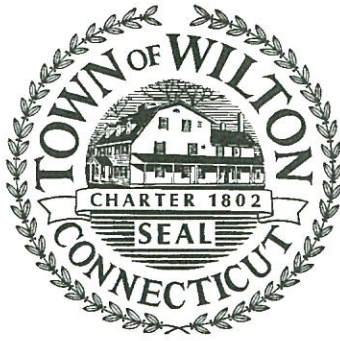
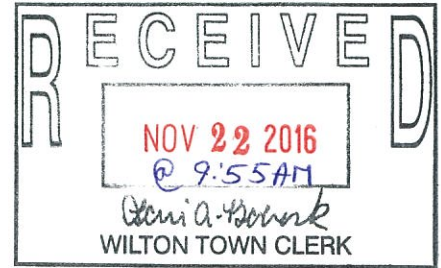


ZONING BOARD
OF
APPEALS
Telephone (203) 563-0185
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TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

**ZONING BOARD OF APPEALS
REGULAR MEETING
OCTOBER 17, 2016
7:15 P.M.**



TOWN HALL ANNEX - MEETING ROOM A

PRESENT: Gary Battaglia, Chairman; Joshua Cole, Vice-Chairman; Brian Lilly, Secretary; Libby Bufano; Ray Tobiassen; Andrew McNee, Alternate; Kenny Rhodes, Alternate

ABSENT: Tracey Serpa

A. CALL TO ORDER

Mr. Battaglia called the meeting to order at 7:15 P.M. He briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

Mr. McNee left the meeting early.

B. PUBLIC HEARINGS

1. #16-10-11 WILSON PROPS I, LLC 39 DANBURY ROAD

Mr. Battaglia called the Hearing to order at approximately 7:16 P.M., seated members Battaglia, Bufano, Cole, Lilly, and Tobiassen, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly read the legal notice dated October 3, 2016 and details of the application and the hardship as described on the application.

Present was Lee Wilson, representing applicant/owner.

Mr. Wilson explained that a major renovation was recently completed on the subject site, which has also been re-tenanted after a long period of vacancy. He noted that the front façade had to be reconfigured because the new tenant could not have a second entrance providing ingress/egress to customers. He distributed color photos of before and after conditions, explaining that a previous box window was eliminated and an existing shed roof had to be reconfigured for architectural reasons. He explained that the reconfiguration essentially lengthened the shed roof to make it 12 inches longer on one end and 18 inches longer on the other end, but noted that there is no further intrusion

closer toward the street than existed previously.

Mr. Battaglia asked if anyone wished to speak for or against the application.

There being no further comments, at approximately 7:20 P.M. the public hearing was closed.

2. #16-10-12 PETERKIN

50 NEW STREET

Mr. Battaglia called the Hearing to order at approximately 7:20 P.M., seated members Battaglia, Cole, Lilly, Preston, and Tobiassen, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly read the legal notice dated October 3, 2016 and details of the application and the hardship as described on the application.

Present were Ryan and Merima Peterkin, owners/applicants.

Mr. Peterkin explained that the size of the property, which is located in a one-acre residential zone and consists of only 0.7+/- acre, is nonconforming. He stated that they purchased the 1922-built home in 2006 and they are trying to make it work for a growing family. He referenced submitted photos, noting that the proposed garage location is the only feasible location for it on the property.

Ms. Peterkin cited further constraints, referencing ledge that exists to the right of the house and the septic system which runs across the whole front yard. She noted that they chose a barn-style 24' x 24' garage, with a loft above, which will be compatible with the style of the house. She stated that they don't have a garage right now, which is proving to be a significant hardship particularly in the winter months, and she referenced the odd layout of the property as a further constraint to locating the structure in a conforming location.

It was noted that another possible location for the garage would also be within the setback and thus would require a variance as well.

The applicants confirmed that surrounding neighbors were notified but no one appeared at the hearing to object.

Ms. Peterkin stated that the gravel driveway would be extended, i.e. it would not be paved, and a portion of the construction would extend/cut into the slope.

Mr. Battaglia asked if anyone wished to speak for or against the application.

There being no further comments, the public hearing was closed at 7:36 P.M.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Mr. Battaglia called the Regular Meeting to order at 7:36 P.M., seated members Battaglia, Bufano, Cole, Lilly, and Tobiassen, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

1. #16-10-11 WILSON PROPS I, LLC 39 DANBURY ROAD

The Board briefly discussed the application. Mr. Lilly stated that in prior situations where something has gone wrong and the work has been completed incorrectly, it has been his practice to vote in favor of the requested variance if he felt he would have done so had the applicant requested it originally. He noted that the roof is not encroaching any farther into the front setback.

Although he concurred in principle with Mr. Lilly, Mr. Rhodes clarified for the record that the extended shed roof is still considered an encroachment.

MOTION was made by Ms. Bufano, seconded by Mr. Battaglia, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to permit construction of a shed roof extension to a pre-existing non-conforming structure for the purpose of complying with the Town of Wilton Zoning Regulations, resulting in a front yard setback of 46'4" where a minimum of 50 feet is required; as per submitted "New Roof Plot Plan" prepared by Leonard Surveyors, LLC, dated July 11, 2016; on grounds that sufficient hardship was demonstrated due to the pre-existing nonconforming nature of the site and the fact that the applicant was previously authorized to extend into the front yard setback to a distance of 46'4" from the property line, with the understanding that this extends the intrusion laterally by about 2.5 feet in total.

2. #16-10-12 PETERKIN 50 NEW STREET

Mr. Battaglia stated that the proposed location is the only place to locate the garage on the property, noting further that it would be surrounded by trees. He added that the proposed gravel driveway would not increase site coverage on the parcel.

Mr. Lilly noted further that the small lot size represents a hardship for the site but he questioned whether the proposed garage would be considered reasonable use of the land. It was the general consensus that a garage is a necessity in this climate area.

Mr. Cole referenced the findings that are necessary in Section 29-13.B of zoning

regulations to grant a variance, noting in particular the following hardships: the undersized nature of the lot which is located in a minimum 1-acre zone; the presence of ledge which severely impacts the site; and the location of the house on the parcel, noting that there is a very small conforming area that is available on which to site the garage. He felt that this is a reasonable use of the property for current day standards/requirements, and based on the size and topography of the lot it would deny reasonable use of the property if the variance were denied. He stated that the granting of the variance would be in harmony with the general purposes and intent of the Town's regulations and Plan of Development and would not be injurious to the neighborhood, citing the ample amount of brush cover and the fact that all neighbors were duly notified. He concluded by noting that the granting of the variance is not based upon a financial or economic hardship, nor upon the nonconformity of neighboring lots/structures, and he noted that every alternative location would also be within the setbacks and thus also require a variance.

MOTION was made by Mr. Cole, seconded by Mr. Battaglia, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to allow a detached garage with a 15-foot side yard setback in lieu of the required 30 feet; as per submitted "Zoning Location Survey" prepared by Riordan Land Surveying, dated June 8, 2006, revised August 3, 2016; and "Exterior Elevations" prepared by The Barn Yard, dated August 24, 2016; on grounds that sufficient hardship was demonstrated due to the existing topography and undersized nature of the lot which is located in a one-acre zone, in addition to the fact that any other location would also be nonconforming so that the proposed location is the most reasonable on which to site the garage.

D. OTHER BUSINESS

1. Minutes – September 19, 2016

MOTION was made by Mr. Lilly, seconded by Mr. Cole, and carried unanimously (5-0) to approve the minutes of September 19, 2016.

The Board briefly discussed an email dated October 17, 2016, with an accompanying Appellate Court decision, from Town Counsel Pat Sullivan to Robert Nerney addressing questions raised by the Board pertaining to seating of Alternate Board members.

In light of the guidance provided by Ms. Sullivan that alternate members should only be seated in the absence of regular members, Mr. Rhodes noted that it might be wise for the Chairman to inquire at the beginning of a meeting whether anyone has any conflicts with

the upcoming applications since alternate member(s) may decide not to remain for the full meeting if all regular members are present.

Mr. Nerney was asked to confirm with Counsel whether or not alternate members have the ability to participate in the deliberations portion of the meeting, and whether they could be seated at a future, continued hearing if present during the initial hearing on the matter.

E. ADJOURNMENT

MOTION was made by Mr. Lilly, seconded by Ms. Bufano, and carried unanimously (5-0) to adjourn at 8:10 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary

