

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

**ZONING BOARD OF APPEALS
REGULAR MEETING
FEBRUARY 19, 2013
7:15 P.M.
TOWN HALL ANNEX - MEETING ROOM A**

PRESENT: Sally Poundstone, Chairwoman; John Comiskey, Secretary; Brian Lilly; Libby Bufano, Alternate; Joe Fiteni, Alternate

ABSENT: Steven Davidson; Timothy Meyer and Albert Nickel (advised intended absences)

A. CALL TO ORDER

Ms. Poundstone called the meeting to order at 7:15 P.M. She briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

B. PUBLIC HEARINGS

1. #13-02-02 IPE 31 RIVERGATE DRIVE

Ms. Poundstone called the Hearing to order at 7:15 P.M., seated members Bufano, Comiskey, Fiteni, Lilly, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated February 5, 2013 and details of the application and the hardship as described on the application.

Present were Bruce & Ruth Ipe, applicants/owners.

The hardship was described during the Secretary's reading of the "Hardship Description", which referenced the L-shaped configuration of the lot; its pre-existing non-conforming status (with the house located 32.4 feet from the east side property line); and the fact that all utilities and the propane line into the home are already located on the east side of the residence. It was also noted that any alternative, conforming locations would require additional ditching, and would also present propane access issues since the propane delivery trucks have hoses of only about 100 feet long.

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Mr. Ipe added for the record that they would be installing an underground propane tank (which would not require a zoning variance) to the left of the generator and within the prescribed distances from the generator and from the house.

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

There being no further comments, the public hearing was closed at 7:20 P.M.

2. #13-02-03 GEITZ 8 SEELEY ROAD

Ms. Poundstone called the Hearing to order at 7:20 P.M., seated members Bufano, Comiskey, Fiteni, Lilly, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated February 5, 2013 and details of the application and the hardship as described on the application.

Present were Tim and Lindsey Geitz, applicants/owners.

Mr. Geitz reviewed a brief history of the property. He explained that site modifications, granted via variances in 2008, could not be completed since soil conditions were determined to be inadequate for the septic system that would have been required. He also noted that Health Department regulations were subsequently changed as well, which reduced the number of permitted bedrooms on the site down to two and forced the applicants to modify their previously approved design by moving the garage doors forward 6'1". He explained that by also raising the roof ridge line, mechanicals could be located higher, in consideration of the property's flood zone classification. He noted that the new plans as currently proposed would actually lessen the side yard encroachment.

Mr. Geitz exhibited the old plans and compared them to the revised plans. He stated that the property has serious constraints, including wetlands, floodway locations, the unique shape of the property, the smaller lot size located in a two-acre zone, as well as septic and site elevation issues.

Mrs. Geitz explained that the current situation presents a significant hardship to their family and two-year old child. She noted that the house hasn't been lived in for about 15 years and is currently an eyesore to the surrounding area. She stated that they would just like a small charming house to raise their family in and she felt that they were not asking for anything "over the top".

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

Rose Hegglund, an adjacent property owner, and her daughter-in-law Ingrid Guerliacci,

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spoke in opposition of the application. They stated that the 2008 variance application had already granted a 16'4" side yard setback where 40 feet were required and they felt that the currently requested 5.5 feet is too close to their property and is thus not acceptable.

Mr. Geitz explained for the record that a small sliver of the Heggland's land runs between the Geitz property and the railroad tracks, but he noted that the neighbor's house is actually located a significant distance away and cannot be seen from the subject property.

Board members Comiskey and Fiteni explained that nothing in the current application would be increasing the side yard nonconformity, noting in particular that the side yard setback was actually 4.1 feet as far back as 1961.

Ms. Heggland and Ms. Guerliacci continued to express concern with what they perceived to be a further expansion of the building into the property's side yard setback, from 16'4" to 5.5'.

Addressing their concerns, Town Planner Nerney referenced the posted site plan, noting that the variance granted in 1961 actually established the 4.1 foot side yard setback line at that time, whereas the 2008 approval just allowed for an in-fill structure with a 16'4" side yard setback (necessary at the time because the proposed work was within a non-conforming area of the property). He emphasized that the line of the existing building was already established at the 4.1 foot side yard setback line in 1961 and was not in any way changed as part of the 2008 variances that were granted, nor would it be affected in any way by the currently proposed variance. In fact, it was noted that the proposed garage encroachment would actually be located farther away at 5.5 feet from the side yard property line.

In response to a question from Mr. Nerney, Mr. Geitz stated that the proposed site modifications would increase the existing footprint from approximately 1600+/- square feet to approximately 2200+/- square feet. Mr. Nerney noted that the applicant is not proposing an excessively large house. Mr. Lilly noted further that only 4.06% building coverage is proposed where 7% is allowed.

There being no further comments, the public hearing was closed at 7:54 P.M.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Ms. Poundstone called the Regular Meeting to order at 7:54 P.M., seated members Bufano, Comiskey, Fiteni, Lilly, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

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1. #13-02-02 IPE 31 RIVERGATE DRIVE

The Board briefly discussed the application. It was the consensus of the Board that the application was fairly straight-forward. The Board noted in particular that a variance was already granted for air conditioner units in the same location as the proposed generator.

MOTION was made by Mr. Lilly, seconded by Mr. Fiteni, and carried unanimously (5-0) to **grant** the variance of Section 29-5.D to permit the installation of a propane generator with a 27-foot side yard setback in lieu of the required 40 feet, as per submitted plan prepared by Ryan and Faulds, dated December 11, 2012 and received January 18, 2013; on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the property.

2. #13-02-03 GEITZ 8 SEELEY ROAD

The Board briefly discussed the application. It was the consensus of the Board that adequate hardship was demonstrated given the pre-existing nonconforming nature of the property.

MOTION was made by Mr. Fiteni, seconded by Ms. Bufano, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to permit modifications to a previously approved variance for purposes of expanding building footprint and extending a second story level, resulting in a side yard setback of 5.5 feet where 40 feet is required; as per Proposed Site Development Plan prepared by Pereira Engineering, LLC, dated October 23, 2008 and updated January 16, 2013, and per Site Development Plan prepared by Peak Engineers, LLC, dated March 12, 2011 and revised January 23, 2013; on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the property and in consideration of the fact that it proposes a lesser side yard setback intrusion as compared to one that was originally approved.

D. OTHER BUSINESS

1. Minutes – January 22, 2013

MOTION was made by Mr. Lilly, seconded by Mr. Comiskey, and carried (4-0-1) to approve the minutes of January 22, 2013. Mr. Fiteni abstained.

E. ADJOURNMENT

MOTION was made by Mr. Lilly, seconded by Mr. Fiteni, and carried unanimously (5-0) to adjourn at 8:00 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary