

**ZONING BOARD OF APPEALS  
EXECUTIVE SESSION OF NOVEMBER 15, 2012**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on November 15, 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 Cafero Secretary, Duncan Keith, James Baldwin, Daphne Dixon, Alternate.

1. **Minutes of October 4, 2012:** Daphne Dixon *moved* and Duncan Keith *seconded* to approve the proposed minutes as submitted. *Motion passed unanimously.*
2. **Approval of Secretary's Fee:** Daphne Dixon *moved* and Duncan Keith *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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Donald Cafero, Secretary

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Josephine M. Keogh, Clerk

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**PRESENT:** Kevin Coyne, Chairman, Donald Cafero Secretary, Duncan Keith, James Baldwin, Daphne Dixon, Alternate.

**ABSENT:** James Hamilton, Vice Chairman

**GENERAL DOCKET**

**1. 929 Kings Highway, Map 79, Parcel 96.** Petition of United Properties for a variance of the Zoning Regulations; Section 28.6.5 to reduce the minimum required total number of off-street parking spaces by three (3). **Permission to convert 2,258 square feet of professional office space into medical space. Premised: DCD**

Patrick Rose, Architect, presented the application for a variance of the Zoning Regulations. The applicant is looking to lease 2,258 square feet of professional office space into medical space. This will require three (3) additional parking spaces. Additional parking spaces could be provided on the site but these spaces would decrease the landscape area currently on site. The building is owner occupied and there has never been a parking issue on site when the building is 100% occupied.

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

**2. 1192 Catamount Road, Map 256, Parcel 20.** Petition of Raymond Adelaide and Paula Julian for a variance of the Zoning Regulations; Section 5.2.4 to reduce the setbacks from the street line from 60 feet currently 22.6 feet, proposing 22.6 feet and 21.61 feet, side line from 30 feet, currently 12.9 feet, proposing 12.77 feet, rear line from 50 feet, currently 43.1 feet, proposing 43.1 feet and 37.1 feet and Section 5.2.5 to increase the maximum allowable lot coverage and total floor area from 10 % and 15 %, currently 10% and 23.5%, proposing 10.9% and 23.5%. **Permission to Legitimize the third floor and to connect front and rear deck with a new deck. Premises: AAA**

Attorney Kevin Gumper presented the application for a variance of the Zoning Regulations. The applicant is proposing to purchase and complete construction of the partially built house, which has been standing unoccupied and unfinished for several years. The property is a legal non-conforming lot having an area of .277 acres in the AAA Zone which requires a minimum lot size of 2 acres. Prior to 2007, the property was improved by a house constructed (according to the Assessor's Records) in about 1900. In 2007 the former owner,

Brookeville LLC, obtained variances from the ZBA to allow the rebuilding of the house in essentially the same location. One of the variances granted the ZBA in February 2007 was a variance of Section 5.2.5 to allow the floor area to be increased to 15.5%. Brookeville LLC completed the shell of the new house, including roof, siding, windows and doors.

In doing so, Brookeville built the roof of the house in a mansard style rather than with a peaked roof as shown on the plans submitted to and approved by the ZBA. As a result, the attic as built contains considerably more square footage and the floor area of the house as it now exists is 23.5%. The applicant is now seeking a variance to increase the floor area to 23.5%, which will allow the existing roof line and attic to remain.

The house presently has a deck along the front of the house, the rear of the house, and partially along one side of the house. The applicant wants to extend the deck along the side of the house so that it will connect to the deck at the rear of the house. (In other words, the deck will wrap around three sides of the house.) The area of the proposed new deck is approximately 110 square feet. The applicant is, therefore, seeking a variance to increase the lot coverage from 10% to 10.9%. The current owners acquired the property by foreclosure of a mortgage they had given to Brookeville LLC. The mortgage was an arms-length transaction between the Julians and Brookeville. Brookeville was not owned or controlled by the Julians or their relatives.

The applicant has entered into an arms-length transaction with the Julians to purchase the property. The applicant is not a relative or business associate of the Julians. It should be noted that although the property is located within the AAA Zone, the size of the lot is comparable to what is required in the R-2 Zone. If the proposed variances are granted, the lot coverage and total floor area will be well within what would be permitted in the R-2 Zone. There is a hardship with respect to the requested floor area variance in that the variance is necessitated by a construction error by the builder which was caused by neither the current owner nor the applicant. The house cannot be lawfully occupied in its current condition and it would be economically very wasteful to require that the roof and current attic be removed and replaced with a peaked roof. There is also a hardship with respect to the proposed extension of the deck. The current lot has considerable wetlands on it and has a fairly steep slope which greatly limits the usefulness of the rear and side yards. The proposed extension of the deck will allow greater use of the outdoors and will also greatly improve the aesthetics of the current house.

**DENIED:** Daphne Dixon *moved* and James Baldwin *seconded* to approve the proposed application. Motion denied 3-2.

**3. 2759 Bronson Road, Map 223, Parcel 12. Petition of Andrea and Marc Metzner for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side line setback from 30 feet, currently 24.7 feet, prosing 26.0 feet. Permission to construct a one (1) story addition. Premises AAA Zone.**

**Andrea Metzner**, owner, presented the application for a variance of the Zoning Regulations. She wishes to construct a one (1) story addition off the back of the house, which will consist of a kitchen and mud room.

The hardship is a non-conforming lot. The side setback is less than thirty (30) feet required, which will affect the proposed addition. Going back off the existing structure will still be less than the required thirty (30) side setback.

Petitions of support from the neighbors were submitted.

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

**4 (a). 836 Riverside Drive**, Map 139, Parcels 295 and part of 296. Petition of Ruth and Richard Pavone for a variance of the Zoning Regulations; Section 5.1.1 to reduce the minimum required lot size from 9,375 square feet, currently 15,000 square feet, proposing 7,500 square feet. **Permission to establish a single family building lot. Premises: A Zone**

**4(b). 836 Riverside Drive**, Map 139, Parcels 297 and part of 296. Petition of Ruth and Richard Pavone for a variance of the Zoning Regulations; Section 5.1.1 to reduce the minimum required lot size from 9,375 square feet, currently 15,000 square feet, proposing 7,500 square feet. **Permission to establish a single family building lot. Premises: A Zone**

Attorney Raymond Rizzio presented the application for a variance of the Zoning Regulations. He noted he is requesting a variance to reduce the minimum lot size from 9,375 square feet to 7,500 square feet to allow two (2) lot subdivision of property that originally consisted of three (3) lots.

The neighborhood consists of lots that are either 50x100 square feet or 75x100 square feet. The subject property is 150 square feet. The property will be in harmony with the existing condition and will enhance the neighborhood and generally increase surrounding property values.

Petitions of support from the neighbors were submitted.

**IN OPPOSITION:** Timothy Leahy, 52 Eleanor Terrace and Patrick McKenney, 827 Riverside Drive

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

**CONDITION:** Conditioned on each 7,500 square foot lot shall maintain at least an 18 foot sideline setback in connection with adjacent preexisting lots. The sideline setback for the two 7,500 lots at the common boundary shall be at least 7 feet.

**5. 529 Davis Road**, Map 47, Parcel 142. Petition of Don White for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 15%, currently 22%, proposing 23.2% and to increase the maximum total floor area from 30%, currently 22%, proposing 39.7% and Section 5.2.4 to reduce the street line from 40 feet, currently 18.4 feet, proposing 30.7 feet and the two side yards from 15 feet, currently 6.4

feet and 14.9 feet, proposing 9.8 feet and 14.9 feet. **Permission to construct a second floor addition with front porch and rear deck. Premises: R-3**

Attorney Kevin Gumper presented the application for a variance of the Zoning Regulations. The applicant is seeking the necessary variances to extensively remodel and add a second story to the existing one-story house. The second story will be located entirely within the existing footprint. The applicant also seeks to construct a 9' x 8' deck in the angle at the rear of the house, extend the existing front porch by 6 feet along the front of the house (but not nearer the street), and add a chimney. The proposed second story addition will significantly increase the total floor area of the house and a variance of the floor area is therefore required. The proposed second story addition will be entirely within the existing footprint, but the existing footprint itself does not comply with the required setbacks and therefore a variance of the setbacks is required. The extension of the front porch will be no closer to the street line than the existing porch, but the existing porch is within the required setback and therefore a variance is required. The addition of the deck, the expansion of the front porch, and the construction of the proposed chimney will slightly increase the lot coverage, which already exceeds the maximum permitted in the R-3 Zone, and therefore a variance is required. In particular, the applicant is seeking a variance of Section 5.2.5 to increase the lot coverage from the existing 22% to 23.2%; a variance of Section 5.2.5 to increase the floor area to 39.7% from the permitted 30%; a variance of Section 5.2.4 to allow the second story setback on one side to be 14.9 feet (the setback on this side is currently 14.9 feet); a variance of Section 5.2.4 to allow the other side yard setback to be 9.8 feet (it is currently 6.4 feet); and a variance of Section 5.2.4 to reduce the street line setback to 30.7 feet which is the street line setback of the existing front porch.

This lot was one of 31 lots laid out as "Island View Manor" and approved by the Town Plan Commission in 1947. None of these lots conform to the current R-3 Zoning Regulations although they would be conforming lots were they in the A Zone. The house itself was built in 1950 and added onto at some point after that. A variance was granted in 1971. The house presently does not conform with the R-3 Zoning Regulations in that it is too close to both sidelines, it is too close to the street line, and it exceeds the allowable lot coverage.

The house is in poor condition, has a poor interior layout, and its small size is not suited to the modern lifestyle. The imposition of the R-3 regulations upon this non-conforming house and this non-conforming lot poses a significant hardship in that the owner is unable to update the existing house to make it appealing to the modern day family. It bears noting that this particular lot would be a conforming lot if it were located in the A Zone and the proposed second story could be added, without a variance, were this lot located in the A Zone.

The Zoning Board of Appeals has previously recognized the need to vary the Regulations with respect to the properties on Davis Road. In June, 2006 the Board granted variances to the property 547 Davis Road, which is next door to the subject property, to allow an increase in lot coverage and floor area and to allow the addition of a second floor and a new front porch. The Board also granted a variance for the property at 463 Davis Road, which is three doors away from the subject house, and in February, 2011 granted a variance to the property at 514 Davis Road, which is directly across the street from the subject premises.

Petitions of support from the neighbors were submitted.

**GRANTED:** Daphne Dixon *moved* and Duncan Keith *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: 5:05 p.m.

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Donald Cafero Secretary

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Josephine M. Keogh, Clerk

**KEVIN COYNE, CHAIRMAN**

**DON CAFERO, SECRETARY**

**JOSEPHINE M. KEOGH, CLERK**