

**ZONING BOARD OF APPEALS
EXECUTIVE SESSION OF FEBRUARY 7, 2013**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on February 7, 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: Kevin Coyne, Chairman. James Hamilton, Vice Chairman, Donald Cafero, Duncan Keith, Daphne Dixon, Alternate

ABSENT: James Baldwin

1. **Minutes of January 4, 2013:** 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 2:55.

Donald Cafero, Secretary

Josephine M. Keogh, Clerk

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PRESENT: Kevin Coyne, Chairman. James Hamilton, Vice Chairman, Donald Cafero, Duncan Keith, Daphne Dixon, Alternate

ABSENT: James Baldwin

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**

Continued to March 7, 2013

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**

Attorney Kevin Gumper presented the application for a variance of the Zoning Regulations. The applicant is seeking a variance to demolish the existing one and a half story house and detached two car garage and replace them with a FEMA compliant two-story house above a two car garage.

The existing house, which was built 1948 and garage are also non-conforming in that the house is located too close to Rowland Road. The applicant has owned the house since July 25, 2002. The existing house suffered significant damage in Super Storm Sandy and the cost to repair the damage exceeds 50% of the value of the house. FEMA regulations require that the house be made FEMA compliant by raising the first floor elevation. Given the age of the house, it is not feasible to do this. The applicant decided to demolish the house.

The proposed new structure conforms to the street setback line and slightly reduces the lot coverage. The proposed new structure does not comply with the sum of the side setback lines that sum being 17 feet rather than the required 25 feet. The new structure will slightly exceed the maximum floor area limitation.

With regards to the hardship it results in the small size of the lot and its narrowness combines with the necessity to comply with the FEMA regulations. The existing lot is only 50 feet wide. The garage area requires 24 feet and to comply with the setback regulations, they only have a one foot wide area for the entrance, which is not feasible. The variance coverage requirement is also driven largely by the FEMA requirement that the first floor living area be raised.

It should be noted that even if the applicant were not required to make the structure FEMA compliant, and would wish to restore the existing house as it was before the storm, he would nevertheless be required, pursuant to Section 2.10 of the regulations, to obtain a variance because the existing house does not conform with the A Zone regulations.

GRANTED: Donald Cafero *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**

Dave Huntington presented the application for a variance of the Zoning Regulations. He noted the proposal is to correct an error made in 1990. The applicant was granted a building permit in 1996 for building additions. When applying to the Zoning Department for another permit, she was advised that she has not applied for Certificate of Occupancy. She requested an “as built” from the Huntington Company. She found out that there was an error in the previous calculation at 9.1%, which should have been 12.1%. The purpose of this application is to rectify the error to eliminate future problems.

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

GENERAL DOCKET:

1. 15 Penfield Place, Map 138, Parcel 242. Petition of Juliann Hudson for a variance of the Zoning Regulations; Section 5.2.4 to reduce the street line, rear line and the sum of two side yard line setbacks from; 30’, 30’, and 25’, currently; 12.3’, 12.9’, and 21.2’, proposing; 20’, 10’, and 20’; and section 5.2.5 to increase the maximum allowable lot coverage and total floor area from 20% and 40%, currently 36.2% and 34.9%, proposing 31.3% and 62.2%. **Permission to demo existing dwelling due to hurricane sandy and rebuild a new 2-1/2 story F.E.M.A. compliant single family dwelling. Premises: A Zone**

Attorney Peter Ambrose presented the application for a variance of the Zoning Regulations. Due to super storm Sandy the house is unsalvageable and are seeking to construct open 2 ½ story home single family. The house was built pre zoning as beach cottage in 1919 and is legal non-conforming to current zoning regulations.

Petitions of support was presented for the record.

GRANTED: James Hamilton *moved* and Donald Cafero *seconded* to approve the proposed application. *Motion passed 4-1 (Daphne Dixon opposed).*

2. 383 South Benson Road, Map 139, Parcel 254. Petition of Joseph Garin for a variance of the Zoning Regulations to reduce the secondary street line setback on a corner lot and the minimum side yard line setback from, 22' and 7', currently 13.7' and 5.3', proposing 13.7' and 5.3'; and section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 20.7%, proposing 20.9%. **Permission to construct a 2 story and a 2nd floor addition. Premises: A Zone**

Joseph Garin, owner, presented the application for a variance of the Zoning Regulations. He wishes to construct a 2nd floor on my current existing home with the same measurements and dimensions of the first floor, essentially converting the bedroom and bathroom cape cod into a three bedroom and two bath small colonial with an attic. Due to the home residing in a flood zone, they need to fill in the basement. They are applying for a variance in order to increase the current size of the home. With their growing family, they are in need of this addition. They are not increasing the size of the home but not the footprint of the property, nor are they looking to change any existing setbacks distances.

Petitions of support was presented for the record.

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

3. 131 Carlynn Drive, Map 138, Parcel 37. Petition of David and Ann Farrington for a variance of the Zoning Regulations section 5.2.5 to increase the maximum allowable lot coverage from 20%, Currently 21% proposing 22.4%. **Permission to enlarge an existing front porch due to home being elevated to meet new F.E.M.A. regulations. Premises: A Zone**

Ann Farrington, owner, presented the application for a variance of the Zoning Regulations. To extend our front porch a cross front of the house. New porch to be added will be 5'x28'3". Changing our lot coverage from 21% 22.4% During hurricane Sandy, our first floor sustained damage. Due to the amount of damage we sustained we had to elevate our home 4 ½ feet. Our old foundation was only a foot and a half. Our new foundation is 6 feet high. We are applying for a variance to extend our 5x15 foot porch to 5'x43' In order to cover and hide our new unsightly foundation. The porch will make our home appear lower it will cover the foundation and will maintain the character of the neighborhood.

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

4. 138 Edge Hill Road, Map 141, Parcel 165. Petition of David Boltin for a variance of the zoning Regulations section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 20.4%, proposing 21.5%; **Permission to rebuild an existing two (2) garage that was damaged by a tree during hurricane Sandy. Premises: A Zone**

Rebuild a 2 car garage 20' x 22' that was damaged by a tree. Existing non-conforming lot is lot size is 8125 required lot size is 9375 if I have a conforming lot my lot coverage would only be 18.6% in a required 20% maximum.

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

5. 38 Catherine Terrace, Map 182, Parcel 320. Petition of Greg and Bridget Toothaker for a variance of the Zoning Regulations section 5.2.4 to reduce the minimum required sum of the side setbacks from the two (2) side property lines from 20', currently 34.4', proposing 14.6'; **Permission to construct a new two (2) story addition. Premises: B Zone**

Bridget Toothaker, owner, presented the application for a variance of the Zoning Regulations. She wishes to remove our existing detached garage and build a new 2 sty side and rear additions to consist of a new 1 car garage and additional living space for our growing family. Due to the effects that super storm Sandy had on the surrounding neighborhoods, we wish to comply with the new FIMA regulations. We must fill our basement and move all mechanicals above the 100 year flood line. And in doing so we would like to attach the garage and a playroom to the existing dwelling.

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

6. 288 Puritan Road, Map 139, Parcel 152. Petition of Justin James and Jennifer Gardner for a variance of the Zoning Regulations section 5.2.5 to increase the maximum lot coverage from 20%, Currently 24.5%, proposing 23.99%. **Permission to rebuild their 2-1/2 story single family dwelling destroyed by hurricane Sandy. Premises: A Zone**

James Justin Gardner, owner, presented the application for a variance of the Zoning Regulations. Due to the damage sustained in Hurricane Sandy he wishes to build a new FEMA compliant home. He wishes to rebuild their 2-1/2 story single family dwelling destroyed by hurricane Sandy.

The house is in a flood zone and was purchased in 1999. Thy want to bring the new house closer to zoning regulations by reducing the coverage from the current 24.5 to 23.99%. Other advantages of the new house will be additional drainage and correcting the front setback. The new home is in character of the neighborhood and respects the original dimensions of the property.

The only other alternative is to lift the current house off the ground. This would result in even higher lot coverage due to additional stairs, porches and landings.

Petitions of support were presented for the record.

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

7. 194 Millard Street. Map 182, Parcel 138. Petition of William Leavy for a variance of the Zoning Regulations section 5.2.4 to reduce the minimum required sum of the side setbacks from the two (2) side property lines from 20', currently 17.5', proposing 17.5'. **Permission to construct a new 1-1/2 story addition over an existing 1 story dwelling. Premises: B Zone**

William Levy, owner, presented the application for a variance of the Zoning Regulations. He noted he wishes to construct a second floor addition over the existing first floor. The additions will consist of a dining room, kitchen, living room, bathroom, office and a play room on the first floor. The second floor will consist of three bedrooms, two bathrooms, laundry room and a master suite.

Mr. Levy is requesting a variance to allow them to build the second floor directly over the first floor. This will keep the current setback of 17.5 feet on both the first floor and second floor. The aesthetics of the home will be more in kind with the traditional New England homes in the neighborhood.

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

8. 80-90 Kings Highway Cutoff. Map 80, Parcel 174 & 176. Petition of Country Realty Co for a variance of the Zoning Regulations section 12.7.6.1 to reduce the street line setback from 25', currently 6', proposing 10.8'. **Permission to remove an existing building and construct a new 1 story structure attached to an existing building. Premises: DCD Zone.**

Attorney Jacqueline Kaufman presented the application for a variance of the Zoning Regulations.

The owner seeks approval of relief from the required street line setback in connection with a new, proposed building addition to be constructed at the southwesterly end of the existing service administration building located on 80 Kings Highway Cutoff and feature sixteen bays, an equipment storage room, a break room and bathroom/employee locker room. The proposed service facility addition will be one-story and approximately 9,130 square feet in floor area.

The addition is necessary to comply with the manufacture's requirement for this location to ensure the contained high level of customer service and convenience associated with New Country Lexus. Country and New Country Lexus desire to maintain their service facility in Fairfield at this location, and merging the parcels, along with the proposed addition and related site work thereon, will enable them to so.

Strict adherence to the regulations would result in a practical difficulty or unnecessary hardship that has been previously acknowledged by the ZBA on the property. Specifically, the street setback is measured for the property line and not the curb line. Prior state DOT takings have resulted in a substantial strip of land between the property line and start of the actual curb line of Kings Highway Cutoff that no longer belongs to the property owners. The distance between the proposed addition and the curb line is approximately 30.5 feet.

The variance requested is the minimum necessary to afford relief and is in harmony with the general purpose and intent of the regulations. The proposal meeting all requirements with the exception of the street line setback. The new structure will reduce the existing nonconformity relative to the street line setback. Further, granting the relief sought to construct the proposed addition will generally improve the overall appearance of the property.

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

9. 1262 Post Road. Map 180, Parcel 224. Petition of 1262 Post Road LLC for a variance of the Zoning Regulations 28.6.12 to reduce the total number of parking spaces from 91, proposing 59; and section 12-7-6-2 to reduce the side yard setback from 10/0, proposing 5.3'. **Permission to construct a one (1) story addition and to convert existing office space to restaurant use. Premises: DCD Zone**

Attorney William Fitzpatrick presented the application for a variance of the Zoning Regulations. The intent of the applicant is to renovate and expand the former Post Office building. The new architectural design maintains the center façade of the original Post Office building. The Post Office business operations have moved to the building directly to the west, 1300 Post Road.

The Property owner intends to utilize this renovated, expanded building for restaurant and retail uses. The front of the building adjacent to the Post Road will house a restaurant. The remainder of the building to the north (rear) is anticipated to consist of four separate retail uses, extending the entire width of the building.

The proposed retail space consists of gross square footage of 10,400 square feet, with a net square footage of 8,250 square feet. This net retail square footage generates a parking demand of 28 parking spaces.

The proposed restaurant consists of 4,600 square feet, with a patron floor area of 1,800 square feet. The patron floor area of 1,800 square feet results in a parking requirement of 45 spaces. The restaurant will also feature an outdoor patio extending to the west from the front steps to the building and wrapping around the corner of the building along its westerly side. The proposed outdoor seating will contain 720 square feet, generating a parking demand of 18 parking spaces. The site will contain a total of 59 parking spaces. Therefore, the applicant is requesting a variance of Section 28 of the Zoning Regulations (Section 8.6.7 and Section 28.6.12) to reduce the required parking for the proposed retail/restaurant use, with seasonal outdoor dining, from 91 parking spaces to 59 parking spaces.

The proposed renovation expansion of the former Post Office does extend the building closer to the easterly property line than at present. The proposed building is 5.3 feet from the easterly property line. Therefore, the applicant also requests a variance of Section 12.7.6.2 of the Regulations to reduce the side property line setback from 10 or zero feet to 5.3 feet.

The proposed retail restaurant parking variance request is supported by the fact that the particular proposed uses generate parking demands at different times of the business day.

The parking demand associated with the proposed retail uses will be a daytime parking demand. The 59 parking spaces on site are more than adequate to address the regulatory retail parking requirement of 28 parking spaces.

Conversely, the anticipated restaurant parking demand will be in the evening at a time when the retail uses on site are generally not open for business. There will be some lunch hour restaurant demand, but this clientele is anticipated to be downtown shoppers, business owners, and employees, thereby generating no material parking demand. In the evening hours, the restaurant patrons will have virtually the entire parking lot of 59 spaces to accommodate the regulatory restaurant requirement of 45 spaces.

The restaurant plan does incorporate outdoor dining, on a seasonal basis, into its proposal. The parking requirement of 63 spaces, per the regulations, for both the interior patron restaurant space and outdoor dining will be satisfied by the available parking on site of 59 spaces, given the fact that interior restaurant usage is rarely maximized when outdoor patron dining is available.

The minimum side yard setback in the Center Designed Business District is, per Section 12.7.6., zero on one side and not less than 10feet on the other side. In the matter at hand, the westerly side property line setback is greater than 10 feet, resulting in a required setback of zero on the east. The applicant wishes to retain a passageway along the easterly side of the building for deliveries, emergency access, etc. The proposed setback of 5.3 feet is actually wider than required and provides valuable building access.

Approval of the variance request will permit the creation of a vibrant retail/restaurant use in the former Post Office building. A careful, sympathetic architectural plan, prepared by J. P. Franzen Associates Architects, P.C. contributes to the attractiveness of this proposal. The renovated 1262 Post Road building will contribute to the continued revitalization of Fairfield's downtown, a resurgence spearheaded to a significant degree by the burgeoning downtown restaurant community.

In Opposition: Robert Russo, Jr. spoke in opposition of the proposed application.

DENIED: Daphne Dixon *moved* and Duncan Keith *seconded* to approve the proposed application. *Motion denied 4-1 (Kevin Coyne in favor)*

There being no further business to come before the Commission, Chairman Coyne adjourned the meeting at: 6:10 p.m.

Donald Cafero, Secretary

Josephine M. Keogh, Clerk

KEVIN COYNE, CHAIRMAN

DONALD CAFERO, SECRETARY

JOSEPHINE M. KEOGH, CLERK