

**ZONING BOARD OF APPEALS
EXECUTIVE SESSION OF JUNE 7, 2012**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on June 7, 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, Duncan Keith, Edward Cheffetz, Acting Secretary, Margaret McKay, Alternate

ABSENT: Donald Caferro, James Baldwin

1. **Minutes of April 5, 2012 (tabled from May 3, 2012):** James Hamilton *moved* and Duncan Keith *seconded* to approve the proposed minutes as submitted. *Motion passed unanimously.*
2. **Minutes of May 3, 2012:** James Hamilton *moved* and Margaret McKay *seconded* to approve the proposed minutes as submitted. *Motion passed unanimously.*
3. **Approval of Secretary's Fee:** James Hamilton *moved* and Margaret McKay *seconded* to approve the proposed Secretary's Fee. *Motion passed unanimously.*

This portion of the Executive Session adjourned 1:55.

Edward Cheffetz, Acting Secretary

Josephine M. Keogh

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

ABSENT: Donald Caferro, James Baldwin

1. 48 Sanford Street, Map 180, Parcel 242. Petition of 50 Sanford Road, LLC for a variance of the Zoning Regulations; Section 28.6.12 to reduce the minimum required total number of off street parking by six (6). **Permission to establish 240 square feet of seasonal outdoor dining. Premises: CDD**

The proposed application was continued to 7-5-12.

2. 2308 Fairfield Beach Road, Map 234, Parcel 94. Petition of Stephanie Scott for a variance of the Zoning Regulations; Section 11.7 to extend an existing legal nonconforming 3rd floor. **Permission to construct an addition. Premises: BD**

Attorney Raymond Rizio presented the application for a variance of the Zoning Regulations. He noted the Applicant seeks to extend an existing third floor living area to create a new master bedroom with a new balcony and porch. All work will be done within the existing footprint. The existing house was built over thirty five (35) years ago, prior to the implementation of the current beach district regulations. A third story currently exists, which is conforming with regard to heights but non-conforming with regard to the number of floors. The current application will not increase the height or the number of floors. The current application will not increase the height of the number of floors. The Applicant merely seeks to expand the existing third floor. No other variances are required or requested to complete the proposed improvements. The improvements are consistent with those in the neighborhood and pose no threat to the health, safety and welfare of F airfield residents.

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

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

3. 1950 Bronson Road, Map 226, Parcel 49-A. Petition of John and Amelia Coelho for a variance of the Zoning Regulations; Section 28.6.12 to reduce the minimum required total number of off street parking spaces by 15. **Permission to establish seasonal outdoor dining. Premises: NDBD**

John and Amelia Coelho, owners, presented the application for a variance of the Zoning Regulations. Mr. Coelho noted the proposed restaurant would like to add four hundred and fifty (450) seasonal outdoor dining space utilizing three (3) parking spaces directly in front of the restaurant. The designated handicap spaces will not be affected. Mr. Coelho also noted they will need to reduce the number of parking spaces by twelve (12) plus the three (3) where the seating will be (15 in total).

DENIED: James Hamilton *moved* and Duncan Keith *seconded* to approve the proposed application. *Motion denied 3-2. Edward Cheffetz and James Hamilton were opposed.*

4. 1700 Post Road, Map 180, Parcel 270. Petition of Heritage Square, LLC for a variance of the Zoning Regulations; Section 28.6.12 to reduce the minimum required total number of off-street parking spaces by 10. **Permission to expand an existing restaurant. Premises CDD**

Attorney James Walsh presented the application for a variance of the Zoning Regulations. The Applicant, Quality Eats, LLC, requests a variance of Section 28.6.12 of the Zoning Regulations as discussed hereinafter in order for permission to 'expand a restaurant by the name of Bodega, at a property located at 1700 Post Road. The Applicant is seeking a variance of Section 28.6.12 to reduce the minimum required total number of off street parking spaces by ten (10) parking spaces.

The Applicant has entered into a lease with the property owner, Heritage Square, LLC, to expand its current restaurant into additional space previously occupied by Jeddy Toys. The premises consist of three (3) buildings which contain a mixed use of retail, restaurants, business/professional offices and medical/dental offices. The restaurant is to be located in the west corner on the first floor of the North Building, in a location previously occupied by Shelly's Caf6. The principal of the Applicant are Mario Fontana, Michael Young and Luis Chavez. Mr. Fontana has been a professional chef/restaurateur most of his adult life. Mr. Fontana is a long-term resident of Fairfield and is Vice-President and a member of the Board of Directors of the Pequot Library. He has owned multiple restaurants in the United States (Connecticut New York) and Canada. His last two (2) restaurants were Ocean Drive and Habana, both located in South Norwalk. They were both wildly successful and critically acclaimed. Mr. Fontana's creates "narrative restaurants," with each restaurant telling its own unique story. Through the food, decor, atmosphere and music, Mr. Fontana's restaurants make the patrons feel as though they have traveled somewhere. The Applicants have done this with the creation of Bodega, a taco bar that also serves other Latin inspired creations. Mr. Young and Mr. Chavez have been professional chef and restaurant owners

most of their adult lives. They currently own Bodega with Mr. Fontana and also own Valcencia in Norwalk, which has been wildly successful. Since its opening Bodega has been wildly successful, with many patrons having to be turned away for lack of space. When the Jedly Toys space became available it became only natural for the Applicant to expand into the additional 1,000 square feet of space. Pursuant to the attached plans, the Applicant plans on only using 560 square feet for patron floor area. The remaining space will be used for another bathroom, storage, a hallway and an entry airlock.

With respect to the variance sought pursuant to Section 28.6.12, the additional patron floor area of the seasonal outdoor dining area that the Applicant is planning is 560 square feet, as shown on the plans submitted herewith. This establishes a requirement of fourteen (14) parking spaces. However, the Applicant gets a credit of four (4) spaces (1,000 divided by 250) for the 1,000 square feet of retail space that is being converted to restaurant usage. Thus the total variance sought is for ten (10) parking spaces.

This location is one of the few buildings in the downtown that has ample parking. As a practical matter, the variance is highly technical in nature in that the parking spaces available at Heritage Square are and will continue to be far more than adequate to meet the needs of the existing tenants and the expanded Bodega restaurant. As confirmed by the experience of other tenants in the Heritage Square, more than sufficient parking will be provided for during daytime luncheon hours to accommodate afternoon diners. In the evening this availability will be even more dramatic as additional parking will be available after all the other businesses in the Heritage Square Center are closed. All of the Tenants of the Heritage are closed after 5:00 p.m.

Attorney Walsh noted the application before the Board is consistent with prior approvals and precedents established with regard to the granting of parking variances for restaurant uses in the Center Designed Business District. This important economic area in our community and the entire Town of Fairfield have benefited substantially due to the vibrancy and activity created by these various restaurants, which now operate successfully in Fairfield. The influx of quality restaurants in our downtown, and throughout our Town, has been the single biggest driver of economic development in our Town, even in the current recession. Fairfield has become the destination for restaurants from the surrounding communities. Our Town has become the envy of the surrounding towns because of this and much of the credit for this has to go to the Zoning Board of Appeals for granting of similar parking reduction variances for seasonal outdoor dining.

This property unlike many though does have ample parking, just not enough to support all the various uses of the tenants therein. The hardship of accommodating commercial uses in the downtown area in light of parking regulations, particularly those for restaurants, is inherent to this and too many other properties. The impact of the Zoning Regulations to this specific property establishes a basis for a finding of exceptional difficulty or unusual hardship because it renders the property technically deficient with regard to parking spaces. Indeed, it should be noted that in numerous other applications where restaurants have been granted similar variances in Fairfield, Tommy's n/k/a Old Post Tavern, Fin, Wild Rice, San Tropez n/k/a The Brasserie, Quattro Pazi, Café Madeline, Voila n/k/a Oceana, Avellino's,

Colony Grill, Pearl of Budapest n/k/a Café Lola, etc., a finding of hardship sufficient to form the basis for the granting of a variance was due to the fact that the buildings wherein the restaurants were located were nonconforming as to the existing parking requirements and had little or no parking on site.

The Applicant's proposed plan to expand its restaurant area will be an exciting, unique and upscale addition to our downtown business district and dining scene. It will provide Fairfield residents with a slightly larger restaurant that many have come to love. As with the establishment of previous restaurants in the Center Designed Business District, the proposed larger restaurant will contribute to the continued energization, revitalization and excitement in our downtown business district benefiting the interests of all downtown merchants and residents of the Town of Fairfield. The granting of the variances will have no negative impact whatsoever, in that the proposed restaurant will operate consistent with the permitted use of a restaurant in the Center Designed Business District.

Attorney Walsh submitted a revised survey for the record.

DENIED: Edward Cheffetz *moved* and James Hamilton *seconded* to approve the proposed application. *Motion denied 4-1. Kevin Coyne was in favor.*

5. 83 Bonney Terrace, Map 232, Parcel 226. Petition of David and Kathryn Seuch for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback from 20 feet, currently 8.5 feet, proposing 19.2 feet. **Permission to construct an open front porch. Premises: A Zone**

David Seuch presented the application for a variance of the Zoning Regulations. He noted he wishes to construct an open front porch on the south side of the property. The existing non-conforming carport, which he previously got a variance for in 1990, will be removed.

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

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

6. 223 Middlebrook Drive, Map 147, Parcel 258. Petition of Susan Theis-Costantino for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side line setback and sum of sideline setbacks from 7 feet, currently 4.4 feet, proposing 5.7 feet; and from 25 feet, currently 21.9 feet, proposing 23.1 feet. **Permission to remove existing garage and construct a new two story addition. Premises: A Zone**

Susan Eckert, owner, presented the application for a variance of the Zoning Regulations. She is requesting a variance to construct an addition consisting of a new garage with a laundry room and family on the first floor. The second floor will consist of a mater bedroom and bathroom. Ms. Echert would like to improve a non-conforming pre-existing wall.

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

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

7. 535 Westport Turnpike, Map 258, Parcel 51. Petition of Justin and Christine Charise for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side line setback from 30 feet, currently 16 feet, proposing 16 feet. **Permission to construct a rear deck. Premises: AAA Zone**

Christine Charise, owner, presented the application for a variance of the Zoning Regulations. She is requesting a variance to build a rear deck on the rear of the house, which will be in line with the current setback of the house. This is a legal non-conforming lot, which does not meet the square of the area. Due to wetlands, the upland portion of the lot is determined necessitating side yard variance.

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

8. 1326 Post Road, Map 180, Parcel 229. Petition of Betty R. Mercurio, et al, for a variance of the Zoning Regulations; Section 28.6.12 to reduce the minimum required total number of off-street parking spaces by 3. **Permission to establish seasonal outdoor seating. Premises: CDD**

Attorney James Walsh presented the application for a variance of the Zoning Regulations. The Applicant, Irish Hound, LLC, requests, requests a variance of Section 28.6.12 of the Zoning Regulations as discussed hereinafter in order for permission to establish a restaurant at its property located at 1326 Post Road (a/k/a 12 Unquowa Place). The Applicant is seeking a variance of Section 8.6.12 to reduce the minimum required total number of off street parking spaces by three (3) parking spaces, in order to construct a seasonal outdoor dining area in front of the restaurant.

The Applicant has entered into a lease with the property owners, Betty R. Mercurio and Betty R. Mercurio, Trustee of the Dominic C. Mercurio 199 1 Revocable Trust, to establish said restaurant. Further, the Applicant has recently entered into a lease with the Town of Fairfield to lease the proposed area of the outdoor seasonal dining area. The premises consist of two (2) buildings which contain a mixed use of retail, restaurant, business - professional offices and apartments. The restaurant will be located in the building know as 12 Unquowa Place, in a location previously occupied by The Greenhouse Grill and The Fairfield Spot. The proposed seasonal outdoor dining area will be located directly in front of the premises and will be a dimension of 15 feet by 6.5 feet, for a total square footage of 97.5 square feet. The principals of the Applicant are Kevin McHugh, Scott Beck, Matt Storch, Steve Calzone and Susan Calzone. These principals have been professional restaurateurs most of their adult lives. Mr. McHugh and Mr. Beck have successfully owned more than ten (10) restaurants in Connecticut, currently having ownership interests in The Gray Goose in Southport, Spotted Horse in Westport, and Match in Norwalk. Mr. Storch is currently the executive chef at Match. These restaurants have all been wildly successful and critically acclaimed. Mr. and Mrs. Calzone recently owned Mesa restaurant in

Fairfield. The Applicant would like to bring their style, experience and hospitality to Fairfield, by investing in downtown Fairfield and continuing the revitalization of the downtown area.

This proposed restaurant would provide the highest quality in casual dining in a stylish and warm environment. The proposed new restaurant will be serving small, handcrafted plates consisting of meats, poultry, fish and produce. This exciting proposed new restaurant will harmonize and compliment the Center Designed Business District and further energize the exciting and ongoing revitalization of the district.

With respect to the variance sought pursuant to Section 28.6.12, the patron floor area of the seasonal outdoor dining area that the Applicant is planning is 97.5 square feet. This establishes a requirement of three (3) parking spaces that the Applicant does not have available in its current parking lot, as all the other parking spaces have been assigned to the other uses in the building, including the previous and proposed restaurant usage. This property, unlike most in the downtown, has a 17 spot parking lot. A previous tenant, Greenhouse Grill, was granted a six (6) space parking variance when they added expanded the building to as the greenhouse dining area.

The application before the Board is consistent with prior approvals and precedents established with regard to the granting of parking variances for seasonal outdoor dining areas for restaurant uses in the Center Designed Business District. This important economic area in our community and the entire Town of Fairfield have benefited substantially due to the vibrancy and activity created by these various restaurants, which now operate successfully in Fairfield. The influx of quality restaurants in our downtown, and throughout our Town, has been the single biggest driver of economic development in our Town, even in the current recession. Fairfield has become the destination for restaurants from the surrounding communities. Our Town has become the envy of the surrounding towns because of this and much of the credit for this has to go to the Zoning Board of Appeals for granting of similar parking reduction variances for seasonal outdoor dining.

This property unlike many though does have a parking lot of 17 spaces. The hardship of accommodating commercial uses in the downtown area in light of parking regulations, particularly those for restaurants, is inherent to this and too many other properties. The impact of the Zoning Regulations to this specific property establishes a basis for a finding of exceptional difficulty or unusual hardship because it renders the property technically deficient with regard to parking spaces. Indeed, it should be noted that in numerous other applications where restaurants have been granted similar variances in Fairfield (Tommy's n/k/a Old Post Tavern, Fin, Wild Rice, San Tropez n/k/a The Brasserie, Quattro Pazi,

Caf6 Madeline, Voila Ma Oceana, Avellino's, Colony Grill, Pearl of Budapest n/k/a Caf6 Lola, etc.), a finding of hardship sufficient to form the basis for the granting of a variance was due to the fact that the buildings wherein the restaurants were located were nonconforming as to the existing parking requirements and had little or no parking on site.

The Applicant's proposed plan for a restaurant with a seasonal outdoor dining area will be an exciting, unique and upscale addition to our downtown business district and dining scene. It will provide Fairfield residents with another unique and attractive dining option. As with the establishment of previous restaurants in the Center Designed Business District, the proposed restaurant will contribute to the continued energization, revitalization and excitement in our downtown business district benefiting the interests of all downtown merchants and residents of the Town of Fairfield. The granting of the variances will have no negative impact whatsoever, in that the proposed restaurant will operate consistent with the permitted use of a restaurant in the Center Designed Business District.

Attorney Walsh presented a letter of support from Mark Barnhart for the record.

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

9. 95 Highlawn Road, Map 77, Parcel 617. Petition of David Mattel and Mary Lupo for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 18.3%, proposing 23%. **Permission to construct a deck. Premises: A Zone**

Attorney Peter Gelderman presented the application for a variance of the Zoning Regulations. The Applicant wishes to demolish the existing deck and construct a two (2) level deck.

Attorney Gelderman noted the lot is now non-conforming to the area and contains 9,176 square feet. The house sits above grade so two (2) levels are required for safety purposes and access. The deck is at the appropriate scale and the location for the house area creates a more useable backyard. The property abuts the school and there is no impact to the neighbors to the rear of the property.

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

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

10. 1486 Round Hill Road, Map 145, Parcel 49. Petition of Peter and Nancy Trupp for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 19.83 %, proposing 22.2. **Permission to construct a rear deck. Premises: A Zone**

Peter Trupp, owner, presented the application for a variance of the Zoning Regulations. He is requesting a variance to construct a rear deck. He noted his wife and himself have undergone some surgeries. These surgeries have limited their flexibility and range of motion. The raised deck will allow them to have a quality outdoor living space without stairs and will also allow easier access to the pool for their exercise.

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

11. 80 Hunter Road, Map 147, Parcel 281. Petition of Mary T. Henriques for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 17.7%, proposing 22.5%. **Permission to remove a rear deck and to construct a rear two story addition. Premises: A Zone**

The contract purchaser presented the application for a variance of the Zoning Regulations. They wish to construct a two story addition with first floor relocation/storage room and second floor bedroom and bathroom. Where there is an existing deck off the kitchen on the second floor. She would like to replace it with a three (3) season porch. There has been three (3) variance granted that are very similar this on the same road.

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

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

There being no further business to come before the Commission, Kevin Coyne, adjourned the meeting at: 6:30 p.m.

Edward Cheffetz, Acting Secretary

Josephine M. Keogh

KEVIN COYNE, CHAIRMAN

EDWARD CHEFFETZ, ACTING SECRETARY

JOSEPHINE M. KEOGH, CLERK