

**ZONING BOARD OF APPEALS  
EXECUTIVE SESSION OF OCTOBER 4, 2012**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on October 4, 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, Edward Cheffetz, Acting Secretary, Duncan Keith, James Baldwin, Daphne Dixon, Alternate.

1. **Minutes of September 6, 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 2:54.

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Edward Cheffetz, Acting Secretary

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Josephine M. Keogh, Clerk

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**PRESENT:** Kevin Coyne, Chairman, James Hamilton, Vice Chairman, Edward Cheffetz, Acting Secretary, Duncan Keith, James Baldwin, Daphne Dixon, Alternate.

**CONTINUED DOCKET**

**10. 2527 Bronson Road**, Map 225, Parcel 24. Petition of Charles Zylstra for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side yard setback from 30 feet; currently 14.9 feet; proposing 11.2 feet on north property line and 12 feet on south property line, and to increase maximum allowable lot coverage and total floor area from 10 % and 15%; currently 8.61% and 15.04%; proposing 10.80% and 17.26%. **Permission to construct a two (2) car two (2) story detached garage and additions. Premises: AAA Zone**

John Fallon presented the application for a variance of the Zoning Regulations. He is requesting a variance to make certain alterations to the existing house located on the property and to construct a new garage all as shown on the site plan and architectural plans.

The property is located in the Residence District AAA. It is a preexisting and legally protected nonconforming lot as to both lot area and shape. The present provisions of the Regulations regarding the Residence AAA Zone establish that the minimum lot area in the zone is 2 acres and Mr. Zylstra's lot contains only approximately one-half acre, 24,230 sq. ft.

Similarly, the minimum square requirement presently in effect requires a square of 200 ft. and the subject property has a square of only 65 ft. The lot is oddly shaped being extremely narrow in its dimensions. In order to facilitate the proposed modest alterations and additions to the existing dwelling Mr. Zylstra seeks a variance of Section 5.2.4 to reduce the required setback from a side property line from 30 ft., presently 14.9 ft., to 11.2 ft. at the northerly property line and 19.5' on the southerly property line. Pursuant to Section 5.2.5 it is also requested to increase the allowable lot coverage from 10% to 10.8% and to increase the total floor area allowed from its existing 15.04% to 17.26%. A framed shed presently nonconforming to the side setback requirement at 2.7 ft. will be removed. The additions and alterations will conform in all other respects with the applicable provisions of the Zoning Regulations notwithstanding a significant non conformity of the lot at it relates to both lot area and shape.

The proposed additions and alterations to the structure harmonize with the character of the neighborhood and represent a significant aesthetic enhancement to the property benefiting the surrounding area. It should also be noted that the property was subject to a previous approval of Notice of Filing, which is attached, based upon an application by the prior owner. In accordance with this approval the Board granted variances with respect to certain aspects of the setback requirements and also granted a variance of Section 5.2.5 which allowed an increase of the total floor area to 17.52%.

The application of Mr. Zylstra seeks a variance of the total floor area equipment which is less than previously granted by the Board. This application was first before the Board at its meeting on August 2, 2012. At that time an abutting neighbor raised concerns about the proposed location of the garage. Board members suggested that the Applicant continue the matter and review the site plan in order to evaluate whether any modification could be made to the garage location to accommodate the articulated concern. In a constructive effort to do so, the application has been revised and as shown on the new site plan the proposed garage has been relocated 7 % ft. to the north of the original location.

With regard to this hardship requirement, our Connecticut Supreme Court has recognized that the unique shape of a lot provides a proper basis for a finding of hardship for purposes of granted a variance. *Stillman v. Zoning Board of Appeals*, 25 Conn. App. 63 1 (1 99 I), cert. denied 220 Conn. 923. This lot qualifies for such a hardship finding based upon its extremely narrow shape which directly affects the ability to comply with the setback requirements as established presently in the Residence AAA Zone.

Similarly, with regard to the hardship supporting the request for the floor area and coverage variances the controlling legal fact is that the lot is a valid and legally protected non conforming lot as it relates to the cui-rent lot area requirements. As previously indicated present requirements within the Residence AAA zone establishes a contemplated minimum lot area of 2 acres. This lot, established for residential purposes before the imposition of these Regulations, has only 24,230 sq. ft. Pursuant to the provisions of Connecticut General Statutes 8-2, the lot is a valid and legally protected preexisting nonconforming lot. Nonetheless the 10% lot coverage requirement and 15% floor area requirement must be calculated based upon a lot area that is almost an acre and a half in size less than the minimum required in the zone. It has been previously held by our Supreme Court that where a property is such a valid nonconforming lot sufficient hardship to support the granting of a variance with regard to coverage and floor area ratio is established because the application of these regulations affects the property and its protected nonconforming status in an adverse manner. Our case law establishes that strict application of the zoning regulations under these circumstances does result in unusual hardship sufficient to support the granting of the variances for coverage and floor area ratio as requested *Scobie v. Idarola*, 155 Conn. 22 (1967); *Kelly v. Zoning Board of Appeals of the Town of Hamden*, 2 1 Conn.App. 594 (1 990); *Dolan v. Zoning Board of Appeals of the Town of Fairfield*, 156 Conn. 426 (1 968). Indeed, in granting the variances to the prior owner in 2008 the Board found that these factors affecting the subject lot did establish a proper basis for a finding of hardship.

An additional proper basis for granting the variances in this case is found in the holding of *Hyatt v. Zoning Board of Appeals of Norwalk*, 163 Conn. 379 (1972). In *Hyatt*, the State Supreme Court held that a goal of zoning is the elimination/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 legal basis for a Zoning Board of Appeals to grant the variances requested. Such is the case with this application where the setback from the side property line nonconformity occasioned by the existence of the shed will be eliminated by the removal of the shed.

In summary, the alterations and additions as proposed by Mr. Zylstra and designed by Mr. Franzen are attractive in design and harmonize with the character of the neighborhood. They will represent a significant architectural enhancement to the property. Legal hardship is established based upon the analysis referenced above pertaining to the standards established by Connecticut General States 8-6 due to the unique characteristics arising from the shape of the lot and also the lot's legally protected preexisting nonconforming status as it relates to both lot area and shape. Finally, the elimination of the nonconforming shed provides a proper independent legal basis for the granting of the variances pursuant to the Hyatt decision.

**IN OPPOSITION:** Attorney Charles Jankowski, Richard Boucher and James Swaffield spoke in opposition to the proposed applications.

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

### **GENERAL DOCKET**

**1. 162 Penfield Road, Map 182, Parcel 183.** Petition of Merrie and Glenn Urquhart for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 15%, currently 15.2%, proposing 19.7%. **Permission to construct a one (1) story addition. Premises: R-3 Zone**

John Fallon presented the application for a variance of the Zoning Regulations. The purpose of this application is to accommodate a modest 260 sq. ft. addition to the existing home connecting the existing house to the existing garage. The maximum building floor area after the addition is constructed will remain compliant at 25.8%.

The Urquhart's home is a turn of the century colonial. The modest one-story addition will provide them with an opportunity to create a mud room, bath and small sun room on the first floor.

With regard to the matter of hardship, the controlling legal fact is that the lot in question is a valid and legally protected nonconforming lot as it relates to the lot area requirements. As previously indicated, the present requirement within the R-3 Zone establishes a minimum lot area requirement of 20,000 sq. ft. This lot, established for residential purposes before this zoning regulation was imposed, has only 14,346 sq. ft. Pursuant to the provisions of Connecticut General Statutes 8-2; the lot is a valid and legally protected preexisting nonconforming lot. Nonetheless, the 15% coverage requirement applicable in the R-3 Zone must be calculated based upon a lot area over 5,500 sq. feet less in size than the minimum requirements contemplated in the zone. It has previously been held by our Supreme Court that where a property is a valid nonconforming lot with regard to lot area, sufficient hardship to support the granting of a variance with regard to coverage is established

because the application of the coverage regulation peculiarly affects the property and its preexisting nonconforming status in an adverse manner. The modest addition that is proposed of approximately 260 sq. ft. could easily and legally be accommodated but for the preexisting nonconforming status of this undersized building lot. Thus, strict application of the zoning requirement in question results in an unusual hardship to the Applicants as defined by our.

The modest addition proposed by Mr. & Mrs. Urquhart in order to accommodate the needs of their family will be in keeping with the surrounding neighborhood and consistent with the Comprehensive Zoning Plan. The imposition upon the property of the presently existing coverage regulation which contemplates a significantly larger lot creates a legal hardship as defined under Connecticut case law sufficient to support the granting of the variance requested. All other aspects of the proposed addition will be in compliance with the applicable requirements of the R-3 Zoning Regulations.

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

**2. 78 Cambridge Street, Map 130, Parcel 144.** Petition of Neil and Lori Petchers for a variance of the Zoning Regulations; Section 5.2.4 to reduce the street line setback from 30 feet, currently 24 feet, proposing 24 feet and the sum of two side yard setbacks from 25 feet, currently 21.5 feet, proposing 21.5 feet and Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 20.57%, proposing 20.57%. **Permission to remove house to first floor deck and construct a new two and a half story addition and rear deck. Premises: A Zone**

Gregory Korth, architect, presented this application for a variance of the Zoning Regulations. The existing building is a two-story residence that has been heavily damaged by fire. They would like to convert the existing house into a two and a half story residence with accessible attic space. They would also like to increase the existing finished first floor height by 16".

Mr. Korth noted the owners wish to maintain the footprint as it exists and add two courses of concrete block to the existing foundation wall to raise the floor heights. The plan is to raise and reuse the existing first floor framing and as is feasible. They also will provide new first floor wall earring, second floor joist and wall framing, attic floor joist with new roof rafters creating attic space. They will also convert the existing entry into a heated space and add a floor above. The finished building will be a two and half story residence as indicated in the architectural drawings.

The residence is a pre-existing legal non-conforming lot. The existing house currently sets within the front yard setback and lacks the total side yard setback requirement. Also, the structures exceed the Maximum Building Lot coverage requirement. Our application to the Zoning Board of Appeals is requesting permission to build within a regulated area, the front yard setback and one side yard setback. They will be within the existing footprint and will not increase the existing non-conforming issue.

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

**3. 186 Henry Street, Map 179, Parcel 136.** Petition of Amy Vischio and Christopher Cahill for a variance of the Zoning Regulations; Section 5.2.4 to reduce the rear yard setback from 30 feet, currently 31.3 feet, proposing 7.7 feet and Section 5.2.5 to increase the maximum lot coverage from 20%, currently 19.8%, proposing 24.7%. Permission to construct a two (2) story addition. **Premises: A Zone**

John Fallon presented the application for a variance of the Zoning Regulations. He noted as referenced in Schedule A, in order to obtain approval to demolish an existing one-story shed and to construct in its place a new attached garage with a small artist's studio above. The proposed addition will contain an entry vestibule (with stair) and a garage on the ground floor with a small artist's studio and bathroom above.

The subject property is a legally protected preexisting nonconforming lot in that it does not conform with the minimum required lot area in the Residence A Zone of 9,375 sq. ft., being 8,502 sq. ft. In addition, the lot has an unusual configuration with frontage on Henry Street along both the southern and western boundaries. When the house was constructed, the western boundary was designated as the front yard and the house was sited as far back from the street as possible. This was done to maintain harmony with other homes in the neighborhood. The present shed structure is quite small and has barely enough room for one car. The proposed addition includes a garage so that one car can comfortably be parked inside with a small area for storage. The addition also provides an enclosed link to the main house which is in keeping with many other homes in the neighborhood. Once the new garage is attached to the main house, however, it must conform to the stricter setback requirements applicable to a primary structure. Due to the location of the existing house on the property it is not possible to conform to the rear yard setback requirement.

In August of this year the applicants made an application to the Board with regard to the contemplated addition providing for the new attached garage and small art studio above. That application sought a variance of Section 5.2.4 to reduce the rear yard setback to 6.3 ft. and Section 5.2.5 to increase the lot coverage to 25.3 ft. They submitted at that time a petition signed by all surrounding neighbors confirming their support. The application failed to gain approval, however, on a vote of three (3) in favor and two (2) opposed. Concerns that were raised during the work session involved the overall size of the addition as then proposed. In an effort to constructively deal with the concerns raised by those Board members who failed to support the application the applications have been working with their architect reduced the size of the overall addition resulting in the current request for a variance of the rear yard setback to 7.7 ft. and an increase in coverage to 24.7 ft.

The replacement of the detached shed with the proposed attached garage is also consistent with the character of the neighborhood. Other than the variances requested the proposed addition will comply with all other technical requirements of the regulations including maximum building floor area. Finally, the proposed addition as designed by Neil Hauck is attractive, harmonizes with the character of the neighborhood and represents a significant aesthetic enhancement to the property benefiting the surrounding area. At the August hearing, the Applicants provided a petition confirming that the surrounding neighbors had no opposition to the request and will present such a petition in support of the revised application.

With regard to the request involving a variance of the rear yard setback Connecticut courts have held that an irregular shape of a lot creates a proper basis for finding of hardship. *Kelly v. Zoning Board of Appeals of the Town of Hamden, supra.*; *Miclon v. Zoning Board of Appeals of the Town of Windsor Locks*, 173 Conn. 420 (1977); *O'Neill v. Madison Zoning Board of Appeals*, 24 Conn.L.Rptr. 176 (1999). As previously indicated, this lot does have an unusual configuration with frontage on Henry Street along both its southern and western boundaries. This led to a situation where when the original house was constructed the western boundary was designated as the front yard and the house was therefore sited back as far from the street as possible which now makes it impossible to accommodate the contemplated addition without a variance of -the rear yard setback requirement. This situation resulting from the unique and irregular shape of the parcel provides a proper hardship basis for the granting of the setback variance requested.

In summary, the proposed addition providing for an attached garage is attractive in design and harmonizes with the character of the neighborhood. It will represent a significant architectural enhancement to the property benefiting the surrounding neighborhood. Legal hardship is established based upon the analysis referenced above pertaining to the standards established by Connecticut General Statutes 8-6 due to the unique characteristics arising from the preexisting nonconforming status of the lot with regard to the lot area and its irregular shape. All other aspects of the addition will be in compliance with the applicable provisions of the Zoning Regulations including the regulation pertaining to maximum building floor area.

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

**4. 704 Stratfield Road**, Map 30, Parcel 214. Petition of Scott and Christy Casella for a variance of the Zoning Regulations; Section 5.2.4 to reduce the sum of two side yard setbacks from one story 20 feet and two story 25 feet, currently 16.1 feet and 16.1 feet, proposing 18 feet and 24.2 feet, and Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 16.78%, proposing 22.72%. **Permission to construct a one story and 2<sup>nd</sup> floor additions with rear porch. Premises: A Zone**

Scott Casella, owner, presented the application for a variance of the Zoning Regulations. He wishes to construct a one story and 2<sup>nd</sup> floor addition with rear porch. He is seeking a variance due to the non-conforming lot.

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

**5. 23 Morehouse Drive**, Map 70, Parcel 6. Petition of John J. Lamb for a variance of the Zoning Regulation; Section 2.7 to establish a rear lot and to allow frontage of 29.52 feet to serve two lots. **Permission to establish a single family building lot. Premises: R-3**

Attorney Kevin Gumper presented the application for a variance of the Zoning Regulations. He noted the property at 23 Morehouse Drive contains 1.07 acres and is considered a rear lot. It has been in its present configuration since 1951.

The applicant is proposing to divide the lot into two building lots, one to contain the existing house, and the other to be used for the construction of a new single family residence. The existing lot was established in 1951 by Cyril Dennis, per Maps 1693, 1699, and 1783. The lot was clearly established with the intent to have it divided into two lots as indicated by the layout and the location of the existing dwelling. Attorney Gumber also noted the applicant has a hardship in that without the granting of the variance, he will be unable to develop the lot in accordance with this plan which was devised more than 60 years ago.

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

**6. 2492 Congress Street, Map 118, Parcel 40.** Petition of Gary Kopsco for a variance of the Zoning Regulations; Section 5.2.4.3 to reduce the minimum required side line setback for an accessory structure from 25 feet, currently 4.9 feet, proposing 10 feet.  
**Permission to add on to existing detached garage. Premises: AA Zone**

Gary Kopsco, owner, presented the application for a variance of the Zoning Regulations. He wishes to construct an addition on to the existing detached garage. He noted a tree fell on the garage and shed, jeopardizing the structural area. The new building will be safer and visually better to the property.

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

**7. 550 Penfield Road, Map 138, Parcel 208.** Petition of Michael Nelson for a variance of the Zoning Regulations; Section 5.2.5 to increase to increase the maximum lot coverage from 20%, currently, 15.2%, proposing 21.6% and Section 5.2.4 to reduce the sum of two side yard setbacks from 25 feet, currently 17.5 feet, proposing 17.7 feet.  
**Permission to remove existing dwelling and construct a new single family dwelling. Premises: A Zone**

John Fallon presented the application for a variance of the Zoning Regulations. The applicant makes this application in order to obtain permission to demolish the existing structure on the property and to construct a new single family residence.

The property is located in the Residence District A. It is a preexisting and legally protected nonconforming lot as to both lot area and shape. The present provisions of the Regulations establish the minimum lot area in the Residence A Zone as 9,375 sq. ft. The subject lot, established for residential purposes prior to the adoption of these zoning regulations, has only 9,000 sq. ft. Similarly, the minimum square requirement presently in effect requires a square of 75 ft. and the subject property has a square of only 50 ft.

In order to facilitate the proposed new construction the applicant seeks a variance of Section 5.2.4 to reduce the required sum of the setbacks to 17.7 ft. It should be noted, however, that the existing structure on the property to be demolished is more nonconforming to the sum of the setback requirement at 17.5 ft. In addition, the present structure is nonconforming to the side property line setback requirements on one side of 7

ft., being 6.8 ft. from the property line. A variance of Section 5.2.5 to increase the allowable lot coverage to 2 1.6% is also requested.

The proposed new single family home will conform in all other respects with the applicable provisions of the Zoning Regulations including the regulation pertaining to total floor area. Total floor area for the new dwelling will be 39.9% complying with the 40% allowance in the zone.

With regard to the hardship requirement the controlling legal fact is that the lot in question is a valid and legally protected nonconforming lot as it relates to both lot area and shape requirements. As previously indicated, the present requirement of the Residence A Zone establishes a contemplated lot area of 9,375 sq. ft. and a minimum square of 75 sq. ft. This lot, established for residential purposes before imposition of these zoning regulations has only 9,000 sq. ft. and a square of only 50 ft. Pursuant to the provisions of Connecticut General Statutes 8-2, the lot is a valid and legally protected preexisting nonconforming lot. Nonetheless, the 20% coverage requirement and the sum of the side yard setback requirements presently applicable in the zone must be calculated based upon a lot area and shape less than the minimum required in the zone. It has been held by our Supreme Court that where a lot is such a valid nonconforming lot with regard to lot area and shape sufficient hardship to support the granting of variances with regard to coverage and side yard setbacks is established because the application of these regulations affects the property and its legally protected nonconforming status in an adverse manner.

An additional proper basis for granting the variances in this case is found in the holding of *Hyatt v. Zoning- Board of Appeals*, 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 variances involves a proposal that will actually reduce or eliminate existing nonconformities this fact provides an additional and proper legal basis for a zoning board of appeals to grant the variances requested. Such is the case with this application where the existing side yard setback nonconformity will be eliminated and the existing sum of the side yard setback nonconformity will be reduced.

In summary, the new single family residence as proposed is attractive in design and harmonizes with the character of the neighborhood. It will represent a significant architectural enhancement to the property benefiting the surrounding neighborhood. Legal hardship is established based upon the analysis referenced above pertaining to the standards established by Connecticut General Statutes 8-6 due to the fact that the lot is a legally protected preexisting nonconforming lot as it relates to current lot area and shape requirements. All other aspects of the new home will be in compliance with the applicable provisions of the Zoning Regulations including the regulation pertaining to maximum building floor area and the granting of the application will reduce or eliminate existing nonconformities.

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

**8. 1964 Post Road**, Map 231, Parcel 369. Petition of Kyong Eun Kim and Jahnnny Kim for a variance of the Zoning Regulations; Section 12.7.6 to reduce the street line setback from 25 feet, currently 14.3 feet proposing 14.3 feet and to reduce the side yard

setback from 10 feet, currently 5.7 feet, proposing 5.8 feet. **Permission to construct a second floor addition. Premises: DCD**

Attorney William Fitzpatrick presented the application for a variance of the Zoning Regulations. The applicants are the owners of property located at 1964 Post Road. They presently operate a retail drycleaners at this site known as Friendly Cleaners. This property includes 5,878 square feet and is located in the Designed Commercial District.

The intent of the applicants is to renovate the front facade of the existing structure in an effort to update and improve the appearance of the existing building. The proposed construction prepared by the project architect, J.P. Franzen Associates Architects, P.C. accompanying this application, is a roof addition on the front easterly (right hand side) facade. The roof addition increases the height of the present entrance area, while not exceeding the existing height of the building.

Both variance requests are essentially technical variance requests since there is no expansion of the building footprint on site. The second floor roof expansion does not involve any construction closer to the street line (i.e., the Post Road) than the building and roof are at present. The building at present is located 14.3 feet from the street line and will be located the same 14.3 feet from the street line with the roof addition in place. Similarly, the roof addition does not involve any change in the existing side property line setback.

Approval of these variance requests permits the updating and improvement of the appearance of this property in a manner which will not have any negative impact on any neighboring property. The visual improvement of this property will be part of the ongoing upgrading of this section of the Post Road.

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

**9. 506 Jennings Road, Map 79, Parcel 709.** Petition of Anna Nelson for a variance of the Zoning Regulations; Section 5.1.1 to combine two (2) lots and allow two (2) single family dwellings on one lot. **Permission to conjoin two (2) lots into one (1) and allow two (2) existing single family dwellings to remain. Premises: B Zone**

Anna Nelson, owner, presented the application for a variance of the Zoning Regulations. Kack Franzen, architect, spoke in favor of the proposed application. She is requesting a variance to conjoin two (2) lots into one (1) and allow two (2) existing single family dwellings to remain. There is no impact on neighboring boundary property lines or setbacks with neighboring properties. She asked the Board give it serious consideration as it involves one of Fairfield's most important landmark homes, which exists in a middle-to-working class neighborhood.

Ms. Nelson noted she has protected the historic Silliman house by listing it with the Historic District Commission. It is now a one-house historic district. The Hunyadi lot is currently not part of that district. To provide further protection to the property, she is looking to prevent someone in the future from developing the Hunyadi lot. A full-sized home on that small lot would destroy the limited context that the Silliman House already has. She also noted if the Hunyadi lot were to be developed, a driveway would have to be

added (and possibly a garage) to the Silliman house lot-further diminishing the importance of the house and the appeal of this wonderful property. If this variance is approved, she further noted she expects to craft a deed restriction to prevent further development of the Hunyadi lot, if the cost to do so is not prohibitive. Should the cottage be approved for rental, she will have the deed restriction state that any work on the structure must maintain its current footprint and one story height.

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

**10. 43 Ann Street, Map 182, Parcel 679.** Petition of Honey Blank for a variance of the Zoning Regulations; Section 5.2.5 to increase the total floor area from 50% currently 52.2%, proposing 57.3%. **Permission to reconstruct the first floor and add a one (1) car garage. Premises: B Zone**

Attorney William Fitzpatrick presented the application for a variance of the Zoning Regulations. This property is located in the Residence B zoning district and contains 6,000 square feet. The property is identified in the Assessor's Records as Parcel 679 on Assessor's Map 182.

The intent of the applicant is to renovate and upgrade the property in a manner which makes it livable and utilitarian. The proposed renovations include the conversion of the existing attached two car garage to part of the first floor living area and the construction of a new detached one car garage.

The parcel of property in question has been developed under an unusual set of circumstances. The builder of the home, who demolished the former home on the premises started construction on the new home (the present home) in 2006. This home received little or no buyer interest and construction was abandoned several years ago. Essentially the home was left derelict and the grounds were left to grow wild.

The primary problem with the sale ability and livability of the home is the dysfunctional nature of the first floor. The existing first floor design funnels all visitors through the living room immediately upon entry to the home and does not provide any space for a dining room or office or a full size family room. As a result, the home never sold and was abandoned in mid-construction, creating blight in the neighborhood.

This property has been the subject of a foreclosure. The proposal here involves the incorporation of the existing attached two car garage into the first floor living area. In order to offset the loss of the existing two car garage, the construction of a new, detached one car garage, in conformance with applicable side and rear yard setbacks, is proposed. The proposed changes result in an increase in floor area ratio of 5.1%. These increases are solely the result of the proposed improvements. There is no expansion of the existing building footprint proposed. These improvements are demonstrably necessary in order to make this home livable.

The reconfigured first floor plan includes a proposed foyer, a proposed office, an expanded living room and a usable family room. Approval of this application permits re renovations

of this property in a manner which makes it an asset, rather than a detriment to the neighborhood and permits the occupancy of an existing abandoned structure.

**GRANTED:** Duncan Keith *moved* and Edward Cheffetz *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: 7:32 p.m.

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Edward Cheffetz, Acting Secretary

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Josephine M. Keogh, Clerk

**KEVIN COYNE, CHAIRMAN**

**EDWARD CHEFFETZ, ACTING SECRETARY**

**JOSEPHINE M. KEOGH, CLERK**