

**ZONING BOARD OF APPEALS
EXECUTIVE SESSION OF SEPTEMBER 6, 2012**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on September 6, 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, James Baldwin Margaret McKay, Alternate.

1. **Minutes of August 2, 2012:** Duncan Keith *moved* and James Hamilton *seconded* to approve the proposed minutes as submitted. *Motion passed unanimously.*

3. **Approval of Secretary's Fee:** James Baldwin *moved* and James Hamilton *seconded* to approve the proposed Secretary's Fee. *Motion passed unanimously.*

This portion of the Executive Session adjourned at 2:56.

Donald Caferro, Secretary

Josephine M. Keogh, Clerk

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

GENERAL DOCKET

1. 72 Willow Street, Map 241, Parcel 135. Petition of Michele Bell for a variance of the Zoning Regulations; Section 5.2.4.3 to reduce the street line setback for an accessory structure from 40 feet, proposing 21.1 feet. **Permission to install a generator. Premises: R-3**

Michele Bell, owner, presented the application for a variance of the Zoning Regulations. She is requesting a variance to install a generator. The house was built in the 1790's and predated the Fairfield Zoning Regulations. The existing house is sited well within the street line setback limit. The existing electric service is located in the southwest corner of the house, where the house is almost thirteen feet into the street line setback.

Regarding the Hardship, Ms. Bell noted she is proposing to locate the new generator proximity to the existing electric panel and in an area that will be screened with landscaping from the Old South Road. The proposed location sets the generator about four feet back from the street wall of the house.

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

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

2. 68 Donna Drive, Map 22, Parcel 60. Petition of Linda and Thomas Quinn for a variance of the Zoning Regulation; Section 5.2.4 to reduce the minimum street line setback from 40 feet, currently 36.2 feet proposing 35.3 feet. **Permission to construct a two (2) story addition. Premises: R-3 Zone**

Chairman Coyne recused himself from the proposed application. Mary McKay sat in for Chairman Coyne. James Hamilton acted as Chairman for this application.

Franco DiBatsta, agent, presented the application for a variance of the Zoning Regulations. He wishes to construct a 15' x 24' 2 story addition consisting of a garage on the first floor and a master bedroom and bath on the 2nd floor. Regarding the hardship, the house is non-conforming on a conforming lot.

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

3. 138 Berkley Road, Map 42, Parcel 86. Petition of Luiza Kosminsky an Enrique Estrada for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required sum of the side setbacks from the two side property lines from 20 feet, currently 14.8 feet, proposing 14.8 feet. **Permission to construct a 2nd floor addition. Premises: B Zone**

Attorney William Burke presented the application for a variance of the Zoning Regulations. It is the applicant's intention to construct a second floor addition above the existing first floor. Regarding the hardship, it is an existing legal non-conforming lot.

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

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

4. 53 Cornell Road, Map 30, Parcel 157. Petition of Peter Zaboretzky for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20 %, currently 16.06%, proposing 21.2%. **Permission to rebuild garage and enclosed entry destroyed by fire. Premises: A Zone**

Peter Zaboretzky, owner, presented the application for a variance of the Zoning Regulations. He wishes to rebuild a two (2) car garage which was destroyed by fire and attaché the garage to the house. The garage will have a flat roof with railing to match right side of the house.

Regarding the hardship, the house is non- conforming. The house was damaged due to a fire. Aesthetically and functionally, this new design will be more pleasing from the road.

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

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

5. 349 Grandview Road, Map 47, Parcel 203. Petition of Paul and Stephanie Stellato for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side line setback and street line setback from 15 feet and 40 feet, currently 26.4 feet and 30 feet, proposing 5.6 feet and 31.3 feet for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 15 %, currently 17.6%, proposing 19.9%. **Permission to construct a two (2) story addition. Premises: R-3 Zone**

Paul Stellato, owner, presented the application for a variance of the Zoning Regulations. He noted they wish to construct a two story addition consisting of a two car garage on the first floor and a bedroom and bathroom on the second floor

The existing lot is 3,637 square feet smaller than what is required in the R-3 zone. He would be able to build an additional 545 square feet without a variance. Due to the location of the existing house on the site and the fact that the lot is relatively narrow, a garage on either side requires a variance from the zoning requirements.

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

GRANTED: James Baldwin *moved* and James Hamilton *seconded* to approve the proposed application. *Motion passed 4-1. Duncan Keith was opposed.*

6. 345 Governors Lane, Map 225, Parcel 13. Petition of Greg and Line Dean for a variance of the Zoning Regulations; Section 5.2.4.3 to reduce the street line setback for accessory structure from 60 feet, proposing 30 feet. **Permission to construct a tennis court with 24 foot tall lights and fence under 15 feet in height. Premises: AAA Zone**

Greg Dean, owner, presented the application for a variance of the Zoning Regulations. They wish to build an asphalt tennis court fenced and lighted, on the back of their property. The lights will be 24 feet high. They are proposing to build the tennis court in the back of the property. As the property is surrounded by street, meaning 60 feet setback from the property line, they are considering the location for the tennis court as the side property, and reduce the setback to 30 feet.

DENIED WITHOUT PREJUDICE: Donald Caferro *moved* and James Hamilton *seconded* to approve the proposed application. *Motion denied without prejudice unanimously.*

7. 229 Eastlawn Street, Map 182, Parcel 387. Petition of John Wetzel for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required sum of the side setbacks from the two side property lines from 20 feet, currently 16.2 feet, proposing 15 feet. **Permission to construct a second floor addition over new one (1) car garage. Premises: B-Zone**

John Wetzel, owner, presented the application for a variance of the Zoning Regulations. He wishes to construct a family room above by replacing our existing garage. The proposal will also raise the furnace, water heater, washer and dryer above flood level and in the house instead of ground level in a breezeway.

The house has no basement. The garage is too small to accommodate one of today's vehicles. The proposal minimally increases the lot coverage percentage as it closely follows the existing footprint, while providing a functional garage, etc.

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.*

8. 1241 Post Road, Map 180, Parcel 11. Petition of Pine Tree Ventures, 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 three (3). **Permission to establish one hundred and twenty (120) square feet of seasonal out-door dining. Premises: CDD**

Attorney James Walsh presented the application of the Zoning Regulations. The Applicant, Biguri Sushi, Inc. d/b/a Fin Restaurant, operating at 124 1 – 1243 Post Road, Fairfield, requests a variance of Section 28.6.12 of the Zoning Regulations for permission to expand the area of its seasonal exterior patio of its restaurant. The Applicant is seeking a variance of Section 28.6.12 to reduce the minimum required total number of off street parking spaces by three (3) parking spaces, in order to extend the patio for seasonal outdoor dining area on the right side of the restaurant.

Fin Restaurant was conceived by Feikang Shi and has proven to be a most exciting and popular restaurant that provides high quality Japanese and Sushi dining with an emphasis upon convenience and reasonable prices. This combination of quality food, ambiance and value has made Fin Restaurant extremely successful and a welcome addition in our downtown area where it has had a major role in the center business district's continued energetic revitalization.

In 2009, the owner of the property, Pine Tree Ventures, LLC (hereinafter "Owner) has beautifully remodeled the entire building located at 1241 -1243 Post Road and increased the size of the building. At the same time, Fin Restaurant invested to remodel its entire restaurant to match the beauty of the remodeled building. Fin Restaurant currently has a seasonal outdoor dining area that is located under a portion of the second floor office area. This configuration allows the second floor to act as over the current seasonal outdoor seating area, so it is no longer affected by rain. This patio is 200 square feet in size. The Zoning Board of Appeals granted the Owner a previous variance of Section 28.6.12 for five (5) parking spaces in regard to the seasonal outdoor dining area on November 5, 2009. This seasonal exterior dining patio has been a huge success. While the applicant has not noticed a huge increase in business from the exterior outdoor dining patio, it has provided the Applicant's customers with a popular option of dining in the fresh area during the warmer months of the year. Many of the Applicant's customers have commented on how much they enjoy the option of dining outside on the patio.

Unlike many of the exterior dining patio's that are in front of many of restaurants throughout our Center, the location of this patio is on the right side of the building. This design does not interfere with pedestrian access to the large sidewalk in front of the premises. Further, in the redevelopment and beautification by the owner of their properties they installed a large beautiful brick courtyard between the buildings. The Applicant, with the support of the Owner, is seeking to expand the size of the seasonal outdoor dining patio by 120 square feet adjacent to the existing patio in the brick courtyard. The dimensions of the expansion area of the patio are 20 feet by 6 feet, for a total square footage of 120 square feet, all of which will be patron area. With respect to the variance sought pursuant to Section 28.6.12, the additional patron floor area of the proposed expanded seasonal outdoor dining area 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 Brick Walk. Complex, including the previous and proposed restaurant usage. This property, unlike most in the downtown, has a 656 spot parking lot. This proposed expansion of the seasonal outdoor dining area was designed not to interfere with the pedestrian's use of the large public sidewalk located in front of the

premises or to the access of the Owner's adjacent buildings located at 1241-1243 Post Road and 126 1 Post Road. The distance between these two (2) buildings, and thus the width of the courtyard, is twelve (12) feet. This will allow the public walking between the two buildings to have a six (6) foot width to access these buildings. The Applicant, the Owner and Architect took great care in the design in order to ensure the public, especially handicapped individuals, with ample space to be able to access the buildings and parking lot located in the rear of the building where many handicap parking spaces are located.

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 and success 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.

The Applicant's proposed plan for an expansion of their seasonal outdoor dining area will allow more of the customers of the Applicant to enjoy the popular outdoor dining area of the Applicant's restaurant. As with the establishment of previous restaurants in the Center Designed Business District, the restaurant will continue to 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.

In summary, the Applicant's proposed expansion of their seasonal outdoor dining patio will be a wonderful use of a portion of the beautiful courtyard located between two (2) of the Owner's buildings. It will not interfere with any pedestrian access to the large public sidewalk located in front of the Owner's buildings, nor will it interfere with the public's access to either of the two buildings. It will continue the beautiful facelift to the premises and will continue to support the Applicant's restaurant which adds to Fairfield's economic base in these difficult economic times. The expansion of the seasonal outdoor dining patio will only compliment the restaurant and bring vibrancy to our downtown in the evening. The Applicant's restaurant continues to support the economic and social interests of our town. The application meets the technical requirements of Connecticut General Statutes 8-6, is consistent with the precedents of past decisions of this Board and the Town Plan & Zoning Commission and the goals and policies adopted in the Town Plan of Conservation and Development.

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

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

9. 347 Lalley Boulevard, Map 138, Parcel 185. Petition of Jeffrey and Laurie Stefanowicz for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required sum of the side setbacks from the two side property lines and to reduce the street line setbacks from 25 feet and 30 feet, currently 17.9 feet and 29.8 feet proposing 17.9 feet and 29.8 feet. **Permission to construct a second floor addition. Premises: A Zone**

Jeffrey Stefanowicz, owner, presented the application for a variance of the Zoning Regulations. He wishes to construct a one and a half story addition to existing house. The addition will be constructed on existing footprint and will not add to existing bedroom count. The existing lot is a legally non-conforming. They have reduced the existing lot coverage and are well below FAR and building height as to keep home as conforming as existing lot allows.

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

GRANTED: Donald Caferro *moved* and James Hamilton *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: 6:32 p.m.

Donald Caferro, Secretary

Josephine M. Keogh, Clerk

KEVIN COYNE, CHAIRMAN

DONALD CAFERRO, SECRETARY

JOSEPHINE M. KEOGH, CLERK