

**ZONING BOARD OF APPEALS
EXECUTIVE SESSION OF JUNE 2, 2011**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on June 2 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: Robert Brennan, Jr., Chairman, James Hamilton, Vice Chairman, Kevin Coyne, Secretary, Duncan Keith, Donald Cafero, Daphne Dixon, Alternate, Linda Snellhan-Moore, Alternate.

1. **Minutes of April 7, 2011:** James Hamilton *moved* and Duncan Keith *seconded* to approve the proposed minutes as submitted. *Motion passed unanimously.*
2. **Approval of Secretary's Fee:** James Hamilton *moved* and Donald Cafero *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.

Daphne Dixon, Acting as Secretary

Josephine M. Keogh

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CONTINUED DOCKET

5. 2107 North Benson Road, Map 123, Parcel 43. Petition of Ralph and Mary Demasi for a variance of the Zoning Regulations; Section 6.3.3 to allow an accessory apartment in an existing residence that had construction within the last five years.
Permission to establish an accessory apartment. Premises: R-3 Zone

Attorney John Fallon presented the application for a variance of the Zoning Regulations. The applicants wish to establish an accessory apartment to. Their request is unique and difficult, which is why they have lead to this request. They have a two year old grandson who has been diagnosed with a severe medical condition called spastic diplegia. In June of last year the applicants' daughter, her husband and their three (3) young children lost their home due to the overwhelming medical expenses uncovered by insurance resulting from their son's conditions. Subsequently the son-in-law also had his employment position terminated. The family was forced to move in with the applicants.

The existing house was then a three-bedroom split level and there was not sufficient room for their daughter's family. This situation was exacerbated due to their grandson's serious medical issues that require additional rooms for continuous physical, occupational and speech therapy inside the home. To address this vital need for additional space they decided to add an addition to the rear of their house in order to gain an additional bedroom and some livable space for them so that their daughter's family could have general access to the remainder of the house. This addition as completed complies with all provisions of the Zoning Regulations and a Certificate of Zoning Compliance and Certificate of Occupancy have been issued. Over the last ten (10) months

The applicants have been sharing the single kitchen in the dwelling with their daughter, son-in-law and three (3) small children. This has become a significant and unworkable problem due to differences of schedules, and the needs of the children, especially their young grandson.

Attorney Fallon noted to address their needs, they need to install simple cooking appliances in the rear area of the addition where they now reside. Conversion of this area of the house to an accessory apartment will comply with all other provisions of Section 6.3 except for the 5 year provision contained in Section 6.3.3. Section 6.3.1 will be complied with as Mr. & Mrs. DeMasi as the principal owners will continue to reside in the accessory apartment throughout the duration of the permit. Their plans confirm compliance with Section 6.3.2 in that the accessory apartment as proposed is larger than 600 sq. ft., but not more than 40% of the floor area of the existing residence. All provisions of Section 6.3.4 through 6.3.7 will be complied with and if the variance is granted the applicants will obviously comply with the provisions of 6.3.8 with regard to the filing of the yearly affidavit certifying compliance with regard to the accessory apartment use.

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

GENERAL DOCKET

1. 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 11,885 sq. ft. to 9,514 sq. ft. **Permission to create an easement to gain access to a new building lot through an existing parking lot. Premises: C Zone**

Attorney Raymond Rizio presented the application for a variance of the Zoning Regulations. The applicant wishes to create a building lot for a single family home. A four family residence currently exists on the property. The property is 17,241 sq. ft. The regulations require the applicant to have 17,500 sq. ft. to create a single family lot. The applicant is 259 sq. ft. short of two conforming lots, which is 1.5% less than the required amount of property required for the two lots.

The applicant purchased the property in 2005 and at that time it was explained to him that he had sufficient property for a four family and a single family. The property is uniquely

shaped which made measurements difficult to determine. It is the applicant's intent to build a single family next door to the four family so that he could live there and manage the property in his retirement. When he obtained the survey, it was determined that the property was 250 sq. ft. short of a conforming single family lot and a conforming four family lot. The variance required is de minimis (98.5% of the required area) and would not

be visible to the naked eye. The house complies with all of the zoning requirements. However, to access the single family lot, it is necessary to create an easement across the four family lots due to the steep

GRANTED: Duncan Keith *moved* and Kevin Coyne *seconded* to approve the proposed application. **Opposed:** Donald Cafero *Motion approved 4-1.*

2. 384 Sasapequan Road, Map 74, Parcel 361. Petition of Carol Callahan for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 10.5%, proposing 21.7%, and Section 5.2.4 to reduce the rear setback from 30 feet, currently 14.8 feet, proposing 14.8 feet. **Permission to construct a new two story addition. Premises: A Zone**

Carol Callahan, owner, presented the application for a variance of Zoning Regulations. Renovation of the existing home with addition of 2 car garage and revision & addition of new porches. Home purchased with existing hardship which includes the home being situated on the lot at an angle, and presently has existing less than required rear set back.

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

3. 601 Kings Highway, Map 79, Parcel 15-16. Petition of 601 Kings Highway, Fairfield LLC for a variance of the Zoning Regulations; Section 28.6.12 to reduce the minimum required total number of off street parking spaces previously approved from 42 to 9 for out door dining, now proposing from 42 to 9. **Permission to construct an addition to permit year round dining. Premises: DCD**

Attorney Charles Jankowski presented the application for a variance of the Zoning Regulations. He noted the applicant desires to build a permanent structure within the exact dimensions of the seasonal dining facility, which was approved by the Zoning Board of Appeals on June 2, 2005.

He also noted during that period of time the restaurant with the seasonal dining has operated without any problems in regard to parking or any complaints from the neighbors. The restaurant's busiest time of year is the Spring into the Fall. The applicant desires to make the seasonal dining permanent and, obviously, the only difference in the operation of the business will be that that space will be available during the wintertime, the slow season for the restaurant. Previously, the applicant had gotten permission to build an addition with a second floor. The applicant only built the first floor addition and has abandoned the approval for a second floor over the restaurant.

If this application is approved, the new permanent seating/dining addition will be used primarily for private luncheons which require a separate room. The applicant has customers who desire to have luncheon seminars at the restaurant which require privacy.

DENIED: Duncan Keith *moved* and Kevin Coyne *seconded* to approve the proposed application. **Opposed:** Robert Brennan, James Hamilton, Kevin Coyne, Duncan Keith, Daphne Dixon, Donald Cafero. *Motion denied 4-1*

4. **43 Thor Place**, Map 145, Parcel 62. Petition of Scott and Maureen Sawyer for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 30 feet, currently 11.7, proposing 7.0. **Permission to construct a new open front porch. Premises: A Zone**

Maureen Sawyer, owner, presented the application for a variance of the Zoning Regulations. They wish to construct a new open front porch. The current front print of the home lies within the current setback requirements for the property. The house was built before the setbacks were established. The topography behind the house is comprised of a wooded hill which would make adding a deck for outdoor living space not possible. Most of the outdoor time is spent in the front of the home.

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

5. **780 Hillside Road**, Map 174, Parcel 37. Petition of Brendan and Kathryn Sullivan for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 60 feet, currently 32.9 feet, proposing 32.9 feet and 37.1 feet, and side yard setback from 30 feet, currently 22.3 feet, proposing 22.3 feet. **Permission to construct a 2nd floor addition and a two story addition. Premises: AAA Zone**

Brendan Sullivan, owner, presented the application for a variance of the Zoning Regulations. He wishes to construct a 2nd floor addition and a two story addition. The lot is an existing legal non-conforming lot and is in a AAA Zone.

Petitions of support from the neighbors were submitted.

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

6. **494 Pequot Avenue**, Map 241, Parcel 197. Petition of Anne Estelle for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 30 feet, currently 18.5 feet, proposing 16.7 feet. **Permission to reconstruct f**

Jay Hanseman, Architect, presented the application for a variance of the Zoning Regulations. The applicant wishes to re-construct front steps leading to front porch in a code compliant manner. Existing steps are too steep and not code compliant.

The steps will be built in matching style that have treads which are 11" deeps and code - compliant. The new steps would increase the length of the steps by approx. 1'-5 1/4" and increase -coverage by approx. 6.45 square feet. The new steps will increase the lot coverage by 0.1 %. The existing conditions of the lot are non-compliant with the maximum lot coverage allowable and therefore a variance is required to slightly extend the steps which count as lot coverage.

The existing lot is only 4,276 square feet in area. The minimum lot size for a residence A zone is 9,375 s.f. The zoning requirement of 20% maximum lot coverage is a burden on the Owner due to the fact that 20% of 4,276 is only 855 s.f. of coverage allowed. The existing lot coverage for the historic house is 25.4% which is currently and historically non-compliant. The owner has owned the property for approximately eight months and is an older woman who finds it difficult to walk up the steep steps as do her friends and acquaintances. The increase of approx. 6.45 s.f. in lot coverage should not result in a negative change in the neighborhood.

Petitions of support from the neighbors were submitted.

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

7. 27 Montauk Street, Map 30, Parcel 433. Petition of Mark and Sarah Pollex for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side line setback and the sum of side yards from 7 feet, currently 9.1 feet, proposing 2.6 feet, and 25 feet, currently 24.9 feet, proposing 11.4 feet. **Permission to rebuild existing garage and attach to dwelling. Premises: A Zone**

Jeff Beckman, Architect, presented the application for a variance of the Zoning Regulations. The applicants wish to replace the existing 18' x23' garage with a new 15'x28' single car garage and studio attached to the existing house. The proposed variance is for a breezeway and one story addition to the back of the house. The lot is non-conforming. The unique shape of the lot makes this requirement unattainable anywhere on the lot.

Petitions of support from the neighbors were submitted.

OPPOSED: John Curran, 15 Montauk Street, spoke in opposition of the proposed application.

DENIED: Kevin Coyne *moved* and Donald Cafero *seconded* to approve the proposed application. *Motion denied 4 opposed and 1 in favor.*

8. 201 Grandview Road, Map 47, Parcel 210. Petition of Charles and Tania Thomas for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 15%, currently 16.52%, proposing 16.2%. **Permission to remove an existing deck and build a two story addition in its place. Premises: R-3**

Charles and Tania Thomas, owners, presented the application for a variance of the Zoning Regulations. He wishes to construct a 24 x 16 two story addition consisting of a first floor playroom game room and a second floor dining room. This addition will be replacing an existing second floor deck and will be staying within the dimensions of the existing deck to be removed.

Mr. Thomas noted due to declining health and also age related issues they are in the process of relocating their in-laws to their residence to provide them with a more financially stable and secure environment. With this family consolidation it is very important to expand their existing residence to allow for a more open and comfortable living environment.

Petitions of support from the neighbors were submitted.

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

9. 82 Newman Place, Map 28, Parcel 505. Petition of Daniel and Kristen Vinocour for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 23.28%, proposing 24.02%, and section 5.2.4.3 to reduce the setbacks for an accessory structure from 4 feet, and 4 feet, currently 4.3 feet and 4.1 feet, proposing 3 feet and 3 feet. **Permission to construct a new detached one car garage.**

Premises: A Zone

Daniel and Kristen Vinocour, owners, presented the application for a variance of the Zoning Regulations. They wish to replace the existing one car garage, which is in ill repair, with new 12' x 20' one car garage. The lot is rezoned and undersized. We have only 10' from our house to our side property line because of this we want to move the garage to within 3' of our side yard to allow access and 3' of our rear to help allow better access.

Petitions of support from the neighbors were submitted.

Kevin Coyne recused himself from the proposed application. Linda Snellham- Moore sat in for Kevin Coyne

GRANTED: Linda Snellham-Moore *moved* and James Hamilton *seconded* to approve the proposed application. *Motion passed unanimously.*

10. 73 Eastfield Drive, Map 49, Parcel 155. Petition of Peter and Maria Lazor for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side line setback from 15 feet, currently 29 feet, proposing 7 feet. **Permission to construct a two story two car garage addition. Premises: R-3 Zone**

Peter and Maria Lazor, owners, presented the application for a variance of the Zoning Regulations. They wish to construct a 25 x 31 foot two car garage with a bedroom, bathroom and closet above. They are removing the existing shed in back of the house to meet lot coverage requirement. The existing garage is narrow and the ceiling height is low. We are unable to park a car in the existing garage. They noted the proposed two car garage is positioned in the best possible location considering the space available and the slope of the landscape. It is also financially prohibitive to restructure the existing garage.

Petitions of support from the neighbors were submitted.

Kevin Coyne recused himself on the proposed application. Linda Snellham- Moore sat in for Kevin Coyne

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

11. 494 Harbor Road, Map 241, Parcel 24. Petition of Louisa Heuman for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required rear property line and side yard setback from 10 feet, currently 2.2 feet, proposing 2.2 feet, and 10 feet, currently 14.5 feet, proposing 8.1 feet. **Permission to rebuild and enlarge existing garage. Premises: R-3**

Attorney William Fitzpatrick presented the application for a variance of the Zoning Regulations. Jack Franzen, Architect, was also present for questions.

Attorney Fitzpatrick noted the applicant is requesting a variance to permit a reduction in the side yard setback from the required 10 feet, presently 14.5 feet, to 8.1 feet, and a reduction in the rear yard setback from 10 feet, presently 2.2 feet, to 2.2 feet, in order to permit the enlargement of an existing garage.

The property is also located in the Historic District. The intent of the applicant is to enlarge the existing garage which was originally like a carriage house. The garage at present is extremely cramped and marginally functional.

Given the fact that the property is located in the Historic District, the proposed enlargement of the existing garage is being accomplished in a very careful, historically sensitive manner. The project architect, the proposed garage expansion will be accomplished by removing the gables of the existing garage, adding 18" of space at each end of the garage, and then re-attaching the gables.

A shed, designed to complement the existing garage design will be added to the right hand side of the garage in order to provide additional storage space. The existing roof and dormer will be retained but the roof will be raised in order to increase available headroom. New garage doors will also be installed.

The variances required in order to accomplish the proposed garage expansion are due to the location of the garage in the corner of the property adjacent to both the side and rear property lines. This location is not surprising inasmuch as the garage was likely constructed in the same year as the house was built which was, per the Assessor's records, in 1859. This construction took place significantly before the enactment of the Zoning Regulations for the Town of Fairfield, which was adopted in August of 1925.

The rear side yard setback request is essentially technical in nature in that no construction takes place closer to the property line, but rather there is an extension of the garage along the same line 2.2 feet from the property line. It is important to note that the garage on the property to the north is located directly adjacent to the property line as well.

The side yard setback request is relatively minor in nature and is adjacent to a stone wall along the property. The proposed garage expansion requires no coverage or floor area ratio variance. Approval of the variance will allow the applicant a significantly more usable garage without any significant impact on any neighboring property owners.

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

12. 332 Fairview Avenue, Map 128, Parcel 272. Petition of Andrew Drumm and Colleen Kramer for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 30 feet, currently 11.9 feet, proposing 12.2 feet, and Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 17.8%, proposing 21.1%. **Permission to construct a rear deck. Premises: A Zone**

Andrew Drumm, owner, presented the application for a variance of the Zoning Regulations. He wishes to put a 14' x 18' rear deck on his home. The house sits on a legal, non-conforming lot. The back yard gets slippery and is a hazard. The Bilko doors that are there would intrude on deck.

Petitions of support from the neighbors were submitted.

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

13. 165 Reef Road, Map 182, Parcel 620. Petition of Omar Mureebe for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 30 feet, currently 7.6 feet, proposing 19.7 feet. **Permission to construct a two story addition. Premises: A Zone**

Omar Mureebe, owner, presented the application for a variance of the Zoning Regulations. He wishes to construct a 15'x22' two story addition, consisting of a first floor, unfinished garage & a second floor finished studio. The left hand corner of the lot encroaches on the setback. To angle the corner or reduce the structure affects the functionality of the garage.

Petitions of support from the neighbors were submitted.

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

14. 1623-1624 Fairfield Beach Road, Map 234, Parcel 22, 117. Petition of Barbara Bertozza, Castelli and Jose Meller for a variance of the Zoning Regulations; Section 11.7 to increase the dwelling height from 30 feet, proposing 31.33 feet, and Section 11.1.1 to permit to construct two dwellings on one parcel. **Permission to remove two existing dwellings and construct two new dwellings. Premises: BD**

The proposed application was continued to July 7, 2011

15. 657 Mill Hill Road, Map 228, Parcel 87. Petition of Frank and Jean Gallinelli for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street

line setback from 40 feet, currently 31.2 feet, proposing 31.2 feet. **Permission to enclose existing open porch to heated space. Premises: R-3**

Jean Gallinelli, owner, presented the application for a variance of the Zoning Regulations. He wishes to construct an 18'x10' office area with 4'x 9'6" entry where screened porch and open porch are located. The existing property is at the maximum allowable lot coverage. The additional work will stay within the front yard setback allowed for open porch.

Petitions of support from the neighbors were submitted.

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

16. 155 Halley Avenue, Map 79, Parcel 92. Petition of Donald Lee for a variance of the Zoning Regulations; Section 5.1.1 to reduce the minimum required lot size for a single detached dwelling for three family from 10,000 sq. ft., currently 7,000 sq. ft., proposing 7,000 sq. ft. **Permission to construct a three family dwelling. Premises C Zone**

The proposed application was continued to July 7, 2011

There being no further business to come before the Commission, James Hamilton, asking as Chairman, adjourned the meeting at 5:20 p.m.

Daphne Dixon, Acting as Secretary

Josephine M. Keogh

ROBERT BRENNAN, SR. CHAIRMAN

KEVIN COYNE, SECRETARY

JOSEPHINE M. KEOGH, CLERK

DRAFT