31.8-foot side yard setback in lieu of the required 40 feet; and 44.3-foot front yard setback in lieu of the required 50 feet, as per Map of Property prepared for Andrew S. Ilowitz by Land Surveying Services, LLC, dated June 20, 2012, on grounds that sufficient hardship was demonstrated given the pre-existing positioning of the building on the lot and the fact that no expansion of the footprint is proposed.

**5. 12-07-19 WILTON CONGREGATIONAL CHURCH, INC.  
77 RIDGEFIELD ROAD**

The Board briefly discussed the application, indicating its overall approval of the proposed site modifications and the fact that the proposed renovations were important given the historical significance of the property.

MOTION was made by Mr. Meyer, seconded by Mr. Nickel, and carried unanimously (5-0) to **grant** the variance to allow a post and wall supported shed roof addition with a 14-foot front yard setback in lieu of the required 50 feet, as per Improvement Location Survey, Proposed, prepared for Wilton Congregational Church, Inc. by Ryan and Faulds, dated June 20, 2012, and per rendering of Wilton Congregational Church Parsonage Barn – Shed Addition, prepared by Kevin R. Quinlan dated February 5, 2012, on grounds that sufficient hardship was demonstrated given the pre-existing location of the structure within the setback, its historical significance, and the needs of the community.

**D. OTHER BUSINESS**

**1. Minutes – June 18, 2012**

It was the consensus of the Board to approve the minutes of June 18, 2012 as written.

**E. ADJOURNMENT**

MOTION was made by Mr. Meyer, seconded by Mr. Fiteni, and carried unanimously (5-0) to adjourn at 8:55 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary