

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

**FINAL
ZONING BOARD OF APPEALS
REGULAR MEETING
OCTOBER 20, 2008
7:15 P.M.**

TOWN HALL ANNEX - MEETING ROOM A

PRESENT: Miriam Sayegh, Chairwoman; John Gardiner, Vice-Chairman; Barbara Frees, Secretary; Lori Bufano; John Comiskey; Peter Shiue, Alternate; Peter Bell, Alternate; Daniel Darst, Alternate

ABSENT:

A. CALL TO ORDER

Ms. Sayegh called the meeting to order at 7:24 P.M. She briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

B. PUBLIC HEARINGS

1. #08-09-16 MAZIER 1072 RIDGEFIELD ROAD

Ms. Sayegh referred to a letter dated October 20, 2008 from J. Casey Healy to Zoning Board of Appeals requesting a continuance of the application until November 17, 2008. Ms. Frees read the aforementioned letter into the record.

Mr. Darst arrived at 7:28 P.M.

There being no further comments, at 7:28 P.M. the public hearing was continued until November 17, 2008.

2. #08-10-18 OLIVERI 243 CHESTNUT HILL ROAD

Ms. Sayegh called the Hearing to order at 7:28 P.M., seated members Bell, Bufano, Frees, Gardiner, and Sayegh, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Frees read the legal notice dated October 6, 2008 and details of

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the application and the hardship as described on the application.

Present was Frank Oliveri, applicant.

Mr. Oliveri explained that the primary hardship is that the subject site consists of only 1.04 acre, but is located in, and constrained by, 2-acre zoning. It was the general consensus of the Board that the septic location in the back center of the property did not in any way constitute a hardship as alleged by the applicant.

Mr. Oliveri noted that his proposed plans include the removal of existing asphalt driveway material, thus reducing existing site coverage from 16.76% to a proposed 9.44%. He stated that neighbors had indicated approval of his proposed plans by signing next to their names in the submitted package materials.

Ms. Sayegh felt that the applicant's proposed reduction in site coverage would represent a distinct advantage to the Town. She briefly reviewed the overall benefits of reducing impervious coverage, citing drainage/positive environmental impacts to the Town.

Mr. Comiskey cautioned the applicant, if his request should be approved by the Board this evening, to be certain that the pool is installed in the proper location as indicated on the submitted plans so as to avoid having to appear before the Board again.

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

There being no further comments, the public hearing was closed at 7:44 P.M.

3. #08-10-19 CHILDS 115 HURLBUTT STREET

Ms. Sayegh called the Hearing to order at 7:45 P.M., seated members Comiskey, Frees, Gardiner, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Frees read the legal notice dated October 6, 2008 and details of the application and the hardship as described on the application.

Present was Lyle Fishell, architect.

Mr. Fishell explained that the subject property is located in a non-conforming neighborhood where most lots consist of approximately ½-acre but are constrained by two-acre zoning regulations. He noted that the owner, Mr. Childs, is debilitated as a result of recent bypass surgery and crippling arthritis and, as a result, requires a comfortable-sized bedroom on the first floor of the residence, with an over-sized door to accommodate a wheelchair. He referred to a posted site plan and explained that the new addition would consist of only 274 square feet, noting that the existing 1500 square-foot

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home consists of only five rooms including 2 bedrooms.

Mr. Comiskey referred to an existing propane tank and cautioned the applicant to be aware of setback constraints if/when the tank is relocated.

Mr. Fishell explained further that there was no neighbor opposition to the proposed construction and therefore no letters were submitted to the Board.

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

Peter Jennewein stated that he is an architect and planner by trade and he spoke on behalf of Mr. Childs, the owner, explaining that he is immobile and therefore unable to make the steps to his bedroom on the second floor. He urged the Board to “have a heart”, noting that the Childs have been members of this community for over 35 years.

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

4. #08-10-20 3 HOLLYHOCK PROPS, LLC 3 HOLLYHOCK RD

Ms. Sayegh called the Hearing to order at 8:00 P.M., seated members Bufano, Comiskey, Frees, Gardiner, and Sayegh, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Frees read the legal notice dated October 6, 2008 and details of the application and the hardship as described on the application.

Ms. Frees read into the record a letter [received October 17, 2008] from Vikram Mital to Zoning Board of Appeals.

Present were Clarissa Cannavino, attorney; and Holt McChord, engineer.

Ms. Cannavino distributed revised plans to the Board. She reviewed details of the application, noting in particular that the subject parcel consists of only 0.251 acre but is located in the DE-5 zone which is intended for 5-acre parcels. She distributed an overlay analysis demonstrating that it is not possible to construct any building on this site given DE-5 zoning regulations. She also clarified that one of the side setbacks was incorrectly noted by the applicant as 18 feet instead of 14.4 feet, although she indicated that the understated dimension would not be problematic from a legal standpoint since the other side setback was noticed at 13.7 feet, representing an even greater encroachment into the side setback.

Mr. McChord briefly reviewed existing and proposed conditions, noting that the hardship is created as a result of the very undersized lot which is constrained by DE-5 zoning regulations which apply to 5-acre parcels.

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Ms. Sayegh asked if the applicant would be amenable to some type of screening in the interests of the neighbor who had expressed concern. Ms. Cannavino felt that the owner would probably be willing to make a reasonable accommodation in that regard. Mr. McChord noted that the applicant would be required to appear before the Planning and Zoning Commission for a site plan approval and would be submitting a detailed landscaping plan at that time which would address such screening issues.

Ms. Sayegh expressed concern with the amount of site coverage proposed and questioned whether there is any way for the applicant to reduce proposed site coverage down to the permitted 50% level.

A discussion ensued and it was the general consensus of the Board that it would be more comfortable with the proposed site renovations if the applicant could reduce proposed site coverage down to the permitted 50% level.

Mr. Nerney recalled a similar coverage issue in connection with a property across the street, noting that the applicant at that time resolved the issue by using pavers set in stone dust which is not included in site coverage calculations. He suggested that the applicant consider a similar approach for the subject parcel.

Upon further consideration, the applicant decided to go forward with the setback portions of the application and to try to redesign the site so that a site coverage variance would not be required.

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

There being no further comments, the public hearing was closed at 8:42 P.M.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Ms. Sayegh called the Regular Meeting to order at 8:43 P.M., seated members Bell, Bufano, Frees, Gardiner, and Sayegh, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

1. #08-09-16 MAZIER 1072 RIDGEFIELD ROAD

Tabled.

2. #08-10-18 OLIVERI 243 CHESTNUT HILL ROAD

Most members of the Board were in agreement that the undersized nature of the lot represented a hardship to the property, and that the proposed site coverage reduction from

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approximately 16% to 9% was a net positive to the Town and an attractive offset to the proposed increase in building coverage.

Ms. Frees felt that a hardship was not adequately proved, noting that a swimming pool is not a necessity.

MOTION was made by Ms. Sayegh, seconded by Mr. Bell, and carried (4-1) to **grant** the variance for 8.9% building coverage in lieu of the permitted 7% on grounds that sufficient hardship was demonstrated given the undersized nature of the lot, and with the further recognition that the proposed reduction in site coverage would be a net positive to the Town. Ms. Frees opposed.

3. #08-10-19 CHILDS 115 HURLBUTT STREET

Mr. Bell and Ms. Bufano were unseated. Mr. Comiskey and Mr. Shiue were reseated.

The Board briefly discussed details of the application and was in general agreement that the undersized lot represented an adequate hardship for the site, with specific reference to the fact that the 1910 residence is pre-existing and thus the hardship is not self-imposed.

MOTION was made by Mr. Gardiner, seconded by Mr. Comiskey, and carried unanimously (5-0) to **grant** the following variances: i) a 23-foot rear yard setback in lieu of the required 50 feet; ii) a 38.3-foot side yard setback in lieu of the required 40 feet; and iii) building coverage of 10.4% in lieu of the permitted 7%; on grounds that sufficient hardship was demonstrated given the 0.5 +/--acre size of the parcel which is located in, and constrained by, two-acre zoning and given the fact that it is a pre-existing, non-conforming use.

4. #08-10-20 3 HOLLYHOCK PROPS 3 HOLLYHOCK ROAD

Mr. Shiue was unseated. Ms. Bufano was reseated.

The Board was in general agreement that the applicant had demonstrated sufficient hardship with respect to the requested setback variances due to the small size of the lot which is located in, and constrained by, DE-5 zoning, but that hardship was not demonstrated with respect to the requested site coverage variance. It was noted that the area is in transition and that the proposed development of the site would be consistent with the overall plan for the area. The Board urged the applicant to maintain site coverage at or below the 50% permitted level, suggesting the use of various pervious materials to improve overall drainage on the site, and it noted in particular that the screening issue raised by the adjoining neighbor would be addressed with the Planning

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and Zoning Commission.

MOTION was made by Ms. Sayegh, seconded by Ms. Bufano, and carried unanimously (5-0) to **grant** the following variances of Section 29-7.E: i) a 24-foot front yard building setback in lieu of the required 50 feet; ii) a 13.7-foot side yard building setback in lieu of the required 50 feet; iii) a 14.4-foot side yard building setback in lieu of the required 50 feet; iv) a 9.5-foot side yard parking setback in lieu of the required 25 feet; and v) a 2-foot rear yard parking setback in lieu of the required 25 feet; on grounds that sufficient hardship was demonstrated due to the undersized nature of the lot and the fact that any building constructed on the site would violate required DE-5 zoning setbacks.

MOTION was made by Mr. Gardiner, seconded by Ms. Sayegh, and carried unanimously (5-0) to **deny** a variance of Section 29-7.E to allow 58.1% site coverage in lieu of the permitted 50% on grounds that adequate hardship was not demonstrated.

D. OTHER BUSINESS

1. Minutes – September 15, 2008

MOTION was made by Mr. Darst, seconded by Ms. Sayegh, and carried (7-0-1) to approve the minutes of September 15, 2008. Mr. Bell abstained.

2. 2009 Meeting Schedule

MOTION was made by Ms. Sayegh, seconded by Mr. Gardiner, and unanimously carried (8-0) to approve the 2009 ZBA Meeting Schedule.

E. ADJOURNMENT

MOTION was made by Ms. Sayegh, seconded by Mr. Darst, and carried unanimously (8-0) to adjourn at 9:15 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary