

**ZONING BOARD OF APPEALS
EXECUTIVE SESSION OF JANUARY 5, 2012**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on January 5, 2012 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: Kevin Coyne, Chairman, James Hamilton, Vice Chairman, Donald Caferro, Secretary, Duncan Keith, Edward Cheffetz, Alternate, Margaret McKay, Alternate.

1. **Minutes of December 1, 2011:** James Hamilton *moved* and Edward Cheffetz *seconded* to approve the proposed minutes as submitted. *Motion passed unanimously.*
2. **Approval of Secretary's Fee:** Edward Cheffetz *moved* and Donald Caferro, *seconded* to approve the proposed Secretary's Fee. *Motion passed unanimously.*
3. **2123 Fairfield Beach Road: Application of Deborah Schiavone requesting the ZBA reverse their decision regarding property owned by Charles and Sophie Urbain**

After discussion:

DENIED: Edward Cheffetz *moved* and James Hamilton *seconded* to deny the Application of Deborah Schiavone requesting the ZBA reverse their decision regarding property owned by Charles and Sophie Urbain. *Motion denied unanimously.*

This portion of the Executive Session started at 2:57 and continued into Public Hearing.

Donald A. Caferro, Secretary

Josephine M. Keogh

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PRESENT: Kevin Coyne, Chairman, James Hamilton, Vice Chairman, Donald Caferro, Secretary, Duncan Keith, Edward Cheffetz, Alternate, Margaret McKay, Alternate.

1. 1726 Stratfield Road, Map 26, Parcel 234. Petition of Marc Jacobson for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 20%, Proposing 20.8%. **Permission to remove existing garage and rebuild. Premises: A-Zone**

Tom Sampson, agent, presented the application for a variance of the Zoning Regulations. He noted the owner wishes to construct a 14 x 24 x 14'6" garage on an undersized lot.

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

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

2A. 491 Lockwood Road, Map 47, Parcel 116. Petition of Estate of Richard F. Riehl for a variance of the Zoning Regulations; Section 5.1.1 to reduce the minimum required lot size for a single detached dwelling for one family from 20,000 square feet, currently 26,528 square feet, proposing 12,018 square feet and Section 5.1.1 to reduce the minimum square required on a lot from 100 square feet, currently 150 square feet, proposing 80 square feet. **Permission to establish a legal non conforming building lot. Premises R-3 Zone**

2B. 475 Lockwood Road, Map 47, Parcel 117. Petition of Estate of Richard F. Riehl for a variance of the Zoning Regulations; Section 5.1.1 to reduce the minimum required lot size for a single detached dwelling for one family from 20,000 square feet, currently 26,528 square feet, proposing 143 10 square feet and Section 5.1.1 to reduce the minimum square required on a lot from 100 square feet, currently 150 square feet, proposing 96 square feet. **Permission to establish a legal non conforming building lot. Premises R-3 Zone**

Attorney James Walsh presented the application for a variance of the Zoning Regulations. He noted the applicant and property owner, Estate of Richard F. Riehl, makes this application with regard to the property located at 475 Lockwood Road (Lot B) and 491 Lockwood Road (Lot A). The application involves proposed Lots A and B, as shown on the survey. For Lot A, a variance is sought of Section 5.1.1 in order to reduce the Minimum Lot Size from 20,000 sq. feet, Currently 26,528 sq. feet, Proposing 12,018 sq. feet and to reduce the Minimum Square Required on a Lot from 100 foot square, Currently 150 foot square. For Lot B, a variance is sought of Section 5.1.1 to reduce the Minimum Lot Size from 20,000 sq. feet, Currently 26,528 sq. feet, Proposing 14,510 sq. feet and to reduce the Minimum Square Required on a Lot from 100 foot square, Currently 150 foot square, Proposing 96 foot square. The subject property is located in Zone R-3 and both combined lots comprise 26,528 sq. ft. It should be noted that Lots A and B are now and have always been considered two (2) separate lots and have been taxed as separate lots by the Town of Fairfield. There has never been any intent to merge these lots by the owners. It should also be noted that the vacant lot has its own separate sewer trunk line that was paid for by the owners in the chain of title.

Attorney Walsh also noted if the proposed application was not granted, the current house could be demolished and a duplex condominium could be built in its place that would not be in character with the surrounding neighborhood. After consideration, the applicant strongly believes that the proposed plan to create two (2) single family homes on proposed Lots A (keeping the existing home) and B is superior and will be in character with the surrounding neighborhood and have a far more positive impact with respect to the aesthetics of the neighborhood and property values. The applicants submitted these applications to the Board asking for the variance as referenced pertaining to Section 5.1.1 for each proposed single family lot.

With regard to the hardship requirement as the Board is aware the Courts have determined a hardship condition is one that originates and arises directly out of the application of the zoning ordinance to circumstances or conditions unique to the property and beyond the control of the applicant. It must be shown that because of some peculiar characteristics with regard to the property the strict application of the zoning regulations results in unusual hardship with regard to the imposition of the regulations on the property in question.

With regard to the property in question the hardship requirement is satisfied based upon several factors, the Assessor's map 47 to note that the vast majority of houses in this area are on 80 to 90 foot wide lots. The proposed lots at 475 and 491 Lockwood Road will not be out of character with the neighborhood but rather will be in full conformance with the existing lot areas in the immediate vicinity. The construction of a house in conformance with the other requirements with the zoning regulations for a residence R-3 zone will permit the two (2) homes that are in character with and conformance with the remaining lots and houses in the area. The hardship that exists with regard to this property is that it is a property that was created on a plan of development approved by the Town Plan and Zoning Commission in 1940 and 1946, subsequent to the enacting of zoning regulations but prior to the enactment of subdivision regulations. This parcel also falls in that unique position of having been established as a building lot when zoning regulations were in place,

but prior to the enactment of subdivision regulations, thus preventing it from being a "grandfathered" building lot as set for the in Connecticut General Statutes Section 8-26A.

That statute would allow this lot as a pre-existing non-conforming building lot had the enactment of the subdivision plan been subsequent to, rather than prior to, the enactment of subdivision regulations. The subsequent enactment of modified zoning regulations that changed and intensified the requirements for this lot now prevent it without a variance from being used as a valid building lot. The granting of the variances requested will not adversely affect property values in the neighborhood but will in fact benefit the consideration of property values by allowing there to be two (2) single family homes in character with the surrounding neighborhood.

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

In Opposition: Attorney Peter Ambrose, representing Kerry and Charles Angoto, neighbors, spoke in opposition of the proposed application.

Condition: Conditioned upon adhering to building and/or engineering department's requirements/recommendations as to drainage and discharge of surface water.

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

3. 60 Puritan Road, Map 139, Parcel 142. Petition of Jeffrey and Rachel Conley for a variance of the Zoning Regulations; Section 5.2.4 to reduce the side yard setback from 7 feet, currently 6.8 feet, proposing 6.8 feet and Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 22.5%, proposing 22.8%.

Permission to construct a one story and second floor dormer addition. Premises A Zone

Jeffrey Walsh, owner, presented the application for a variance of the Zoning Regulations. He noted as part of the remodel of the 2nd story of the existing property he wishes to extend the interior and exterior porch and construct a new entry portico. The new portico will extend the lot coverage by an area of 7'6" x 5', which is equivalent to 0.3% of the lot area. Mr. Walsh has a growing family with three young children ages 4, 6, & 8 and the proposed remodel and addition addresses needs.

The second story addition adds another bedroom on the second floor. This will enable all the children's bedrooms to be on the same floor. The slightly enlarged porch creates more interior space around the front door, which is currently very restricted, giving more room to put coats and shoes on. The addition is in the character of the neighborhood and respects the original dimensions of the property.

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

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

4. 733 Post Road, Map 141, Parcel 22. Petition of 733 Post Road, LLC for a variance of the Zoning Regulations; Section 12.7.6.3 to reduce the rear property line from 10 feet, currently 2 feet, proposing 6 inches. **Permission to construct a one story addition to rear of building. Premises: DCD**

Richard Girouard, agent, presented the application for a variance of the Zoning Regulations. He noted the owners wish to construct a one story addition that will be triangular in shape. The area that attaches to the existing building is 48'9" long. It will be 1'6" deep on the left side and 27'6" deep on the right, the area along the adjoining property is 55'0" long.

Mr. Girouard also noted, the owners of this property are the owners & the operators of the Planet Pizza restaurants. This addition will provide space for handicapped & bathrooms, and the area for storage and prep required for Planet Pizza. 12.7.6.2 side property line setback. This regulation allows for zero on one side. Unfortunately, due to the narrow irregular triangle shape of the property and because the back side property line is on a 45 angle from the street, it is treated as a rear property line. Because of the severe restrictive shape of this property, they are requesting that a variance be granted to reduce the rear setback from ten feet to six inches.

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

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

5. 33 Evergreen Hill Road, Map 168, Parcel 20. Petition of Ellen McCarthy for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 60 feet, currently 58.3 feet, proposing 58.3 feet. **Permission to construct a second floor addition. Premises: AAA Zone**

Ellen McCarthy, owner, presented the application for a variance of the Zoning Regulations. She wishes to construct above the existing garage a master bedroom suite consisting of a bedroom, sitting area, bath room and closet. The existing corner of dwelling built in 1956 is 1'9", too close to road and present regulation. This particular corner is 58'3" Other frontage points meet with town regulations. No excavation work or foundation work has been done.

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

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

6. 1964 Post Road, Map 23 1, Parcel 369. Petition of Kyong Eun Kim and Jahny Kim for a variance of the Zoning Regulations; Section 12.7.6 to reduce the rear setback from 10 feet, proposing 0.8 feet and the side setback from 10 feet, currently 5.7 feet,

proposing 5.7 feet and Section 28.6.5 to reduce the number of required parking spaces from 7, proposing 4. **Permission to construct a one story rear addition. Premises: DCD Zone**

The proposed application was withdrawn.

7. 3007 Redding Road, Map 217, Parcel 18. Petition of Richard Swann for a variance of the Zoning Regulations; 5.2.4 to reduce the minimum required street setback from 60 feet, currently 47.4 feet, proposing 47.4 feet. **Permission to construct an addition. Premises A Zone**

Attorney Joel Green presented the application for a variance of the Zoning Regulations. He noted the owner wishes to retain the existing 2 story timber framed cottage, with its stone foundation, which is partially within the front yard setback. This structure has numerous cosmetic issues and requires substantial renovation, including replacing leaking roof, which The owner wants to re-frame as a more steeply pitched (taller) gable roof, in the style and detail of the “farmhouse colonial” additions and alterations behind the setback line. Wetlands, and the buffer zone from wetlands consume almost the entire property, any residence must occupy the existing house and barn site.

Attorney Green also noted the granting of the petition for a variance on this application would permit the reconstruction of a house on the footprint of the existing one – a use permitted as of right but for the proposed increase in height. In this case, a variance would also reduce the nonconformity to the extent that a portion of the front setback encroachment is eliminated. Due to the existence of wetlands on the property, the proposed structure cannot be built in any alternate location on the lot. Therefore, this faces a hardship that results strictly from the peculiar characteristics of the topography of this lot. The proposed house in this case is visually and functionally harmonious within this residential zone and therefore in accordance with the town’s comprehensive plan. Therefore, granting this application is a reasonable and justified exercise of the Board’s decision.

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

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

8. 1791 - 1803 Fairfield Beach Road, Map 234, Parcel 40 and 41. Petition of Paul and Patricia Zecchi for a variance of the Zoning Regulations; Section 1 1.12 to reduce the setback from Long Island Sound from 145 feet, proposing 143 feet. **Permission to extend an existing deck and roof area. Premises BD Zone.**

Attorney William Fitzpatrick presented the application of the Zoning Regulations. He noted the applicants are the owners of a beach property known as 1791 - 1803 Fairfield Beach Road. This property consists of a single-family home (1791 Fairfield Beach Road) and a garage/apartment (1803 Fairfield Beach Road). The applicants appeared before the Zoning Board of Appeals in March of 2011 requesting minor variances as part of the

renovation of the garage apartment. That Zoning Board of Appeals application was approved, and the renovation work on the garage apartment has been completed.

The applicant here relates to the Zecchis home at 1791 Fairfield Beach Road. The applicants wish to add a one-story addition to the rear of their home and to wrap the existing deck facing Long Island Sound around the westerly side of the home.

Attorney Fitzpatrick also noted the existing roof will be extended to cover the expanded deck. No variance is required for the one-story addition facing Fairfield Beach Road. Similarly, no variance is required in order to construct the new covered deck to the west of the home. Further, no variance is required to extend the existing roof to cover the existing deck area facing Long Island Sound. A variance is required for the small portion of the deck and roof expansion which extends beyond the wall at the home facing Long Island Sound and connects the existing deck facing Long Island Sound to the covered deck to be constructed on the westerly side of the home.

Attorney Fitzpatrick further noted, in evaluating this variance request, it is important to note that the proposed deck expansion is no closer to Long Island Sound than the existing deck. The existing deck is approximately 140 feet from Long Island Sound and the proposed extension of the deck, due to the location of the mean high water line, is 143 feet from Long Island Sound. It is also relevant to note that the size of the proposed deck and roof extension requiring a variance is relatively minimal, comprising approximately 50 square feet.

The proposed deck and roof expansion simply connects the existing deck area facing Long Island Sound to the legally permitted new covered deck area to the west of the home. The property has a width of approximately 120 feet, so the minor deck/roof expansion will not impinge on anyone's views or privacy. There is also no overbuilding on this property by virtue of this variance request since the permitted coverage is 20% while the proposed coverage, with the deck in place, is 16.8%. Approval of the variance request allows the applicants to connect the existing deck facing Long Island South with the new covered deck to the west of their home.

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

9. 200 Mine Hill Road, Map 174, Parcel 14. Petition of David D'Ausilio for a variance of the Zoning Regulations; Section 5.1.5 for number of dwellings per lot. Permission to convert existing detached garage to accessory apartment. Premises: AAA Zone.

David D'Ausilio, owner, presented the application for a variance of the Zoning Regulations. He wishes to convert existing detached five garage into accessory apartment. Existing detached five car garage was constructed in 1986 and is located 40+ feet from main dwelling. The elevation change between existing garage and main dwelling 4'. The asphalt driveway bisects the two structures.

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

DENIED: Edward Cheffetz *moved* and James Hamilton *seconded* to deny the proposed application. *Motion denied unanimously.*

There being no further business to come before the Commission, Kevin Coyne, adjourned the meeting at: 4:50 p.m.

Donald Cafero, Secretary

Josephine M. Keogh

KEVIN COYNE, CHAIRMAN

DONAKLD CAFERO, SECRETARY

JOSEPHINE M. KEOGH, CLERK