

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

**ZONING BOARD OF APPEALS
REGULAR MEETING
JANUARY 22, 2013
7:15 P.M.
TOWN HALL ANNEX - MEETING ROOM A**

PRESENT: Sally Poundstone, Chairwoman; Timothy Meyer, Vice-Chairman; John Comiskey, Secretary; Brian Lilly; Albert Nickel; Libby Bufano, Alternate; Steven Davidson, Alternate

ABSENT: Joe Fiteni (notified intended absence)

A. CALL TO ORDER

Ms. Poundstone called the meeting to order at 7:16 P.M.

B. PUBLIC HEARINGS

1. #13-01-01 QUINLAN/WHITE 188 DRUM HILL RD

Ms. Poundstone called the Hearing to order at 7:16 P.M., seated members Bufano, Davidson, Lilly, Meyer, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. In Mr. Comiskey's absence, Mr. Meyer read the legal notice dated January 7, 2013 and referenced a letter of opposition from Diane R. Busby dated January 21, 2013.

Present were Kevin Quinlan, architect; and Wendy White, property owner.

Mr. Nickel arrived at approximately 7:20 P.M.

Mr. Quinlan thanked the Board for a chance to present the redesigned plans. He noted that previously proposed site modifications were shrunk substantially and are now almost totally in conformance with zoning regulations.

Ms. White explained further that the redesigned plans emphasize adherence to zoning

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regulations and issues of safety (referencing the proposed covered entrance and also the garage overhang to address ice formation on the driveway), as well as attempt to incorporate/honor the opinions, thoughts and concerns of neighbors.

Mr. Quinlan reviewed plan changes, noting that the previously proposed two-car garage has been downgraded to a one-car garage and has also been pulled forward so as to have no side yard setback encroachment on the northwest side of the property.

Mr. Comiskey arrived at 7:24 P.M.

Mr. Quinlan next addressed the proposed covered porch entry, referencing water that currently spills down/freezes on the entry area. He noted that the proposed 34-foot side yard setback is more conforming than the 33-foot side yard setback that was approved for the property in 2004.

He explained further that the non-compliant, slight overhang proposed for above the garage door is necessary in order to keep the area de-iced and the Bilco stair hatchway, also non-compliant, is necessary to provide access for both machinery and repairmen to the as-of-right basement. He noted that the direction of the Bilco stair was rotated so as to decrease its non-conformity as compared to the original application. He also referenced the issue of the failing furnace, currently located on the second floor of the home, which will be relocated to a safer location in the basement.

Addressing the issue of coverages, Mr. Quinlan noted that the site modifications as currently proposed result in 11.9% site coverage where 12% is permitted and therefore no longer requires a site coverage variance, although a building coverage variance of 11.4% is being sought where 8.7% currently exists on the property.

Addressing the air conditioning condenser unit, Mr. Quinlan stated that he consulted an experienced A/C contractor who indicated that the proposed unit will be well below the Town's noise ordinance level and, further, will not present any noise hardship on the adjacent neighbor given existing shrubbery, an 8-foot tall fence on the neighbor's property, and the fact that the neighboring residence is 75+/- feet away.

In summary, Mr. Quinlan emphasized the applicant's attempt to work with neighbors and to shrink the originally proposed nonconformities, noting in particular that one adjacent neighbor (the Nobles) had submitted a letter in favor of the application. He noted again the fact that the home has no basement, no attic, no covered entry and a failing furnace on the second floor that is likely exhausting harmful fumes into the home.

Mr. Lilly observed for the record that the proposed kitchen and covered entryway expansion is actually slightly more conforming than what was approved via a previously granted variance in 2004.

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

Diane Busby, 186 Drum Hill Road, adjoining neighbor, felt that not having a garage is not a hardship and she noted further that the applicant was aware of this deficiency when she purchased the property. Ms. Busby stated that tearing down the cabin on the back side of the property does not grant the applicant the right to build a replacement structure on another side of the property. She felt that if the applicant must build a garage, it should be constructed where the existing cabin is located so that she will not have a view of it from her property. She expressed concern for the amount of exhaust/fumes that will impact her on a daily basis if the garage is located as proposed. She also questioned, and objected to, what the shed might someday be converted into, noting that it, too, will potentially become an eye-sore on the property.

Mr. Quinlan addressed the concerns raised by Ms. Busby, noting that car exhaust will not be an issue since the applicant's car will now be parked farther away from Ms. Busby's property than currently and will be located inside a closed garage. Addressing Ms. Busby's suggestion that a garage be built where the cabin is currently located, Mr. Quinlan explained that Section 29-4.F of zoning regulations prohibits any enlargement/extension of an existing nonconformity and thus the modifications that would be necessary to convert the cabin into a garage would not be permitted.

Mr. Quinlan addressed the issue of hardship, noting that lack of a garage is not the stated hardship for the site; rather, the small 0.587-acre size of the property and its location in, and required adherence to, two-acre zoning restrictions is the inherent hardship. He also noted for the record that the shed (referenced by Ms. Busby) is not a part of this application.

Town Planner Nerney distributed for the Board's reference a copy of Section 29-13.B.6 of zoning regulations regarding "Finding(s)" necessary for granting of a variance.

Mr. Lilly asked if Ms. Busby had any objection to the proposed condenser unit. Ms. Busby stated that she did not really have an objection as long as the A/C contractor's statement that it will not be too loud is correct.

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

C. APPLICATIONS READY FOR REVIEW AND ACTION

Ms. Poundstone called the Regular Meeting to order at 7:40 P.M., seated members Bufano, Davidson, Lilly, Meyer, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

1. #13-01-01 QUINLAN/WHITE 188 DRUM HILL RD

The Board briefly discussed the application. Ms. Poundstone cited the aforementioned Section 29-13.B.6.c of zoning regulations, noting that the subject application is consistent with the intent of the Town’s Plan of Conservation and Development which emphasizes concern for, and importance of, preserving smaller dwellings in Town.

Mr. Lilly noted for the record that the applicant could legally build the proposed 1-car garage as proposed except for a slight overhang extension proposed on the front. He agreed that the hardship is the small, approximate half-acre, size of the parcel which is located in a two-acre zoning district, and he noted the need for an adequate car turning-radius to be able to access the garage.

Referencing Section 29-13.B.6.b of zoning regulations, Mr. Meyer felt that the granting of the requested variances is necessary for the “reasonable use of the lot or structure”.

Mr. Comiskey had no problem with the variances as proposed, concurring that the hardship is the small size of the lot. He noted that the garage per se is not the relevant issue since the same footprint could have been utilized for any type addition to the existing residence (e.g. bedroom, family room, etc.). He felt that the application, after being refined/modified by the applicant, is now acceptable and satisfies the standards necessary to be approved by the Board.

MOTION was made by Mr. Lilly, seconded by Ms. Poundstone, and carried unanimously (5-0) to **grant** the variances of Section 29-5.D to allow a proposed kitchen addition and adjacent covered porch with a 34-foot side yard setback and a one-car garage containing a shed roof overhang with a 30-foot side yard setback, in lieu of the required 40 feet; a Bilco stair hatchway and air-conditioning condenser unit with a 35.3-foot side yard setback in lieu of the required 40 feet; and building coverage of 11.4% where 8.7% currently exists and 7% maximum is allowed; as per submitted “Zoning Location Map” prepared by Roger A. Stalker and dated September 17, 2012; on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the property, its small, approximate half-acre size located in a two-acre zoning district, and the inability to locate a garage anywhere on the property that would conform to required setbacks given the nonconforming size of the property.

D. OTHER BUSINESS

1. Minutes – December 17, 2012

MOTION was made by Mr. Nickel, seconded by Mr. Lilly, and carried (6-0-1) to approve the minutes of December 17, 2012. Mr. Davidson abstained.

E. ADJOURNMENT

MOTION was made by Mr. Lilly, seconded by Mr. Nickel, and carried unanimously (7-0) to adjourn at 7:50 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary