

**ZONING BOARD OF APPEALS  
EXECUTIVE SESSION OF NOVEMBER 3, 2011**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on November 3, 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 Caferro, Edward Cheffetz, Alternate, Linda Snelham-Moore, Alternate.

James Hamilton asked for a moment of silence in honor of the passing of our Chairman, Robert Brennan, whose long standing tenure of devoted service to the town was and will always be an inspiration to the citizens of Fairfield.

1. **Minutes of October 6, 2011:** Duncan Keith *moved* and Linda Shelham-Moore *seconded* to approve the proposed minutes as submitted. *Motion passed unanimously.*
2. **Approval of Secretary's Fee:** Kevin Coyne *moved* and Duncan Keith *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.

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Kevin Coyne, Secretary

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Josephine M. Keogh

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**PRESENT:** James Hamilton, Acting as Chairman, Kevin Coyne, Secretary, Duncan Keith, Donald Caferro, Edward Cheffetz, Alternate, Linda Snelham-Moore, Alternate.

- 1. 1089 Brookside Drive**, Map 148, Parcel 25. Petition of Geoffrey and Deborah Cornwell for variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 50 feet, currently 36.2 feet, proposing 36.2 feet. **Permission to remove and rebuild existing detached garage. Premises: AA Zone**

Geoffrey Cornwell, owner, presented the application for a variance of the zoning regulations. He is requesting a variance to construct a 5' x 6' x 9' x 0 addition at lower level for a new basement stair. He noted the utility line at the back of the house will be removed.

Petitions of support were submitted for the record from the adjoining neighbors.

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

- 2. 24 Senior Place**, Map 28, Parcel 482. Petition of Donald and Fairbanks for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 26.86%, proposing 26.92%. **Permission to construct a one story addition. Premises A Zone**

Donald Fairbanks, owner, presented the application for a variance of the Zoning regulations. He wishes to construct a 5' x 6' and 9' x 0 addition on the lower level for a new basement stair. The existing exterior staircase will be removed.

Petitions of support were submitted for the record from the adjoining neighbors.

**GRANTED:** Donald A. Caferro *moved* and Linda Snelham-Moore *seconded* to approve the proposed application. *Motion passed unanimously.*

- 3. 22 Donna Drive**, Map 22, Parcel 60A. Petition of Paul and Susan Pennino for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required secondary street line setback from 30 feet, currently 33.3 feet, proposing 26.4 feet. **Permission to construct a one and two story additions. Premises: R-3 Zone**

Kevin Coyne recused himself on the proposed application. Daphne Dixon sat in for Kevin Coyne

David Salerno, agent, presented the application for a variance of the Zoning Regulations. He noted the applicant would like to build an addition on the side along Jefferson Street and the rear of the property. They are requesting a variance for the side yard set back of 3'8" on the Jefferson side. The addition consists of two sections. The first part in the rear is 21'3" long x 20' wide and will be the great room. The 2<sup>nd</sup> part of the addition is an extension into the side yard that is 8' x 11 located by the kitchen towards the front of the house as it will impact the only area for living space. Presently, there is no dining room in the floor plan so the intent is to change the existing living/family room into a dining room, create a new family/great room in the addition and expand the kitchen. In addition, the plan includes a half bath as there currently is no bathroom on the first floor.

The applicants have three children & there is a need for additional room within the house. Purchasing a new home given the current economic conditions is not possible so their intent is to expand the existing home to meet our growing needs. The house is located in the R-3 zone. This zone requires setbacks of 40' in the front, 25' in the rear and 15' setback on the side. This parcel is located on the corner of Jefferson Street and Donna Drive, also there are two front setbacks 40' along Donna Drive and 30' along Jefferson Street. This creates a hardship in that they cannot build within 10' of the side yard like their immediate neighbors but must be an additional 20 feet further back. The left side of the house is where the bedrooms will be located and trying to get an additional 8 feet would require the total reorganization of the house layout. The house is also split in elevation at this point so that the floor is half a story above the kitchen floor. The applicant is in need of an additional 8 feet for the kitchen to accommodate their family needs. The logical place to put the expansion on the Jefferson side lot and the requested variance will allow them to come in 3'8" into the setback

Petitions of support were submitted for the record from the adjoining neighbors.

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

**4. 766 Old Post Road, Map 182, Parcel 600.** Petition of James and Juliana Stirling for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side line setback from 15 feet, proposing 2.7 feet. **Permission to establish a building lot. Premises: R-3 Zone**

**The proposed application was withdrawn.**

**5. 427 Stillson Road, Map 76, Parcel 332.** Petition of Stillson, LLC for a variance of the Zoning Regulations; Section 28.6.5 to reduce the minimum required total number of off-street parking spaces from 25 to 0. **Permission to establish a medical use in the basement. Premises: DCD Zone**

Thomas Braun presented the application for a variance of the Zoning Regulations. He wishes to change the use of 5,000 square feet of the basement from the current use as storage to a medical office. The property has 86 parking spaces in the rear parking lot and two more in front in the semi circular drive for a total of 88 spaces. The building, when fully in use by all tenants, never uses more than 50 parking spaces and usually is more

empty than full. The owner would like permission to lease out 5,000 square feet of currently unused basement space for medical office use only.

Petitions of support were submitted for the record from the adjoining neighbors.

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

**6. 188 Rowland Road, Map 182, Parcel 211.** Petition of Timothy and Cindy Shanley for a variance of the Zoning Regulations; Section 5.2.4 to reduce the secondary street line on a corner lot from 22 feet, currently 4.3 feet, proposing 4.6 feet, 9.3 feet, and 11.7 feet, and Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 21.3 %, proposing 22.7%. **Permission to construct a one and two story addition and two dormers. Premises: A Zone**

John Fallon Noted the Shanleys make this application for permission to construct first and second floor additions and new attic dormers at their home. The specific variances requested with regard to Section 5.2.4 are to reduce the street line setback to accommodate the new addition and dormers. It should be noted that the existing structure is presently nonconforming with a setback from Paulding Street of 4.3 feet. The addition and dormers will be set back further from the street. In addition, the Applicants seek a variance of Section 5.2.5 to increase the lot coverage from 21.3% to 22.7%. An existing bay window that is nonconforming to the westerly side yard setback requirement will be removed. The purpose of this addition is to address the significant need for a small amount of additional space to accommodate the needs of the Shanleys who recently had their first child.

Attorney Fallon noted, with regard to the matter of hardship it must first be pointed out that as previously referenced the lot in question is a valid and legally protected nonconforming lot as it relates to both lot area and shape requirements. The present requirements within the Residence A district establishes a minimum lot area requirement of 9,379 sq. ft. This lot, established for residential purposes before the Zoning Regulation was imposed, has 8, 8 17 square feet. Pursuant to the provisions of Connecticut General Statutes 8-2, the lot is a valid and legally protected preexisting nonconforming lot. The 20% coverage requirement presently applicable in the Residence A zone must be calculated based upon a lot area some 600 sq. ft. less in size than the minimum requirement contemplated in the zone. It has been previously held by our Supreme Court that where a property is a valid nonconforming lot with regard to lot area sufficient hardship is established to support the granting of a variance with regard to coverage in that the application of the current coverage regulation contemplating a larger lot peculiarly affects the property and it's protected status in an adverse manner. The modest addition is approximately 535 sq. ft. and could legally be accommodated but for the preexisting nonconforming status of this undersized lot. Similarly, where a lot is nonconforming as to the shape requirements, as is the case with the Shanley's property, the Supreme Court has found under the same analysis sufficient hardship basis to grant variances with respects to side yard setback considerations. As previously noted, in this instance none of the new construction will take place closer to the street line from Paulding Street than the location of the already existing structure. Also, in accordance with the cases above referenced strict application of the zoning requirements on this nonconforming lot does result in unusual hardship to the Applicants.

Attorney Fallon further noted, with regard to the matter of hardship, it is also of controlling legal significance that the property is a corner lot bounded by Rowland Road and Paulding Street. The case law is well settled that a basis for granting a street line setback variance is established when the property in question is a preexisting corner lot and therefore subject to the application of the street setback requirement on two sides. Connecticut case law holds that such a condition establishes hardship for purposes of granting the street setback variance requested. *Archambault v. Wadlow*, 25 Conn. 375 (1991).

An additional proper basis for granting the variances in this case is found in the holding of *Hyatt v. Zoning Board of Appeals of the City of Norwalk*, 163 Conn. 379 (1972). In *Hyatt*, the State Supreme Court held that a goal of zoning is the elimination or reduction of nonconformities and that, therefore, when an application for variance involves a proposal that will actually reduce or eliminate an existing nonconformity this fact provides an additional and proper basis for a zoning board of appeals to grant the variances requested. Such is the case in this application where an existing bay window on the westerly side of the property is currently nonconforming to the side yard setback requirement situated 6.3 ft. from the property line. The bay window will be removed, eliminating that nonconformity. Similarly, the imposition of the street setback regulation on two property boundaries creates a legal hardship under Connecticut case law. All other aspects of the proposed addition will be in compliance with the applicable requirements of the zoning regulations including provisions relating to maximum floor area. The currently nonconforming bay window will be removed from the side yard.

Petitions of support were submitted for the record from the adjoining neighbors.

**GRANTED:** Daphne Dixon *moved* and Duncan Keith *seconded* to approve the proposed application. **In Favor:** James Hamilton, Kevin Coyne, Duncan Keith, Daphne Dixon. **Opposed:** Linda Snelham-Moore. *Motion passed 4-1.*

**7. 365 Pemburn Drive**, Map 125, Parcel 53. Petition of Jiann-Jong Low for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 20.54%, proposing 21.69%. **Permission to construct a front porch. Premises A Zone**

Jiann-Jong Low wishes to construct a front porch. Because the previous owner has maxed out on lot coverage, which places severe limitation on land use. Improvement can only be achieved vertically, not horizontally. However, the high cost of adding a second floor is prohibitive for most common people, such as ourselves. The next door neighbor at 351 Pemburn Drive has been granted variance for front setback issue and added an imposing second floor and porch. The neighborhood along Pemburn Drive is undergoing improvement, either by adding a second floor and/or porch. The proposed front porch is unassuming and blends harmoniously with the neighborhood.

Petitions of support were submitted for the record from the adjoining neighbors.

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

**8. 2739 Bronson Road, Map 223, Parcel 13.** Petition of Susan and Geoffrey Mullen for a variance of the Zoning Regulation; Section 5.2.4 to reduce the minimum required side line setback from 30 feet, currently 17.2, proposing 22.8. **Permission to construct a one story addition. Premises: AAA Zone**

Attorney William Fitzpatrick presented the application for a variance of the Zoning Regulations. The applicants are proposing the construction of a small addition to the northerly side of their home. The proposed addition will include a mud room and a powder room, and will be accessed by a covered porch adjacent to the existing gravel driveway.

The applicants' home was constructed in 1905, per the Town Assessor's records, prior to the enactment of zoning regulations in the Town. The property here is legally nonconforming as to lot area and the minimum square. The minimum square for the Residence AAA is 200 feet, but the existing square for this property is 139 feet. In addition, the house was constructed in 1905 closer to the northerly lot line than the southerly lot line. The northerly side property line setback of 30 feet, as mandated by the Residence AAA regulations, presently bisects the existing living room.

Attorney Fitzpatrick noted the proposed addition is located 22.8 feet from the northerly property line, further from that property line than the existing home which is located 17.2 feet from the property line. No construction is proposed closer to the northerly property line than the present home location.

The proposed addition is small in size, some 109 square feet, and cannot be construed as an overbuilding of the site since the coverage and floor area ratio, with the proposed addition in place, are substantially below the coverage and floor area maximums for the Residence AAA zone. Approval of the application permits the construction of a small addition improving the utility and livability of the home, while not imposing on neighboring property owners in any way.

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

**9. 141 Edge Hill Road, Map 141, Parcel 139, Petition of Decorah O'Donnell** for a variance of the Zoning Regulations; Section 5.2.4 to reduce the secondary street line setback on a corner lot from 22 feet, currently 22.4 feet, proposing 20.5 feet. **Permission to construct a two story addition. Premises: A Zone**

Jennifer Tierney, Architect, presented the application for a variance of the Zoning Regulations. The owner wishes to construct a 2 story addition consisting of a sunroom on the 1<sup>st</sup> floor a master bath and walk-in closet on the second floor. This new addition is to have a footprint of 10' x 20'.

The owner and owner's agent are requesting that the side setback of 25' for a 2 story structure be waived in this circumstance. This lot has two legal hardships as per Section 5.1.1., as to dwellings in Zone A

It is the owner & owner agent's position that the setback requirement for a two story structure at 25 feet should be waived in this circumstance, due to these hardships. As the

lot does not meet the minimum it cannot be held to the same standards. The owners have taken great care to be modest about their request to meet all other requirements.

Petitions of support were submitted for the record from the adjoining neighbors.

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

**10. 99 Cambridge Street, Map 130, Parcel 87.** Petition of Joseph Pozarlik for a variance of the Zoning Regulations; Section 5.2.4 to reduce the side yard setbacks and the sum of side yard setbacks from 7 feet and 25 feet, currently 6.8 feet and 16.7 feet, proposing 6.8 feet and 16.7 feet, and Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 20.4%, proposing 21.6%. **Permission to construct a one and a half story addition over existing first floor. Premises: A Zone**

Joseph Pozarlik wishes to construct a 1 ½ story addition over the existing 1st floor adding a front entry way porch and cantilevering out the rear 1st floor family room, kitchen, playroom 2<sup>nd</sup> floor 3 bed, 2 bath & walkup attic.

The hardship is a pre-existing non conforming lot of 6,133 square feet in A zone. About ½ smaller than the required 9,375 square feet. I am requesting a variance for an additional 1.2% coverage from 20.4% to 21.6%. Also, I am asking to have the pre-existing non conforming side set backs apply to the new proposed 1 ½ floors.

Linda Snelham-Moore recused herself from the proposed application. Daphne Dixon sat in for Ms. Snelham-Moore.

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

**11 A. 57 Crane Street, Map 42, Parcel 385** petition of Kyle Lucke for a variance of the Zoning Regulations; Section 5.1.1 to reduce the minimum required lot size for single detached dwelling for one family from 6,000 feet, currently 10,000 feet, proposing 5,204 feet; and to reduce the minimum square required on a lot from 60 feet, currently 100 feet, proposing 51.54 feet; and Section 5.2.4 to reduce the side yard setback from 5 feet, proposing 4.3 feet. **Permission to establish a separate a lot for a single family dwelling. Premises: B Zone**

**11 B. 67 Crane Street, Map 42, Parcel 385.** Petition of Robert Mazzeo Jr. for a variance of the Zoning Regulations; Section 5.1.1 to reduce the minimum required lot size for single detached dwelling for one family from 6,000 feet, currently 10,000 feet, proposing 4,796 feet; and to reduce the minimum square required on a lot from 60 feet, currently 100 feet, proposing 47.45 feet, and Section 5.2.4 to reduce the sum of side yard setback from 20 feet, proposing 18.3 feet. **Permission to establish a separate lot for a single family dwelling. Premises: B Zone**

Attorney Kevin Gumper presented the application for a variance of the Zoning Regulations. He noted, Kyle Lucke and Robert Mazzeo, Jr. are seeking variances to separate 57 Crane

Street (owned by Mr. Lucke) from 67 Crane Street (owned by Mr. Mazzeo). If the variances are granted, they will seek to separate what is now considered one two-family dwelling on one lot into two single family dwellings, each on its own lot. They will also terminate the two unit condominium known as Victoria Common.

Attorney Gumber further noted, Mr. Lucke and Mr. Mazzeo are now faced with a hardship in that, due to changing standards in the banking industry, they find that lenders are increasingly reluctant to grant mortgages on units in condominiums with less than eleven units. This has made it very difficult, if not impossible, to refinance or to sell their respective units. They have also found it very difficult to obtain insurance for the property. They, therefore, wish to eliminate the connection between the two houses, terminate the condominium form of ownership, and divide the property into two separate lots, with one house on each lot.

The particulars for each lot are as follows:

57 Crane Street is proposed to have frontage of 52.55 feet on Crane Street. The lot will contain 5,204 square feet instead of the 6,000 square feet required for a single family house in the B Zone. The minimum square on the lot will be 51.54 feet more or less rather than the 60 feet required in the B Zone. There will be a "bump - out" on the west side of the house. The bump out will contain the existing furnace and hot water heater. The distance from the bump out to the proposed property line will be 4.3 feet more or less rather than the 5 feet required in the B Zone.

67 Crane Street is proposed to have frontage of 47.45 feet on Crane Street. The lot will contain 4,796 square feet instead of the 6,000 square feet required for a single family house in the B Zone. (The lots are not of equal size because of the manner in which the newly constructed house is situated at 57 Crane Street.) The minimum square on the lot will be 47.45 feet more or less rather than the 60 feet required in the B Zone. The unheated storage area between 67 Crane Street and the proposed boundary line will be completely eliminated. The sum of the side yard setbacks will be 18.3 feet rather than the 20 feet required in the B Zone. No new construction is proposed on either lot. If the requested variances are granted, the houses and lots will conform to the general neighborhood which was laid out in 1912 as 50' x 100' (5,000 square foot) lots. The requested variances are similar to those previously granted by this Board in the past. In particular, on April 1, 2004, this Board granted variances to permit the property adjoining these premises to the south (42-74 Cardinal Street) to be divided into four 50' x 100' lots.

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

**12. 1300 North Benson Road, Map 126, Parcel 465.** Petition of the Estate of Edward Ochman for a variance for a variance of the Zoning Regulations; Section 5.1.1 to reduce the minimum square required on a lot from 75 feet, proposing lot 1 66.66 square feet, lot 2 66.66 square feet, lot 3 66.68 feet. **Permission to establish three building lots.**

**Premises A Zone**

Attorney William Fitzpatrick presented the application for a variance of the Zoning Regulations. Vincent SanFilippo, a well-known Fairfield builder, is the contract purchaser

of property known as 1300 North Benson Road. Title to this property is presently held by the Estate of Edward Ochman, Sr. This property presently contains a fire-damaged single family home. The property is located in the Residence A zoning district which requires a minimum lot area of 9,375 square feet, as well as a minimum square of 75 feet. The property here contains 63,649 square feet. The intent of the applicant is to subdivide the property into three building lots, shown as Lots 1, 2 and 3 on the plan accompanying this application. Each of the proposed building lots contains more than twice the required Residence A minimum square footage of 9,375 square feet. Proposed Lot 1 contains 20,389 square feet; proposed Lot 2 contains 21,220 square feet; and proposed Lot 3 contains 22,040 square feet. The configuration of the lots, however, fails to satisfy the required 75 foot minimum square. Therefore the applicant is requesting a variance of Section 5.1.1 of the Zoning Regulations to reduce the minimum square requirement from 75 feet to 66.66 feet for Lot 1, to 66.68 feet for Lot 2. and to 66.66 feet for Lot 3. In evaluating this variance request, it is important that the Board take into account the sloping topography of the site. The property slopes significantly from North Benson Road to the rear of the property on the east. A plan has been included with this application depicting a legally conforming five lot subdivision of the property, including the construction of a cul de sac. The minimum required lot area and minimum square, per the Residence A regulations, are satisfied by this proposal. But the severe slope of the property made construction of the cul de sac and access to the cul de sac from the proposed homes challenging from an engineering standpoint.

In addition, the ability to properly address storm water runoff requirements was compromised by the significant west to east slope of the property. The approval of this variance request will permit the removal from the site of the existing fire-damaged home which has deteriorated into an eyesore and will permit the construction of three appropriately sized homes by a respected Fairfield builder. It is anticipated that all new home construction will take place westward of the existing sanitary sewer easement, leaving the rear of the property as open space.

Approval of this variance request permits the productive use of this property for three building lots, recognizing that the sloping topography of the site prevents the legally conforming use of the property for a five lot subdivision.

**DENIED:** Linda Snelham-Moore *moved* and Duncan Keith *seconded* to approve the proposed application. **In Favor:** Kevin Coyne, Duncan Keith, Daphne Dixon. **Opposed:** James Hamilton and Linda Snelham-Moore. *Motion passed 3-2.*

**13. 141 University Drive, Map 125, Parcel 276.** Petition of George and Lee Smith for a variance of the Zoning Regulations; Section 5.2.4 to reduce minimum required sum of the side setbacks from the two side property lines from 25 feet, currently 41.9 feet, proposing 17.5 feet. **Permission to construct one and two story additions. Premises: A Zone**

George Smith, owner, presented the application for a variance of the Zoning Regulations. He wishes to add a 2<sup>nd</sup> story addition to existing structure with 20ft x 20ft family room addition in rear of existing house with 3<sup>rd</sup> floor play room. All of this work falls within the zoning requirements.

He noted the reason for variance is that the existing structure was built too close to the right side line by 1 ½ feet. His intent is to add a 2<sup>nd</sup> story along with 20' x 20' added to rear of the existing structure, which would be a family room.

Petitions of support were submitted for the record from the adjoining neighbors.

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

**14. 1233 South Pine Creek Road, Map 238, Parcel 91.** Petition of Six Holdings, LLC for a variance of the Zoning Regulations; Section 5.2.4 to reduce the primary and secondary street line setbacks in a corner lot from 22 feet and 30 feet, currently 4.7 feet and 18 feet, proposing 20.7 feet and 20 feet; and Section 5.2.5 to increase the lot coverage from 15%, currently 31.03%, proposing 24.9%, and to increase the total floor area patio from 30%; currently 24.12%; proposing 44%. **Permission to remove existing dwelling and construct a new dwelling. Premises: FPD**

William Fitzpatrick presented the application for a variance of the Zoning Regulations. The intent of the applicant is to remove the existing one-story cape-style home and construct a new colonial-style two-story home. To that end, the applicant is requesting a variance of Section 5.2.4 of the Zoning Regulations to permit a reduction of the street setbacks for a corner lot from 30 feet, presently 18.8 feet (to South Pine Creek Road), to 20 feet, and from 22 feet, presently 4.7 feet (to Dunhill Drive), to 20.7 feet; and a variance of Section 5.2.5 of the Regulations to permit an increase in coverage from 15%, presently 31.03%, to 24.9%, and an increase in the floor area ratio from 300/0, presently 24.12%, to 44%.

An earlier application to the Zoning Board of Appeals pertaining to this property was heard by the Board at the October 6, 2011 meeting. That application was denied by a vote of 3 members in favor and 2 members opposed. The primary objection to the application set forth by the members of the Board voting to deny the application was the size of the proposed new home, some 3021 square feet. In response to the concerns expressed at the October meeting, the applicant has substantially revised the application, reducing the size of the proposed new home to 2714 square feet. The proposed new home configuration is essentially the minimum square footage necessary to accommodate four bedrooms, a requirement in today's new home market, and a two car garage. The two car garage is particularly important in an area with limited on street parking.

Attorney Fitzpatrick noted in evaluating this variance application, several factors should be considered. First, it is important to realize that the zoning classification here, Flood Plain District, requires, per Section 23.7 of the Regulations, the application of the R-2 Zoning District standards. In this matter, this results in the application of standards designed for a minimum lot area of 14,000 square feet (the R-2 zone minimum lot area) to a lot containing 7,189 square feet. This anomaly explains the present non-conforming status of the existing home. For instance, the initial variance request seeks a reduction in the two street setbacks for a corner lot from 30 feet and 22 feet, respectively, to 20 feet and 20.7 feet. However, the request must be considered in the context of the existing house where the present setback to South Pine Creek Road is 18.8 feet (20 feet is the variance request) and the present setback to Dunhill Drive of 4.7 feet (20.7 feet is the variance requested). The

proposed new home will be located further from the two streets, thereby reducing the existing nonconformities. Similarly, the variance request relative to coverage seeks an increase from the permitted 15% to 24.9%. This request must take in account the fact that the existing coverage is even greater at 31.03%. Again, the proposed new home will reduce the existing coverage on-site, reducing an existing nonconformity.

The last variance request seeks an increase in floor area ratio from 30% presently 24.12%, to 44%. This is essentially equivalent to placing a second-story on the existing home, but with the new home located in such a fashion as to reduce the existing zoning nonconformities.

It is also important to recognize that it is the classification of this property as R-2 zone (14,000 square feet minimum lot area) that generates the floor area ratio requirement of 30%. The most appropriate zoning designation for a lot of the size here (7,189 square feet) is the Residence B zone, which requires a single-family home minimum lot area of 6,000 square feet. The floor area ratio in the Residence B zone, designed for a lot of the size here, is 50% a figure with which the proposed FAR here (44%) complies. The applicant has significantly reduced the size of the proposed home when compared with the initial application, that is, from the original 3021 square foot home to the proposed 2714 square foot home. This is the virtual minimum size necessary to provide new home buyers with the necessary features, including four bedrooms and a two car garage. The proposed floor area ratio is 44%, significantly less than the original proposed floor area ratio of 49.5%, and fully compliant with the Residence B zone floor area ratio maximum of 50%. It is also important to note that there are many homes in the area of greater square footage than the proposal here.

Petitions of support were submitted for the record from the adjoining neighbors.

**Opposition:** Eileen Thomas, 57 Dunlea Road, spoke in opposition to the proposed application.

**DENIED:** Kevin Coyne *moved* and Linda Snelham-Moore *seconded* to approve the proposed application. **In Favor:** Kevin Coyne, Duncan Keith, Daphne Dixon. **Opposed:** James Hamilton and Linda Snelham-Moore. *Motion passed 3-2.*

**15. 101 Waterville Road, Map 228, Parcel 99A.** Petition of Gerald McCormack and Eileen Liu for a variance of the Zoning Regulations; Section 5.1.5 number of dwellings per lot, and Section 2.8.1.1 enlarge a non conformity, and Section 5.2.4 to reduce the setback from 25 feet, currently 3.2 feet, proposing 3.2 feet, and Section 5.2.4.3 to reduce the side yard setback for an accessory structure from 25 feet, currently 19.2 feet, proposing 11.5 feet. **Permission to enlarge an existing dwelling and detached garage. Premises: AA Zone**

Gerald McCormack, owner, presented the application for a variance of the Zoning Regulations. He wishes to expand an existing, legally nonconforming first floor. The Structure already contains both a bathroom and kitchen. He also wishes to expand the existing freestanding garage in order to increase our garage capacity from the current two cars to three cars so their elderly parents can have a place to store their cars.

The intent is to make a livable and comfortable space for their elderly parents who require assistance with their daily living. They are requesting a variance because the structure already exists and has water, septic and power connection

Petitions of support were submitted for the record from the adjoining neighbors.

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

There being no further business to come before the Commission, James Hamilton adjourned the meeting at 4:51p.m.

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Kevin Coyne, Secretary

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Josephine M. Keogh

**JAMES HAMILTON, ACTING AS CHAIRMAN**

**KEVIN COYNE, SECRETARY**

**JOSEPHINE M. KEOGH, CLERK**