

**ZONING BOARD OF APPEALS
EXECUTIVE SESSION OF APRIL 7, 2011**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on April 7, 2011 in the First Floor Conference Room of the Honorable John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield. The Public Hearing was recorded on disc and is available for review at the Plan and Zoning Department.

PRESENT: James Hamilton, acting as Chairman, Kevin Coyne, Secretary, Duncan Keith, Donald Cafero, Edward Cheffetz, Alternate and Linda Snelham-Moore, Alternate

ABSENT: Robert Brennan, Jr., Chairman

1. **Minutes of February 3, 2011:** Duncan Keith *moved* and Kevin Coyne *seconded* to approve the proposed minutes as submitted. *Motion passed unanimously.*
2. **Approval of Secretary's Fee:** Duncan Keith *moved* and Kevin Coyne *seconded* to approve the proposed Secretary's Fee. *Motion passed unanimously.*

This portion of the Executive Session started at 2:56 and continued into Public Hearing.

Kevin Coyne, Secretary

Josephine M. Keogh

**ZONING BOARD OF APPEALS
MINUTES OF APRIL 7, 2011**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on April 7, 2011 in the First Floor Conference Room of the Honorable John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield. The Public Hearing was recorded on disc and is available for review at the Plan and Zoning Department.

PRESENT: James Hamilton, acting as Chairman, Kevin Coyne, Secretary, Duncan Keith, Donald Cafero, Edward Cheffetz, Alternate and Linda Snelham-Moore, Alternate

ABSENT: Robert Brennan, Jr., Chairman

GENERAL DOCKET

1. 35 Newell Place, Map 139, Parcel 12. Petition of James and Julie Servilla for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 30 feet, currently 25.79 feet, proposing 28.2 feet; and to reduce the rear setback from 30 feet, currently 29.8 feet, proposing 29.8 feet. **Permission to construct a one story addition. Premises: A Zone**

James Servilla presented the application for a variance of the Zoning Regulations. He wishes to construct a 1 story addition for an extension of kitchen & dining room and living room. The 3rd. floor addition over existing structure conforms to zoning requirements. The hardship is the existing house was built and is nonconforming to zoning requirements.

Petitions of support from the neighbors were submitted.

Linda Snelham-Moore sat in for Donald Cafero.

GRANTED: Linda Snelham-Moore *moved* and Edward Cheffetz *seconded* to approve the proposed application. *Motion passed unanimously.*

2. 411 Harbor Road, Map 241, Parcel 3. Petition of Ari and Rachel Abramowitz for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 40 feet, currently 35.7 feet, proposing 39 feet. **Permission to construct a second floor dormer. Premises: R-3 Zone**

Jack Franzen, Architect, presented the application for a variance of the Zoning Regulations. The owners are requesting a setback variance in Section 5.2.4 in order to construct a dormer in the front yard setback. The dormer is 3' 6" wide and 6' 8" high. The existing house was built in 1937 prior to current Zoning Regulations. Due to topography, an exceptionally steep bluff adjacent to Southport Harbor, the house was located very close to

Harbor Road and at a skewed angle. In a similar fashion to neighboring houses, the siting is the only one that enables pedestrian and vehicular access with minimum vertical distance. The result is that the Southwest corner of the house is over the front yard setback line. The dormer which is the subject of this request will only extend over the setback line by 9". This is necessary to allow the Southport Historic District Commission latitude in determining the correct symmetrical and proportional arrangement of the dormer and its conforming companion.

Petitions of support from the neighbors were submitted.

Donald Cafero arrived at 3:04

GRANTED: Duncan Keith moved and Donald Cafero seconded to approve the proposed application. Motion passed unanimously.

3. 448 Springer Road, Map 121, Parcel 28Z. Petition of Taegun Moon and Rachel Dreyfus for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 50 feet, currently 32 feet, proposing 35 feet; and to reduce the side setbacks from 25 feet, currently 19.8 feet, proposing 16.1 feet; and Section 5.2.5 to increase the total floor area from 20%, currently 15.4%, proposing 21.3%. **Permission to construct a 2nd floor addition with a dormer and balcony. Premises AA Zone**

Richard Burnstein, Agent, presented the application for a variance of the Zoning Regulations. The owners wish to construct a hip roof consisting of a new master bed & bath with a new play room and bathroom. They have a half acre lot in a one acre zone. They have leaks in the flat roof. The new hip roof & porch will prevent the leaking.

Petitions of support from the neighbors were submitted.

GRANTED: Duncan Keith moved and Donald Cafero seconded to approve the proposed application. Motion passed unanimously.

4. 22 Pine Tree Lane, Map 76, Parcel 56. Petition of Robert and Joyce Pistey for a variance of the Zoning Regulation; Section 5.2.4 to reduce the minimum required street line setback from 40 feet, currently 34.5 feet, proposing 34.5 feet. **Permission to enclose an existing covered porch. Premises: R-3 Zone**

Robert Pistey, owner, presented the application for a variance of the Zoning Regulations. We wish to enclose an existing covered deck using thermal windows and screens, creating a three seasoned porch or room. The house is nonconforming in an R-3 Zone.

Petitions of support from the neighbors were submitted.

GRANTED: Duncan Keith moved and Donald Cafero seconded to approve the proposed application. Motion passed unanimously.

5. 1397 Fairfield Beach Road, Map 184, Parcel 99. Petition of George and Harriet Wiswell for a variance of the Zoning Regulations; Section 11.12 to reduce the setback from Long Island Sound; currently 85.9 feet, proposing 76.3 feet; and Section 11.11.2 to reduce

the side yard setback from 5 feet, currently 2.3 feet, proposing 2.3 feet. **Permission to enclose two porches and convert to heated space. Permission: BD Zone**

Jack Franzen, Architect, presented the application for a variance of the Zoning Regulations. The Owners wish to enclose an existing porch 30.5 feet wide and 10.0 feet deep and an adjacent existing screened in porch. The existing screened in porch is 1.0 ft. wide and 8.0 feet deep. The Owners also hold title to the adjacent house to the West. Both dwellings are close to 100 years old and have not been extensively renovated. The Owners need more living space and do not want to demolish, rebuild - or over-improve the structure.

The first request is for a setback variance from L.I. Sound (1 1.12) for the existing porch, since the existing setback is to the heated portion of the structure. The second request is for the existing porch and the adjacent screened porch, for a setback variance from the side yard setback on the West side of the property (1 1.1 1.2)

The house, built in 1902 by Harriet Wiswell's Great Aunt, has been in the family for 109 years and was recently purchased from a relative. The existing house is 109 years old and predates current zoning. The existing porch was in extremely deteriorated condition and had limited usefulness. The Owners do not want to extensively remodel and certainly do not want to demolish and rebuild. The only practical way to create additional indoor space is to enclose the existing porch and the adjacent screened porch. The intent of the L.I. Sound setback (1 1.12)-to protect adjacent views- is not a factor here because the Owners control the property to the West, and the property to the East already projects farther than the subject property. Also, granting of this waiver does not result in any structure getting closer to L.1 Sound, only the enclosure of an existing structure. In regards to Zoning Regulation 1 1.1 1.2, the home was built prior to the current regulations, and at a skewed angle to the property lines. Enclosing both existing structures will not encroach into the side yard set back than the existing conditions.

Petitions of support from the neighbors were submitted.

DENIED: Edward Cheffetz *moved* and Kevin Coyne *seconded* to approve the proposed application. *Motion denied 3-2 Duncan Keith, James Hamilton and Edward Cafero was in opposition and Kevin Coyne and Donald Cafero voted in favor*

6. 879 Bronson Road, Map 177, Parcel 186. Petition of Lance and Kristie Delaney for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 10%, currently 10.4 %, proposing 10.4% and Section 5.2.4 to reduce the side setback from 25 feet; currently 9.2 feet; proposing 9.2 feet. **Permission to legitimize a construction error of an extended screen porch. Premises: AA Zone**

Kristie Delaney, owner, presented the application for a variance of the Zoning Regulations. She wishes to convert screened in porch to a finished family room. The lot is nonconforming and exceeds square footage coverage for the non-conforming lot. She noted she was not aware that she needed a permit to extend the screen porch.

Petitions of support from the neighbors were submitted.

GRANTED: Edward Cheffetz *moved* and Donald Cafero *seconded* to approve the proposed application. *Motion passed unanimously.*

7. 201 Elm Street, Map 141, Parcel 196. Petition of Carmen Cotto for a variance of the Zoning Regulations; Section 5.2.4.3 to reduce the side yard setback for a structure less than 60 feet from a street line from 10 feet, proposing 4 feet. **Permission to construct a shed. Premises: A Zone**

Carmen Cotto, owner, presented the application for a variance of the Zoning Regulations. She wishes to construct a shed. The hardship is the location of the property with Elm Street in the front and Kinnie Drive in the rear. This results in two street setbacks and prevents the property from conforming to the requirements of Section 5.2.4.3, which is where the location of the shed is more than sixty feet from a street line. No Houses front Kinnie Drive and no houses have driveway access from Kinnie Drive. The requirement of placing the shed ten feet from the side line causes a problem with the access to the backyard and would significantly affect the use of the backyard.

Petitions of support from the neighbors were submitted.

GRANTED: Duncan Keith *moved* and Donald Cafero *seconded* to approve the proposed application. *Motion passed unanimously.*

8. 184 Buena Vista Road, Map 29, Parcel 233. Petition of Keith and Michele McMahon for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 23.4%, proposing 25%. **Permission to construct a one story addition and a rear elevated deck. Premises: A Zone**

Dennis Peters, Agent, presented the application for a variance of the Zoning Regulations. The owners wish to renovate the existing first floor of the residence to provide a more appropriate use of space. The washer and dryer is currently located within the kitchen. Part of the re-designed floor plan provides a laundry closet and rear deck, which necessitates this variance request.

The home was built in 1939. The lot coverage at that time was 23.7 feet. Currently, the house is in a legal non conforming lot.

Petitions of support from the neighbors were submitted.

GRANTED: Duncan Keith *moved* and Edward Cheffetz *seconded* to approve the proposed application. *Motion passed unanimously.*

9. 41 Poe Court, Map 79, Parcel 290. Petition of Thomas Vitale Sr., LLC for a variance of the Zoning Regulations; Section 5.1.1 to reduce the lot size for an existing four (4) family dwelling from 12,500 square feet to 9,514 square feet. **Permission to create an easement to gain access to a new building lot through an existing parking lot. Premises: C Zone**

Raymond Rizzio, presented the application for a variance of the Zoning Regulations.

He noted the Applicant seeks to create a building lot for a single family home. A four (4) family residence currently exists on the property. The property is 17, 24.1 sq. ft. The regulations require the Applicant to have 17,500 sq. ft. to create a single family lot.

Applicant purchased the property in n 2005 and a t the time it was explained to him that he had sufficient property for o r a four (4) family and a single family. The property is s uniquely shaped which made measurements difficult to determine. The Applicant decided to build a single family next door to the four (4) family so he could live there and manage the property in his retirement. Upon obtaining an A-2 survey, it was determined that the property was 259 sq. ft. short o f a conforming single family lot and a conforming four family lot. The variance required is deminimis (98.5% of the required area) and would not be visible.

The four (4) family lots will require a variance due t o the unique topography o f the site. The lot has adequate frontage and satisfies all other zone development standards. However, to access the single family lot it is necessary to create an easement across the four family lots due to the steep

Petitions of support from the neighbors were submitted.

CONTINUED: *moved* and Duncan Keith *seconded* to continue the proposed applications to May 5, 2011. *Motion passed unanimously.*

10. 330 Grasmere Avenue, Map 128, Parcel 123. Petition of HH East Parcel, LLC for a variance of the Zoning Regulations; Section 29.10.1 to increase the number of signs on the front of the building from 1, proposing 2. **Permission to relocate the sign on the west side of the building to the south side (front) of the building. Premises: DI Zone**

Bill Fitzpatrick presented the application for a variance of the Zoning Regulations. He noted the applicant here is the owner of the retail center under construction at the intersection of Kings Highway and Grasmere Avenue known as 330 Grasmere Avenue.

This property was formerly the site of the Handy & Harman metal refinery plant. The retail center, as approved by the Conservation Commission and the Town Plan & Zoning Commission, will consist of three separate buildings totaling 86,160 square feet. This property contains 10.47 acres and is located in the Designed Commercial District.

The building is located in the easterly portion of the property, directly adjacent to the steep rock face, will be occupied by a Whole Foods Market. The Whole Foods Market building is presently under construction with a projected completion date of May of this year. A variance application was heard, and approved, by the Zoning Board of Appeals in October, 2010 which permitted, inter alia, an increase in the number of wall signs for the Whole Foods Market building from two signs to three signs. The three signs were to be placed on the northerly, southerly and westerly sides of the building. During the course of construction, it has been apparent to the property owners, and Whole Foods Market, that the relocation of the northerly sign (i.e., the sign facing Home Depot) to the westerly facade (the front of the store) would be more effective and provide more meaningful identification of the store to shopping center patrons.

As a result, the applicant here requests a variance of Section 29.10.1 of the Zoning Regulations to permit the location of two wall signs on the same wall. There will be no increase in the number of wall signs, which will remain as approved at three wall signs, but rather simply a relocation of the northerly wall sign to the westerly facade, the front of the store. The two signs on the westerly facade will be placed at the ends of the facade, approximately 225 feet from one another.

Petitions of support from the neighbors were submitted.

DENIED: Edward Cheffetz *moved* and Duncan Keith *seconded* to approve the proposed application. *Motion denied unanimously.*

11. 269 Palamar Drive, Map 74, Parcel 151. Petition of Jeffery and Marielle Schare for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side line setback from 15 feet, currently 13.46 feet, proposing 13.27 feet. **Permission to construct a one story addition. Premises: R-3 Zone**

Jeffrey Schare, owner, presented the application for a variance of the Zoning Regulations. He wishes to construct a one story addition. He claims two hardships – he is enlarging an existing room and would like the width of the addition to match the width of the original room, which is 17.7 feet. However, the room was built as an addition under previous owners in 1993. The previous owners were granted a variance to allow a setback of less than fifteen feet from the property line for the room. The first hardship is a preexisting condition for the house. The second hardship is that the house is on an undersized lot for an R-3 Zone.

Petitions of support from the neighbors were submitted.

GRANTED: Duncan Keith *moved* and Edward Cheffetz *seconded* to approve the proposed application. *Motion passed unanimously.*

12. 46 Rutland Avenue, Map 38, Parcel 36. Petition of Robert Distinti for a variance of the Zoning Regulations; Section 5.1.1 to reduce the lot size for a two family dwelling from 9,000 sq. feet, currently 4,650 square feet, proposing 4,650 square feet. **Permission to legitimize a two family dwelling. Premises: B Zone**

Attorney Peter Gilderman presented the application for a variance of the Zoning Regulations. Attorney Gilderman noted the applicant is requesting a variance in order to legitimize a two family dwelling.

The property has 4,650 sq. ft. where 9,000 sq. ft. is required in a B Zone for two family house. The house was built in 1982 and has been used continuously since as a two family house. The current owner's mother purchased the property in 1986 with no knowledge that the property was not a legal two family house. The property has been taxed as a two family property since the last revaluation.

Petitions of support from the neighbors were submitted.

DENIED: Linda Snelham-Moore *moved* and Duncan Keith *seconded* to approve the proposed application. *Motion denied 3-2.*

13. 51 Dwight Street, Map 182, Parcel 84. Petition of Beau and Laura Campfield for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 21.4%, proposing 20.4%. **Permission to remove an existing deck and build a one story addition. Premises: A Zone**

Beau Campfield, owner, presented the application for a variance of the Zoning Regulations. He noted he wishes to remove an existing deck and build a one story addition. He is requesting to enlarge the second floor dormer in order to enlarge the existing bathroom. The house is a legal non conforming lot and is 7,204 sq. ft. making it considerably smaller than what is required.

Petitions of support from the neighbors were submitted.

GRANTED: Kevin Coyne *moved* and Edward Cheffetz *seconded* to approve the proposed application. *Motion passed unanimously.*

14. 1199 Hillside Road, Map 173, Parcel 69. Petition of Spencer and Dana Weneck for a variance of the Zoning Regulations; Section 5.2.4.3 to reduce the street line setback for an accessory structure from 60 feet, proposing 52 feet. **Permission to install a propane tank and a central air condensing unit. Premises: AAA Zone**

Spencer Weneck, owner, presented the application for a variance of the Zoning Regulations. He wishes to install a propane tank and a central air condensing unit. With respect to the hardship the house in nonconforming to present setbacks. Locating the compressor and propane tank at an alternative location, within setbacks, would not work.

Petitions of support from the neighbors were submitted.

GRANTED: Linda Snelham-Moore *moved* and Duncan Keith *seconded* to approve the proposed application. *Motion passed unanimously.*

Petitions of support from the neighbors were submitted.

There being no further business to come before the Commission, James Hamilton, acting Chairman, adjourned the meeting at 4:56 p.m.

Kevin Coyne, Secretary

Josephine M. Keogh

JAMES HAMILTON, ACTING AS CHAIRMAN

KEVIN COYNE, SECRETARY

JOSEPHINE M. KEOGH, CLERK

DRAFT