

ZONING BOARD  
OF  
APPEALS  
Telephone (203) 563-0185  
Fax (203) 563-0284



TOWN HALL ANNEX  
238 Danbury Road  
Wilton, Connecticut 06897

**ZONING BOARD OF APPEALS  
REGULAR MEETING  
OCTOBER 19, 2009  
7:15 P.M.  
TOWN HALL ANNEX - MEETING ROOM A**

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

**ABSENT:** Daniel Darst, Alternate (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. #09-10-09 FOSTER 195 BRANCH BROOK ROAD**

Ms. Sayegh called the Hearing to order at 7:21 P.M., seated members Bufano, Comiskey, Frees, Gardiner, and Sayegh, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read the legal notice dated October 5, 2009 and details of the application and the hardship as described on the application.

Present were Kevin Quinlan, architect; and Chris Foster, homeowner.

Mr. Quinlan briefly reviewed the proposed plans for a larger shed/barn-like structure. He explained that the family requires additional storage space for sporting goods and various other items/equipment, as well as a place to store their cars. Mr. Foster explained further that the existing shed is rotting and needs to be replaced. He noted that the 3000 square-foot home is a relatively small house for a family of four.

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Mr. Quinlan noted topographical aspects of the property that constrain placement of the proposed structure within the required setbacks, referring in particular to rock ledge and enormous boulders, steep slope/retaining wall issues, as well as the main waste line and septic tank locations. He noted that the 40-foot setback number was selected since it is a recognized side yard setback requirement for a two-acre zone, although he also indicated that existing rock ledge on the property would constrain any further reduction of the proposed setback intrusion.

In response to questions from the Board, Mr. Quinlan stated that the existing shed measures approximately 11 feet x 22 feet (231 s.f.) and the proposed shed/barn would measure 18 feet x 32 feet (576 s.f.), although he explained that a lean-to (that may or may not be constructed) would take up 8 of the 32 feet proposed. He noted that the structure would be pre-fabricated, thus resulting in lesser site impact, and the proposed loft would not have any plumbing or cooking facilities so it would not be considered an accessory apartment.

Mr. Foster explained that they were not proposing to replace the existing shed because they would like the additional space that the proposed barn would provide. In response to whether the proposed structure could be moved closer to the retaining wall, he indicated that there would be about 1 ½ feet between the edge of the shed and the existing retaining wall, although Mr. Quinlan indicated that they could do a bit more measuring and provide a more exact measurement to the Board if necessary.

In response to questions from the Board, Mr. Foster stated that the proposed cupola could be eliminated from the plans due to its potential negative visual impact on neighbors, and he indicated that the residence does have a basement but it is relatively small and almost completely utilized for storage purposes.

Mr. Comiskey questioned the degree of hardship posed by existing ledge since the applicant had indicated that the structure could be pinned to ledge. He also noted that if the size of the structure were reduced slightly and if its location were moved a bit closer to the retaining wall, perhaps a variance would not be required at all. He stated that it was difficult for him to see exactly where the ledge was located on the property.

Mr. Quinlan stated that an excavator who had visited the property had indicated that there were some enormous boulders (not movable by machine) that would prevent the barn from being located in some of the areas referred to without raising the grade of the property considerably. He stated that the applicant would like to go back to collect additional information that might help the Board make its decision. He also noted that the applicant could spot the distance from the proposed shed to the retaining wall.

Mr. Gardiner felt that the proposed size of the structure seemed rather large and he

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questioned the need for a second story, referring in particular to the large visual impact that the increased height would have on the neighbor. Mr. Foster indicated that the neighbor did not have any objection to the proposed plans.

Ms. Sayegh stated that the Board would like some additional information noted on the plans, including the retaining wall and its exact distance to the proposed structure, and specific notation of the boulders that cannot be moved. She noted that it is the applicant's decision as to whether to eliminate the cupola and/or downsize the structure, as currently proposed.

Mr. Nerney noted for the record that any proposed size modifications should be clearly noted on the plans by the surveyor, along with exact measurements to setback lines. He emphasized the need to be very specific if changing any of the proposed plans, noting that the previously published legal notice would suffice as long as any further modifications would result in a lesser impact on the setback than was originally proposed/noticed.

Ms. Bufano read into the record a letter dated September 23, 2009 from Linda Schmidt, Cheryl Ryder and Edna Kubialka to Zoning Board of Appeals indicating no objection to the proposed site modifications.

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

There being no further comments, at 8:00 P.M. the public hearing was continued until November 16, 2009.

### **2. #09-10-10 SADEGI 265 DANBURY ROAD**

Ms. Sayegh called the Hearing to order at 8:02 P.M., seated members Bufano, Frees, Gardiner, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read the legal notice dated October 5, 2009 and details of the application and the hardship as described on the application.

Present were Kevin O'Brien of Wilton Country Homes; and Sam Sadegi, property owner.

Mr. O'Brien referred to posted plans, noting that the subject building had previously functioned as a residence, a jewelry store and a painting contractor's store. He explained that the applicant is proposing to raise the roof of the main structure by 3 feet, effectively raising the back wall from 5 to 8 feet in height. He stated that they are not proposing to add any square footage to the building but would only be increasing volume. He noted that the structure would have a similar look to it as the adjacent building.

In response to a question from Mr. Shiue, Mr. O'Brien explained that the building has been vacant for awhile, citing the low ceiling height issue along the back wall and the negative impact that Route 7 construction has had on the property. He noted for the record that the size of the property is now 0.179+/- acres (after the State's taking of a portion of the property), although the assessor's map shows it as 0.2+/- acres, and he also noted that the zone was recently changed from R-1A (residential) to DRD (design residence district).

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

There being no further comments, the public hearing was closed at 8:16 P.M.

**C. APPLICATIONS READY FOR REVIEW AND ACTION**

Ms. Sayegh called the Regular Meeting to order at 8:17 P.M., seated members Bufano, Frees, Gardiner, Sayegh, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

**1. #09-10-09 FOSTER 195 BRANCH BROOK ROAD**

Tabled.

**2. #09-10-10 SADEGI 265 DANBURY ROAD**

The Board discussed the application. It was the consensus of the Board that the proposed roof raising was a reasonable request that would make the structure more usable. Board members felt that the height issue represented a hardship for the owner, and since there would be no change to the footprint the application presented no significant problems.

MOTION was made by Ms. Sayegh, seconded by Ms. Frees, and carried unanimously (5-0) to **grant** a variance of Section 29-6.E.1 to extend the height of the structure from 15+/- feet to 18+/- feet, with existing legally non-conforming front yard, side yard, and rear yard setbacks of 1.2 feet, 6 feet and 0 feet, respectively, in lieu of the required 50 feet, 25 feet and 25 feet, respectively, on grounds that sufficient hardship was demonstrated due to the pre-existing non-conforming nature of the property, the recent taking of a portion of the parcel by the State, the undersized nature of the lot, and the previous change of zone.

**D. OTHER BUSINESS**

**1. Approval of Minutes – September 21, 2009**

MOTION was made by Mr. Gardiner, seconded by Ms. Bufano, and carried (5-0-2) to approve the minutes of September 21, 2009. Mr. Bell and Ms. Sayegh abstained.

**E. ADJOURNMENT**

MOTION was made by Mr. Gardiner, seconded by Ms. Bufano, and carried unanimously (7-0) to adjourn at 8:40 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary