

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

**ZONING BOARD OF APPEALS
REGULAR MEETING
DECEMBER 21, 2009
7:15 P.M.
TOWN HALL ANNEX - MEETING ROOM A**

PRESENT: Barbara Frees, Vice-Chairman; Lori Bufano, Secretary; John Gardiner; John Comiskey; Peter Shiue, Alternate

ABSENT: Miriam Sayegh, Peter Bell, Daniel Darst (notified intended absences)

A. CALL TO ORDER

Ms. Frees, acting as Chairwoman in the absence of Ms. Sayegh, called the meeting to order at 7:20 P.M. She briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals. Ms. Bufano read the legal notice dated December 8, 2009 for both applications #09-12-11 (Corsaro) and #09-12-12 (Pettit).

B. PUBLIC HEARINGS

1. #09-12-11 CORSARO 36 BORGLUM ROAD

Ms. Frees called the Hearing to order at 7:20 P.M., seated members Bufano, Comiskey, Frees, Gardiner, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read details of the application and the hardship as described on the application.

Present was Joe Cugno, architect, on behalf of the applicant.

Mr. Cugno reviewed details of the application. He noted that one of the variances is to add a new roof with minimal overhangs, affecting an area where the setback line runs through a corner portion of the house. He stated that the second variance is to convert an existing screened porch into living space. He explained that although the roof could be replaced exactly as is without a variance, gutters and an overhang, as well as a slightly higher sloped roof, are required for safety reasons and to prevent leaking on the north side of the house. He noted that the last architectural roof, without the slightly higher slope

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and without proper venting, lasted only sixteen years. He explained further that the additional encroachment, which is due to expanding outside of the currently existing envelope, is only 3 cubic feet.

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

There being no further comments, the public hearing was closed at 7:32 P.M.

2. #09-12-12 PETTIT 27 WOLFPIT LANE

Ms. Frees called the Hearing to order at 7:32 P.M., seated members Bufano, Comiskey, Frees, Gardiner, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Ms. Bufano read the legal notice dated December 8, 2009 and details of the application and the hardship as described on the application.

Present was Marc Andre, architect, on behalf of the homeowner.

Mr. Andre referred to posted plans of the subject site. He explained that the applicant plans to build a new residence and would like to convert the existing house into a 3-car garage whose new volume and footprint would actually be less than existing. He noted that the setback incursion would also be reduced from 9+/- feet to approximately 12 feet. He explained that although the entire structure could be rebuilt as is without a variance, because of a small infill area a variance is required. He explained further that an alternative design, requiring a 30-foot curb cut, could be implemented without the need for a variance, but the applicant felt that such a design would be unsafe and inappropriate for the area.

Town Planner Nerney, present in the audience, cited Wilton Zoning Regulations whereby replacement of any structure is permitted as long as the existing nonconformity is not increased in any way.

Mr. Andre explained that wetlands also played a role in the siting of the structure in such a way as to require a variance.

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

Peter Condos, 20 Bittersweet Trail (the property directly below the subject parcel), opposed the application, citing an existing water drainage problem in that area already due to a swimming pool on the west side. He noted that the proposed residence would consist of 4600 square feet, which he felt was a sizable amount of construction for the site, noting further that he was not permitted to build a 1 ½-foot high stone wall on his property just a few years ago.

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Ms. Frees explained that the entire building will be within the required setbacks and therefore the Zoning Board of Appeals has no ability to address that issue as long as permitted coverages are not violated. She noted that the Board could only consider the applicant's request for the small infill area, which is the only portion that actually requires a variance. She noted further that the applicant has the right to rebuild the existing structure as is but, as a result of the proposed changes, is actually proposing a smaller sized structure.

Mr. Gardiner suggested that the issue of drainage might be better addressed by the Inland Wetlands Commission when the application comes before it.

Kenneth Walsh, 12 Bittersweet Trail, was very upset with the proposed site modifications. He felt that the Board needs to look at the broader picture since the application will invariably come before it eventually.

Ms. Frees explained that the Board is empowered only to consider zoning regulations and cannot consider issues involving drainage. She noted that each Commission has its own authority/purview and that such an issue is more correctly addressed through the Inland Wetlands Commission.

Mr. Nerney confirmed that this Board's review is very limited in scope, involving only issues of compliance with zoning regulations. He explained that the Inland Wetlands Commission has the authority to consider drainage and storm water runoff issues, and the Health Department can consider perk rates. He urged the applicant to have an engineer evaluate site drainage, with a particular focus on peak runoff conditions.

David Pool, 11 Bittersweet Trail, expressed concern with the wording of the legal notice which he felt was misleading and did not convey the full impact of the proposed site renovations. He felt that the 3-car garage should not be permitted to be rebuilt since it is not a similar use structure to a 1 ½-story residence.

Ms. Frees stated that she fully understood Mr. Pool's concerns, but she explained that the Board can only concern itself with the footprint/volume of a proposed structure and whether it will comply with setbacks and coverages, noting that use is not an issue it can address.

Mr. Nerney explained further that the setback, for purposes of applying for the subject variance, was measured conservatively from the closest point of the structure, not from the infill portion itself. He noted that the applicant would not technically even need a variance if the structure were built as proposed, but without the infill portion.

Mr. Andre stated that the applicant already has a licensed engineering system designed for

the site. He explained that it is actually safer to create the proposed court yard configuration rather than have a 30-foot wide curb cut. He stated that the applicant has the right to erect the 3-car garage, but he noted for the record that the footprint and volume are being reduced from existing conditions. He felt that the proposed request was very minimal and not unreasonable in light of the reduced incursions being proposed.

There being no further comments, the public hearing was closed at 8:18 P.M.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Ms. Frees called the Regular Meeting to order at 8:19 P.M., seated members Bufano, Comiskey, Frees, Gardiner, and Shiue, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

1. #09-12-11 CORSARO 36 BORGLUM ROAD

The Board briefly discussed the variance application. It was the general consensus of the Board that it was a fairly simple, straight-forward application in connection with a pre-existing, non-conforming use, where the increase in volume is minimal with little, if any, impact on neighbors, and where the gutters are a safety factor which will redirect the water more efficiently.

MOTION was made by Mr. Gardiner, seconded by Ms. Bufano, and carried unanimously (5-0) to **grant** the variance on grounds that sufficient hardship was demonstrated since it is a pre-existing non-conforming structure and the proposed modifications will improve drainage and safety, and will have minimal impact on neighbors.

2. #09-12-12 PETTIT 27 WOLFPIT LANE

The Board discussed the variance application. It was the general consensus of the Board that although it understood and was sympathetic to the position of the opposing neighbors, the issue of drainage and construction size was outside of its jurisdiction and would be better addressed by the Inland Wetlands Commission. While the Board acknowledged that the proposed construction would be quite large, it noted that it could only rule upon the small infill portion that technically required a variance.

Mr. Comiskey noted that this Board has a limited role and represents just a small portion of the overall permitting process. He felt that the proposed solution was safer than the alternative which would have resulted in a 30-foot curb cut and would not have even required the applicant to apply for a variance.

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Ms. Frees noted further that the application would reduce the existing footprint and encroachment by a significant amount.

MOTION was made by Mr. Comiskey, seconded by Mr. Gardiner, and carried unanimously (5-0) to **grant** the variance on grounds that sufficient hardship was demonstrated given the presence of wetlands and the fact that repositioning the structure would push it further into the wetlands area, with the further understanding that the proposed site renovations would result in a reduction of the existing encroachment.

D. OTHER BUSINESS

1. Minutes – November 16, 2009

MOTION was made by Mr. Comiskey, seconded by Ms. Bufano, and carried unanimously (5-0) to approve the minutes of November 16, 2009, as amended.

E. ADJOURNMENT

MOTION was made by Mr. Gardiner, seconded by Ms. Bufano, and carried unanimously (5-0) to adjourn at 8:32 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary