

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

**ZONING BOARD OF APPEALS
REGULAR MEETING
JUNE 15, 2009
7:15 P.M.
TOWN HALL ANNEX - MEETING ROOM A**

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

ABSENT: Daniel Darst; John Comiskey (notified intended absence)

A. CALL TO ORDER

Ms. Sayegh called the meeting to order at 7:19 P.M. She briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

B. PUBLIC HEARINGS

1. #09-05-05 TRICHILO 46 OLD BOSTON RD

Ms. Sayegh called the Hearing to order at 7:19 P.M., seated members Bufano, Frees, Gardiner, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Sayegh noted that the application was continued from the previous meeting.

Present were Jessica and Enzo Trichilo, owners/applicants.

Ms. Trichilo distributed revised maps and posted a copy for Board review. She explained that the survey map was updated to reflect flagged wetlands determined from a 2007 soil scientist's report. She noted site hardships including an oddly-shaped jog on the lot frontage and a significant amount of wetlands (over 2 acres) on the 3.8-acre parcel. She explained further that the required 100-foot wetlands buffer significantly constrains placement of the addition toward the rear of the residence.

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In response to questions from the Board, the applicants indicated that the proposed bump-out would be 6 feet wide, including the overhang, noting that this represented a reduction from their original plans for an 8-foot bump-out.

Mr. Nerney noted for the record that if the Board has a problem with the proposed plans, it could deny the application and have the applicant resubmit, as opposed to attempting to revise the proposed plans during the course of the meeting, which could result in potential conflicts with building code requirements, access requirements, etc. Conversely, he noted that if the Board decides to approve the application, it could condition any such approval on compliance with plans/drawings as submitted.

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

There being no further comments, the public hearing was closed at 7:45 P.M.

2. #09-06-06 SCHIFF 33 CANTERBURY LA

Ms. Sayegh called the Hearing to order at 7:48 P.M. Ms. Bufano read the legal notice dated June 2, 2009 and details of the application and the hardship as described on the application.

Ms. Sayegh recused herself to avoid any perceived conflict of interest in connection with one of her clients who is also a neighbor living within 500 feet of the subject property. She asked Ms. Frees to act as chair for the subject Hearing.

Ms. Frees again called the Hearing to order. She seated members Bell, Bufano, Frees, Gardiner, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

Present was Kenneth Schiff, owner/applicant.

Mr. Schiff explained the nature of the hardship, noting that the applicant had worked in good faith to meet all zoning/permit requirements in connection with the replacement of a pre-existing nonconforming deck. He noted that his contractor, John Keilch of Great New England Designs LLC, handled the permitting process and had signed off that the new deck would be built within the existing setbacks, although subsequently the Zoning Enforcement Officer determined that the deck was not built in compliance with submitted plans.

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Mr. Schiff referred to a photograph of his property, noting the two areas of deck non-conformity. He noted in particular that the plot is constrained by its narrowness and the density of woods on the site. He stated that his neighbor on the non-compliant side of his property supports the subject application, referring to a letter of support that was submitted into the record by this neighbor.

In response to questions from the Board, Mr. Schiff explained that because the property line is not straight, the encroachment into the side yard setback varies between 1.8 feet and 4.2 feet, respectively. At the request of the Board, Mr. Nerney determined that the applicant was requesting, on average, about 66 square feet minus the small bump-out of about 6 square feet that was there previously, resulting in about 60 square feet of encroachment in total.

Mr. Shiue stated that the contractor seems to be the liable party. Mr. Schiff agreed, but he noted that they had followed the required permitting process in good faith and had no intention of not complying with zoning regulations. He stated that they are law-abiding citizens and feel awful about what has happened.

In response to a question from Ms. Frees, Mr. Schiff stated that the hot tub could have been built within the confines of the previously existing deck. He noted further that the hot tub is more like a lap pool, requiring a significant deck foundation, and had to be lifted/dropped into place with a crane.

Mr. Nerney noted for the record that the subject parcel does not conform with today's two-acre zoning requirement for a minimum 200 x 200-foot square, noting that the parcel is only 185 feet at its widest point although it extends over 500 feet in length.

Mr. Schiff explained further that part of his hardship is the narrowness of the lot and the fact that the house was built closer to the non-conforming side of the parcel than to the other side.

Ms. Bufano read into the record a letter of support from neighbors Richard and Barbara Cunningham at 41 Canterbury Lane.

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

John Donahoe, 25 Canterbury Lane, stated that he is the neighbor on the opposite side of the encroaching deck. He spoke in support of the application, noting that he is a licensed architect who used to serve on the Zoning Board of Appeals. He referred to the long, narrow nature of the lot as its main constraint, noting further that the staggered placement of homes in the area lends privacy and, as a result, the requested variance does not create any significant hardship for anyone.

There being no further comments, the public hearing was closed at 8:15 P.M.

The Board decided to scramble the agenda and deliberate the subject application prior to proceeding to the next Public Hearing, which was requested for continuance by the applicant.

C. APPLICATIONS READY FOR REVIEW AND ACTION

2. #09-06-06 SCHIFF 33 CANTERBURY LA

The Board deliberated the subject application.

Mr. Bell felt that although the problem belongs entirely to the contractor, referring specifically to the clearly stated condition that the new deck be built in compliance with pre-existing setbacks, he acknowledged that the lot is odd-shaped and that the Board might, in fact, have granted a variance for the deck, as built, if it had been requested. On that basis, he stated that he would support the variance.

Mr. Shiue concurred, noting that he could support the variance on the same basis, but he also expressed his discomfort with allowing sloppy contractor work.

Ms. Bufano agreed, noting further the support of both neighbors as well as the feel/layout of the surrounding neighborhood.

Mr. Gardiner noted that while the variance was clearly self-created, the Board would probably have approved such a variance had it been requested, and he indicated further that he was deeply moved by both neighbors' support of the application.

Ms. Frees concurred, noting that the pre-existing deck was already nonconforming and the requested additional encroachment is minimal.

MOTION was made by Ms. Bufano, seconded by Mr. Bell, and carried unanimously (5-0) to **grant** the variance on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the lot as well as its shape.

Ms. Sayegh returned at 8:25 P.M.

B. PUBLIC HEARINGS

3. #09-06-07 F.O.A.D., LLC 830 DANBURY RD

Ms. Sayegh called the Hearing to order at 8:26 P.M. Ms. Bufano read into the record a letter dated June 15, 2009 from Attorney J. Casey Healy requesting that the public hearing be continued until July 20, 2009. Ms. Bufano also read the legal notice dated June 2, 2009 and details of the application and the hardship as described on the application.

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

There being no comments, at 8:29 P.M. the public hearing was continued until July 20, 2009.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Ms. Sayegh called the Regular Meeting to order at 8:30 P.M., seated members Bufano, Frees, Gardiner, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

1. #09-05-05 TRICHILO 46 OLD BOSTON RD

The Board deliberated the requested variance.

Mr. Bell expressed support for the application, referring to the amount and location of wetlands on the site.

Mr. Shiue stated that while the proposed expansion is fairly significant, he would be inclined to approve it because of the significant amount of wetlands on the site.

Ms. Bufano stated that she did not have a problem with the application based on the amount of wetlands on the site as well as the irregularly shaped front property line.

Ms. Sayegh stated that she was unsure as to what the applicants are actually proposing. While she acknowledged a significant amount of wetlands on the 3.3-acre site, she stated

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that she would have no problem if the applicants were just building up as opposed to encroaching into the setback.

Ms. Frees felt that the applicants did clarify the wetlands a bit better in their revised plan, although she did not feel it was a very clear application, nor did she feel the applicants provided a clear argument regarding the reason for the 6-foot front porch. However, given the jut-out of the front property line and the fact that this property line irregularity is not perceptible from the perspective of the roadway, she stated that she could support the application.

Mr. Gardiner felt that the odd-shaped lot as well as the front property line jog-in represented a hardship for the property. He felt that anyone driving by would not be aware of the front property line jog-in and therefore he stated that in the spirit of the law, if not the letter of the law, he could support the application.

At the suggestion of Ms. Sayegh, the Board took another minute to think about the application before voting.

MOTION was made by Mr. Gardiner, seconded by Ms. Sayegh, and carried unanimously (5-0) to **grant** the variance, with the **condition** that the proposed addition be built in accordance with submitted plans, on grounds that sufficient hardship was demonstrated due to the property's extensive wetlands, its pre-existing nonconforming nature, as well as its unusual shape (it being long and narrow and having a front yard jog-in).

D. OTHER BUSINESS

1. Minutes – May 18, 2009

MOTION was made by Ms. Sayegh, seconded by Mr. Gardiner, and carried unanimously (6-0) to approve, as drafted, the minutes of May 18, 2009.

Ms. Sayegh advised Board members that, in the interest of educational advancement, she is recommending that a land use professional come speak to the Board, perhaps sometime in September and also in November.

Mr. Nerney noted that the Town of Wilton, as a member of the Connecticut Federation of Planning and Zoning Agencies, could ask Steve Byrne, who is affiliated with the Agency, to come speak to the Board in September, and then perhaps a different land use expert could be

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invited to speak before the Board sometime in November.

Ms. Sayegh suggested starting these presentations around 5:45 P.M. so that 1 ½ hours might be devoted to the presentation prior to the start of the regularly scheduled meetings at 7:15 P.M.

E. ADJOURNMENT

MOTION was made by Ms. Frees, seconded by Mr. Bell, and carried unanimously (6-0) to adjourn at 8:47 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary