

**ZONING BOARD OF APPEALS
EXECUTIVE SESSION OF JANUARY 3, 2013**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on January 3, 2013 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: James Hamilton, Acting Chairman, Duncan Keith, James Baldwin, Daphne Dixon, Acting Secretary (Alternate) Edward Cheffetz, Alternate.

ABSENT: Kevin Coyne and Donald Cafero

1. **Minutes of December 6, 2012:** Daphne Dixon *moved* and Edward Cheffetz *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 3:05.

Daphne Dixon, Secretary

Josephine M. Keogh, Clerk

**ZONING BOARD OF APPEALS
MINUTES OF JANUARY 3, 2013**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on January 3, 2013 in the First Floor Conference. The Public Hearing was recorded on disc and is available for review at the Plan and Zoning Department.

PRESENT: James Hamilton, Acting Chairman, Duncan Keith, James Baldwin, Daphne Dixon, Acting Secretary (Alternate) Edward Cheffetz, Alternate.

ABSENT: Kevin Coyne and Donald Cafero

CONTINUED DOCKET:

3. 2428 Easton Turnpike, Map 24, Parcel 2. Petition of Cambridge Manor Realty, LLC for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 15%, currently 15.13%, proposing 15.45% and to increase the maximum total floor area from 30%, currently 30.42%, proposing 30.74%. **Permission to construct a ten (10) bedroom addition. Premises: R-3 Zone**

The proposed application was continued to 2-7-13

7. 2005 Fairfield Beach Road, Map 234, Parcel 62 and 156. Petition of Rebecca and Douglas Bunnell for a variance of the Zoning Regulations; Section 11.11.2 to reduce the minimum required side and sum of side yard setbacks from 5 feet and 10 feet, currently 4.21 feet and 8.6 feet, proposing 4.21 feet and 8.6 feet and Section 11.12 to reduce the setback from Long Island Sound from 151.6 feet, currently 129.3 feet, proposing 129.3 feet and Section 11.13 to reduce the required setback from Fairfield Beach Road on a lot bounded by Long Island Sound, from 45 feet, currently 43.42 feet, proposing 38.9 feet (to house) and 34.9 feet (to steps) and to reduce the setback from Fairfield Beach Road on a lot bounded by Pine Creek, from 25 feet, currently 27.9 feet, proposing 18.5 feet. **Permission to construct a new detached garage, two story addition and raise the existing dwelling to be FEMA compliant. Premised: BD**

Attorney John Fallon presented the application for a variance of the Zoning Regulations. He noted the applicants wish to construct a new detached garage, two story addition and raise the existing dwelling to be FEMA compliant. The property historically had a garage on the creek side until the mid 1980's and the construction of the proposed garage will be consistent with the historic use of the property. In addition, the applicant seeks approval to construct a two-story addition to their home. As part of the proposed work the existing house will be raised to comply with the newly proposed FEMA regulations. The property is located in the Beach District. It is a preexisting and legally protected nonconforming lot with regard to lot area comprising only 1,421 sq. ft. In addition, the existing house is historically nonconforming to the current requirements regarding street line setbacks, side property lines and setback from Long Island Sound. The Applicants

seek a variance of Section 11.11.2 to reduce the minimum setback from the side property lines and to reduce the minimum setback from one property line. It should be noted, however, that the existing nonconformity based upon the footprint of the structure will not be increased and the sum of the setbacks will remain at 8.6 ft. and the setback from one side property line will remain at 4.21 ft. The variances are technically requested due to the second story addition that is proposed even though the footprint will not be modified. Similarly, a variance of Section 11.12 to reduce the setback from Long Island Sound is requested although there will be no actual decrease in the current setback of 129.3 ft. from the Sound. Finally, the addition to the home and construction of the new proposed garage does require variances of Section 11.13 as the new house will be set 38.9 ft. from the center line of the street and the steps accessory to the new addition will be 34.9 ft. from the center line. The new garage on the creek side of the property will be setback 18.5 ft. from Fairfield Beach Road. The removal of the existing shed and construction of the new proposed garage will also eliminate existing side yard setback nonconformity. The proposal will conform in all other respects to applicable provisions of the Zoning Regulations and there will be no increase in the current coverage of 28.5% of the property which will remain a single family residence as explicitly permitted in the zone. Other than the variances requested the proposed addition and new garage will comply with all technical requirements of the Regulations and there will be no increase in the building lot coverage. Finally, the proposed addition and new garage as designed by Marc Andre is attractive, harmonizes with the character of the neighborhood and represents a significant aesthetic enhancement to the property benefiting the surrounding area.

In summary, the proposed addition and new garage as proposed is attractive in design and harmonizes with the character of the neighborhood. It represents 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 shape of the lot and the existing location of the structure. All other aspects of the addition and new garage will be in compliance with the applicable provisions of the Zoning Regulations and there will be no increase in coverage on the property. For all of the above referenced reasons it is respectfully requests Petitions of support were submitted for the record from the adjoining neighbors.

Daphne Dixon recused herself from the proposed application

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

GENERAL DOCKET:

1. 2226-2278 Black Rock Turnpike, Map 76, Parcel 223. Petition of Lake Hills Shopping Center, LLC for a variance of the Zoning Regulations; Section 31.2.16 to increase the height in which equipment can extend above the roof from 5 feet, proposing 7.7 feet. **Permission to install a backup generator. Premises: DCD Zone**

Attorney Kenneth Baldwin presented the application for a variance of the Zoning Regulations. He noted on November 2, 1995, Bell Atlantic NYNEX, now Cellco

Partnership d/b/a Verizon Wireless ("Cellco"), was granted a Variance to Section 31.2.16 of the Fairfield Zoning Regulations to establish a wireless telecommunications facility on the roof of the building at Black Rock Turnpike, Fairfield, Connecticut (the "Property"). The Property (Assessor's Map 76 Lot 233) is owned by Lake Hills Shopping Center LLC and is located in the Fairfield DCD Designed Commercial District zone. Cellco's existing telecommunications facility consists of wireless antennas attached to the facade of its equipment shelter, mounted on the roof of the building. The 1995 variance approval permitted the Cellco structure to extend to an overall height of 16' 8" above the roof of the building. In response to recent storm events in 2011 and 2012, Cellco is looking to enhance the reliability and resiliency of its wireless network, in Fairfield and throughout Connecticut. One aspect of this enhancement program involves the installation of permanent back-up generators at existing cell sites where they do not currently exist. The roof-top cell site at the property is one of those targeted facilities. Cellco intends to install a 60 KW emergency generator on the roof of the building to provide back-up power to the existing wireless telecommunications facility. The generator would be used only when commercial power to the property is interrupted. The generator and its steel support platform will extend 7' 7" above the roof of the building. Section 31.2.16 limits the height of roof-top equipment to not more than 5 feet above the existing roofline. The generator will remain, however, well below the height of the Cellco equipment shelter and other existing roof-top appurtenances.

With respect to the hardship, Cellco respectfully submits that the literal enforcement of the provisions set forth in Section 31.2.16 of the Zoning Regulations will result in exceptional difficulty and unusual hardship. Cellco submits that the proposed generator is necessary for the facility to provide reliable wireless service to its customers and emergency service personnel in the Fairfield area. There are no alternate generator units available that could comply with the 5-foot height requirement and no way to adjust the steel-framed platform so as to lower the entire generator unit. Finally, there are no alternative locations either inside the building or on the ground next to the building available for use by Cellco.

In Oppositions: Francis Callahan, Property Manager for the Oaks and Gabor Fulup was in opposition to the proposed application.

CONDITION: Conditioned upon the applicant testing the generator after its installation and advising the Oaks of the testing that was to be done, making sure it's in compliance with the 45 decibel required by town ordinance.

GRANTED: Duncan Keith *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. 612 Penfield Road, Map 138, Parcel 175. Petition of David J. Smith and Nancy J. Schultz for a variance of the Zoning Regulations; Section 5.2.4 to reduce the required sum of two side yard setbacks from 20 feet, currently 19.6 feet, proposing 19.6 feet; and Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 24%, proposing 25.5%. **Permission to elevate a ranch style home 6 feet and to add a new covered open front porch. Premises: A Zone**

David Smith, owner, presented the application for a variance of the Zoning Regulations. He noted due to Storm Sandy, he has to raise his home to meet new FEMA Regulations as well as a new covered porch. To comply with the Regulations, he must raise his home six feet. Currently, his home sits on a non-conforming lot.

James Wendt, spoke in reference to the proposed application.

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

3. 2308 Fairfield Beach Road, Map 234, Parcel 94. Petition of Stephanie Scott for a variance of the Zoning Regulations; Section 11.7 to raise the overall height from 30 feet, currently 29.3 feet, proposing 32.6 feet. **Permission to elevate the 1st floor from 13.9 feet to 17.2 feet to meet the new FEMA Regulations. Premises: BD**

Attorney Raymond Rizio presented the application for a variance of the Zoning Regulations. He noted the existing FEMA regulations require first floor elevation to be raised to 17.2' which will in turn raise height to 32.59'.

The property is a pre-existing non-conforming structure built prior to existing Beach District Regulations. The Board recently approved an expansion of the 3rd floor but a request to raise the structure by 3.3' to comply with current FEMA regulations was not included on the variance request because proposed FEMA regulations, if adopted, would not require structure to be raised. If proposed FEMA standards are adopted, structure will not require variance, but at present the variance is required to satisfy FEMA regulations.

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

4. 441 Westport Turnpike, Map 258, Parcel 44. Petition of Robert Barthels for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side line setback from 30 feet, currently 26.64 feet, proposing 28.9 feet. **Permission to construct a 10' x 12' cross gable roof line. Premises: AAA Zone**

Margaret Kufferman, Architect, presented the application for a variance of the Zoning Regulations. She noted the applicant wishes to construct a cross-gable over existing roof and walls, in order to increase the existing kitchen's ceiling height currently at 6' 0". The property is in an acre zone therefore, the buildable area is very tight. The house pre-dates zoning, so a portion of the existing house sits within the required setback.

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

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

5. 831 Fairfield Beach Road, Map 184, Parcel 24. Petition of Thomas J. Keegan, Jr. for a variance of the Zoning Regulations; Section 11.7 to increase the height for a single family dwelling from 30 feet, proposing 31.83 feet. Permission to construct a new single family dwelling that meets the new FEMA Regulations. Premises: BD

Attorney Fitzpatrick presented the application for a variance of the Zoning Regulations. He noted the applicant's intent is to construct a new single-family home for his family. The structure formerly located on the property, which was not FEMA (Federal Emergency Management Agency) compliant, has been removed and construction has commenced on the new home. The destruction to the Fairfield Beach Road area as a result of Storm Sandy, together with the imposition of revised FEMA elevation standards for the Fairfield Beach area in 2013, has led his client to reconsider the appropriate first floor elevation of the new home. The end result is that the proposed first floor elevation of the new home is to be raised from the present proposed elevation of approximately 14' to the revised first floor elevation of approximately 16'. The proposed 16 foot elevation is expected to fully comply with the new FEMA elevation standards proposed for adoption in the first six months of 2013. The original first floor elevation would result, among other things, in the creation of an almost unusable attic space, an area with limited headroom and a maximum height of 5' 6". The proposal here will permit a more usable storage space in the attic, with maximum headroom height of 6' 11".

The applicant is requesting a variance of Section 11.7 of the Zoning Regulations to permit an increase in the height of a single-family home from the permitted 30 feet to 31.83 feet. It is important to note that the proposal here will not add another story to the New Keegan home. The Beach District Regulations mandate that there will not be more than two stories of living space and the new home, as proposed, will comply with the two-story limitation. Approval of this application will permit the viable use of the attic, for storage, a critical commodity in the Beach area where storage area is at a premium and where the storage of items below the first floor has proven to be less than secure. This application is recognition of the raise in sea level along the coastline; and a response to the imminent FEMA regulatory changes due to the increases in sea level. Approval of this application endorses a practical response to changing conditions along the Town of Fairfield shoreline, while keeping the requested change in height to less than two feet.

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

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

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

6. 700 Rowland Road, Map 183, Parcel 3. Petition of Peter Quinn for a variance of the Zoning Regulations; Section 5.2.4 to reduce the sum of two side yard setbacks from 25 feet, currently 25.3 feet, proposing 17 feet; and Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 27%, proposing 26.9%; and to increase the maximum allowable total floor area from 40%, currently 28.2%, proposing 42.3%. **Permission to construct a new single family dwelling. Premises: A Zone**

The proposed application was continued to 2-7-13

7. 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 57.3, proposing 57.7%. **Permission to enclose an existing deck for living space. Premises: B Zone**

Attorney Fitzpatrick presented the application for a variance of the Zoning Regulations. He noted the applicant here is the owner and resident of a single family home located at 43 Ann Street. 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 applicant appeared before the Zoning Board of Appeals at the October, 2012 meeting to request an increase in total floor area from the existing 52.2% to 57.3% in order to permit the reconfiguration of the existing first floor of the home and the addition of a one car garage. The main thrust of the applicant's presentation to the Board at the October meeting was that variance approval would permit the improvement and renovation of a home which had been abandoned in mid-construction and had deteriorated into an eyesore, creating blight in the neighborhood. After a public hearing at which the applicant presented evidence of significant neighborhood support of the application, the application was unanimously approved by the Board. The construction anticipated under the terms of the October variance approval is well underway and the transformation of the house from eyesore to attractive home is proceeding. However, as the interior walls have been moved and sheetrock installed, it has been apparent that the first floor layout of the home, the primary reason the house never sold, still presents practical problems.

The present first floor layout does not accommodate a functional dining area. The intent of the applicant is the enclosure of the existing wood deck in order to create a legitimate dining room. Therefore, the applicant is requesting a variance of Section 5.2.5 of the Zoning Regulations to permit an increase in total floor area from the permitted 50%, varied to 57.3%, to 57.7% in order to permit the conversion of the existing wood deck to a dining room. In reviewing this application, it is important to note that there is no addition to coverage proposed, rather simply the conversion to living area of the existing wood deck. An additional relevant factor in the size of the proposed increase in floor area, which is a relatively modest 182 sq. ft. A final relevant factor is the fact that the dining room in question, if approved, will not be visible from the street in any manner.

Approval of this application permits the improvement of the first floor plan of this home in a manner which will significantly improve the first floor layout and practical functionality

of the home, but will have virtually no impact on immediate neighbors or the neighborhood in general.

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

8. 55 Range Road, Map 244, Parcel 82. Petition of Donna Galbo for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 10%, proposing 12.1%. **Permission to legitimize calculating error by surveyor. Premises: AA Zone**

The proposed application was continued to 2-7-13

There being no further business to come before the Commission, James Hamilton adjourned the meeting at: 5:10 p.m.

Daphne Dixon, Acting Secretary

Josephine M. Keogh, Clerk

JAMES HAMILTON, ACTING CHAIRMAN

DAPHNE DIXON, ACTING SECRETARY

JOSEPHINE M. KEOGH, CLERK