

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

**ZONING BOARD OF APPEALS
REGULAR MEETING
JULY 15, 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; Joe Fiteni, Alternate

ABSENT:

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. #13-07-09 DEMPSTER 19 TAMARACK PLACE

Ms. Poundstone called the Hearing to order at 7:15 P.M., seated members Bufano, Fiteni, Lilly, Meyer, and Nickel, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated July 1, 2013 and details of the application and the hardship as described on the application.

Present were Cynthia Dempster, owner/applicant; and John Carlson, realtor.

Ms. Dempster explained that the applicants purchased their home this past May. She stated that due to their small-sized garage, they are in need of a shed for storage of bikes for their three small children, as well as for gardening supplies, tools, equipment, etc. She cited hardship constraints of the subject property, including its configuration and topography.

She submitted into the record a letter of support from Dawn and Stewart Breakey. She stated that the proposed shed would not be in direct view of any of their neighbors' homes, noting further that a significant hill off the back of their house will serve as

additional screening.

In response to questions from the Board as to possible alternative shed locations that would not require a variance, Ms. Dempsey explained that ledge is suspected on the north side of the house, and the southern area was identified by the previous owners as an alternate septic location in the event of a future addition onto the existing house. Wetlands and septic were noted on the west side of the driveway, with the well located on the south end of the property. Ms. Dempster noted further that large trees would prevent the proposed shed from being located closer to the residence inside the property setback line. She submitted photos into the record to support her assertion that the area is heavily forested.

Ms. Dempster also noted for the record the shed installer's opinion that the sloped area to the rear would make installation in that area difficult. The question was raised as to whether the shed could be located closer to the propane tank. There were differing viewpoints among Board members as to whether there would be the necessary 10 feet of clearance that is required by regulations.

Ms. Dempster stated that the shed would be installed on crushed stone or backfill and would rest on 4 x 4's and thus would be minimally invasive to the environment.

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

There being no further comments, the public hearing was closed at 7:29 P.M.

2. #13-07-10 ALLEN 36 COBBLESTONE ROAD

Ms. Poundstone called the Hearing to order at 7:29 P.M., seated members Bufano, Comiskey, Meyer, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated July 1, 2013 and details of the application and the hardship as described on the application.

Present was Matthew Allen, applicant/owner.

Mr. Allen noted for the record that he had contacted his neighbors, Peter and Liz Haynes, and although they were unable to submit documentation in favor of the variance due to recent medical issues, he indicated that they had no objections to the application as submitted.

Mr. Allen explained that a basement room is high on their priority list due to the needs of a growing family (including three children ages 6, 8 and 10). He noted that in order to obtain a functional kitchen/great room remodel as well as a basement room,

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approximately one-third of the proposed new addition would fall over the 40-foot required setback line. He explained that although the previous owners had added onto the southern end of the house, they were unable to install a basement in that area since they ran into ledge approximately 2-3 feet down. He noted further that the septic and two dry wells are located to the east, and if a new septic is ever required on the property, it will probably have to be located in the front (west), leaving only the north side for the proposed addition.

Mr. Allen stated that the only house near the subject residence is the Haynes's, whom he noted previously have no objection to the application.

In response to questions from the Board, Mr. Allen indicated that building coverage would increase from approximately 3.4+/- % to 3.8% as a result of the proposed 23' x 15' addition.

It was also noted that a previous addition was approved via a variance application in 1992 with a 33.3' side yard setback on the same side as the currently proposed 30' side yard setback variance.

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

There being no further comments, the public hearing was closed at 7:39 P.M.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Ms. Poundstone called the Regular Meeting to order at 7:39 P.M., seated members Bufano, Fiteni, Lilly, Meyer and Nickel, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

1. #13-07-09 DEMPSTER 19 TAMARACK PLACE

The Board reviewed/discussed the application.

Mr. Lilly felt that the proposed shed location is probably the only area where the shed could reasonably be located. He referenced the odd-shaped lot; the fact that the road is located on a cliff; and the inability to locate the shed closer to the house without cutting down at least one mature tree. He noted further that the shed does afford the owners/applicants better overall use of their home.

Mr. Comiskey felt that the shed could probably be relocated to a less intrusive location with respect to the setback line. He questioned the necessity of a shed in general, as well as whether a hardship was proven; although he noted that he would not be voting on the

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subject application.

Mr. Meyer referenced topography/ledge issues as well as the location of the septic, noting that the proposed shed location is probably best for all practical purposes. He noted further that the shed is not a permanent structure (i.e. no permanent foundation) and there are no objections from surrounding neighbors. He indicated that he would be in favor of approving the application.

Board members Bufano and Nickel indicated that they were also favorably disposed.

MOTION was made by Ms. Bufano, seconded by Mr. Meyer, and carried unanimously (5-0) to **grant** the variance of Section 29-5.D to allow a shed addition with a 25-foot side yard setback in lieu of the required 40 feet, as per submitted “Zoning Location Map” dated June 18, 2013, prepared by Stalker Land Surveying, Inc., on grounds that sufficient hardship was demonstrated given the topography/slope of the area, and due to the fact that the shed had to be placed to the rear of the driveway turnaround.

2. #13-07-10 ALLEN 36 COBBLESTONE ROAD

Messrs. Fiteni and Lilly were unseated. Mr. Comiskey and Ms. Poundstone were reseated.

The Board reviewed/discussed the application.

Mr. Meyer stated that he was struggling to identify the hardship.

Ms. Poundstone expressed concern that the submitted survey did not clearly indicate the setback lines for the property, although it was subsequently determined that sufficient documentation/measurements were provided to make a proper decision on the matter.

Mr. Lilly cited the thin, odd-shaped nature of the parcel, noting that if it were a more traditional square-shaped parcel, the applicants would not need to be here this evening. Referencing the existing 33.3’ setback on the northeast side, he stated that the property is already pre-existing nonconforming on that side and therefore the applicant is only requesting an additional 3.3’ of encroachment on that same side. He noted further that it is actually one corner of the proposed addition that is the subject of this variance.

MOTION was made by Mr. Nickel, seconded by Ms. Poundstone, and carried (4-1) to **grant** the variance of Section 29-5.D to allow a building addition with a 30-foot side yard setback in lieu of the required 40 feet, as per submitted “As-built Plot Plan” prepared by John Paul Garcia & Assoc. P.C., revised June 21, 2013, on grounds that sufficient hardship was demonstrated given the shape and pre-existing nonconforming nature of the property. Mr. Meyer opposed.

D. OTHER BUSINESS

1. Minutes – June 17, 2013

MOTION was made by Mr. Nickel, seconded by Mr. Fiteni, and carried unanimously (7-0) to approve the minutes of June 17, 2013 as drafted.

Mr. Nickel noted for the record that he will recuse himself during any future discussions of application #12-04-09, which is involved in ongoing litigation with the Town.

Mr. Meyer referenced the Crowther variance application at 45 Belden Hill Road that was approved in May. He asked for confirmation from staff that previously approved variances for the site were properly relinquished, as was discussed and agreed to by the applicant during the May hearing. Recording Secretary Russo indicated that she would follow up on the matter and advise the Board accordingly.

E. ADJOURNMENT

MOTION was made by Mr. Nickel, seconded by Mr. Lilly, and carried unanimously (7-0) to adjourn at 8:03 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary