

ZONING BOARD
OF
APPEALS
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TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

WILTON ZONING BOARD OF APPEALS MINUTES *
JUNE 18, 2018 – REGULAR MEETING

PRESENT: Joshua Cole, Chairman; Tom Gunther, Secretary; Gary Battaglia; Tracy Serpa; Jaclyn Coleman, Alternate; Rem Bigosinski, Alternate; Gerald Holdridge, Alternate

ABSENT: Libby Bufano (notified intended absence)

A. CALL TO ORDER

Mr. Cole 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.

B. PUBLIC HEARINGS

1. #18-06-08 LESKA 50 SUNSET PASS

Mr. Cole called the Hearing to order at approximately 7:16 P.M., seated members Battaglia, Cole, Coleman, Gunther, and Serpa, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Gunther read the legal notice dated May 25, 2018 and details of the application and the hardship as described on the application.

Present were Romi Leska, applicant; and Roberta Fumega, representing the applicant.

Ms. Fumega briefly reviewed requested setback variances for an existing stepping stone patio; an existing propane tank; a proposed shed; and an existing air conditioner unit; in addition to requested building and site coverage variances. Mr. Leska noted for the record that the aforementioned propane tank was already approved by zoning and is located underground.

Ms. Fumega noted further that the existing patio is set in stone dust and is fenced in for the safety of the applicant's children due to the pond on the site; and the shed is necessary because the home has no basement or attic space, just a small crawl space. She

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ZBA Minutes – June 18, 2018 - Page 2

referenced extensive wetlands on the property, including a pond in the front, noting that the applicant is trying to make maximum use of the property with all of its inherent limitations.

Mr. Cole observed numerous site constraints/hardships, which the applicant confirmed, including the aforementioned wetlands, with a pond in the front; the irregularly-shaped lot; the small 0.58+/- acre parcel located in and constrained by one-acre zoning requirements; and the pre-existing nonconforming location of the structure, which already encroaches into required setbacks.

Addressing the shed location, Mr. Leska explained that the septic location behind the house prevents the shed from being located in a more conforming manner. In response to another Board question, the proposed shed was determined to contribute 0.75% to both building and site coverages, and thus site coverage would still be nonconforming (at approximately 15.55%) even if the shed were removed and/or relocated.

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

John Nessel, 3 Cora Lane, a neighbor on the northwest side of the subject property, asked for clarification as to how/where everything would be sited on the property. After being shown the map by the applicant, he stated that he had no objections, noting further that the applicant had done a fantastic job renovating/improving the property.

There being no further comments, at approximately 7:35 P.M. the public hearing was closed.

2. #18-06-09 DI COSTANZO 273 NEW CANAAN ROAD

Mr. Cole called the Hearing to order at approximately 7:35 P.M., seated members Battaglia, Cole, Gunther, Holdridge, and Serpa, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Gunther read the legal notice dated May 25, 2018 and details of the application and the hardship as described on the application.

Present was Frank DiCostanzo, applicant.

Mr. DiCostanzo briefly reviewed details of the application. He explained that the pre-existing nonconforming lot is very narrow, consisting of only 0.697+/- acres, which is located in and constrained by one-acre zoning requirements, with setback lines running through the existing residence, and with wetlands located in the back. He noted that the existing garage roof line is pitched toward the house and chimney which has caused erosion to the cinder block structure over the years. He reviewed proposed construction

ZBA Minutes – June 18, 2018 - Page 3

plans, referencing a small corner of the garage as well as a small stoop/step, both of which extend beyond the required setback lines.

In response to a question regarding the proposed garage location, Mr. DiCostanzo explained that moving the garage a bit so as not to require a front yard setback variance would result in the need for a rear yard setback variance; and thus it would be problematic either way.

Mr. Cole acknowledged that the lot is very challenging and would involve setback violations for almost any proposed site modification/addition.

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

There being no further comments, the public hearing was closed at approximately 7:45 P.M.

3. #18-06-10 CAMPBELL/DE SOUZA 192 CHEESE SPRING RD

Mr. Cole called the Hearing to order at approximately 7:45 P.M., seated members Battaglia, Bigosinski, Cole, Gunther, and Serpa, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Gunther read the legal notice dated May 25, 2018 and details of the application and the hardship as described on the application.

Present were Juliano DeSouza and Natasha Campbell, applicants.

Mr. DeSouza reviewed details of the application, noting the applicant's plans to build a sport court and a room above the existing garage. He cited property constraints/hardships, including significant ledge 5-6 feet in depth; topography/slope issues; a large proportion of wetlands; and the need to reserve a small flat area east of the existing septic field for a reserve septic system should it become necessary in the future. He explained further that required well/septic separation distances, in addition to 100-foot wetland setback regulations, necessitate the siting of the sport court as proposed. He added that there has been no neighbor opposition to the proposed plans.

Addressing the proposed second story addition, he explained that the prior owners' plan had incorrectly noted a 27.9' setback where it is in fact 26.9', and he confirmed that the proposed plan is to just go straight up and thus there would be no change to the existing footprint. He reviewed proposed construction details of the sport court, noting in particular that it would be a half-basketball court with surrounding fencing, and would not be illuminated.

ZBA Minutes – June 18, 2018 - Page 4

Mr. Cole referenced into the record a submitted letter of support dated May 19, 2018 from neighbors Keila G. Fontes and Jurandir DeSouza at 200 Cheese Spring Road.

Mr. Bigosinski noted the lack of both a topographical plan and delineation of wetlands on the survey which could confirm the applicant's representations of same. Mr. Nerney noted for the record that the applicant would also have to apply for Health and Inland Wetlands approvals before he could complete the proposed site renovations.

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

Tom Costello, 27 Woodhill Road, an adjoining neighbor, stated that he had no issues with the application and he confirmed the accuracy of the applicant's depiction of wetlands on the site.

There being no further comments, the public hearing was closed at approximately 8:01 PM.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Mr. Cole called the Regular Meeting to order at approximately 8:01 P.M., seated members Battaglia, Cole, Coleman, Gunther, and Serpa, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

1. #18-06-08 LESKA 50 SUNSET PASS

The Board briefly discussed the application. Mr. Cole noted, and the Board concurred, that significant hardships were demonstrated, including the undersized lot of 0.58+/- acres which is located in and constrained by one-acre zoning regulations; significant wetlands on the site, including a large pond in front; the pre-existing nonconforming location of the structure; the shape of the lot which narrows from east to west and south to north; and the location of the septic in the rear.

It was the further consensus of the Board that the applicant would be deprived of reasonable use of the lot or structure if proposed site modifications are not allowed; the granting of the proposed variances would be in harmony with the intent of the regulations and would not be injurious to the neighborhood or to public health, safety and welfare (the proposed patio in the back being a specific safety measure proposed); the granting of the variances is not based on the nonconformity of neighboring lots or structures nor upon a financial or economic hardship. It was further agreed that most of the areas to be impacted on the site are generally not visible by adjoining properties.

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It was the consensus of the Board to approve the variances as proposed.

MOTION was made by Mr. Cole, amended by Mr. Gunther, seconded by Ms. Serpa, and carried unanimously (5-0) to **grant** variances of Section 29-5.D to allow an existing stepping stone patio with a 13.5-foot side yard setback in lieu of the allowed 15' and a rear yard setback of 0.5 feet where 20' is allowed; to allow an existing propane tank with a 3.9' side yard setback in lieu of the allowed 30' and a rear yard setback of 11.4' where 40' feet is allowed; to allow a proposed shed with a 1.0' side yard setback in lieu of the allowed 30' and a rear yard setback of 12.8' where 40' is allowed; to allow an existing air conditioner unit with a 10' side yard setback in lieu of the allowed 30' and a rear yard setback of 29.7' where 40' is allowed; to allow building coverage of 10.2% where 9.4% historically existed and a maximum of 10% is allowed; to allow site coverage of 16.3% where 15.5% historically existed and a maximum of 15% is allowed; as per submitted Improvement Location Survey Map prepared by Kristoffersen Land Surveying, LLC dated February 20, 2015, revised September 15, 2015, April 6, 2018 and May 22, 2018; and 4 photos of residence front/back views, received May 24, 2018; on grounds that sufficient hardship was demonstrated, as heretofore noted, due to the undersized nature of the one-acre zoned lot; the large proportion of wetlands, including a large pond, on the site; orientation of the pre-existing nonconforming structure; the shape of the property; and the location of the septic in the rear. It was further noted that denial of the proposed site modifications would deprive the applicant of reasonable use of the lot/structure; it is the minimum adjustment necessary to accomplish same; it is in harmony with the general intent of the regulations and will not be injurious to the neighborhood or to public health, safety and welfare; it is not based on the nonconformity of neighboring lots/structures; it is not based on a financial hardship; and given the approximate 80-foot width of the property in combination with 40-foot required setbacks on each side, there is no way to accomplish said renovations without the proposed variances.

2. #18-06-09 DI COSTANZO 273 NEW CANAAN ROAD

Ms. Coleman was unseated. Mr. Holdridge was reseated.

The Board briefly discussed the application. Mr. Cole noted, and the Board concurred, that significant hardship was demonstrated, including the undersized 0.697+/- acre lot located in and constrained by one-acre zoning requirements; the existence of a very small, thin area on which to legally build; the pre-existing nonconforming location of the structure which was constructed in 1964; and an existing safety issue with respect to the pitch of the existing roof.

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It was the further consensus of the Board that the requested variances are the minimum necessary to accomplish the purpose and the applicant would be deprived reasonable use of the lot or structure if not granted; it would be in harmony with the intent of the regulations and would not be injurious to the neighborhood or to public health, safety and welfare; the granting of the variances is not based on the nonconformity of neighboring lots or structures nor upon a financial or economic hardship.

MOTION was made by Mr. Cole, amended by Mr. Gunther, seconded by Mr. Holdridge, and carried unanimously (5-0) to **grant** variances of Section 29-5.D to allow a building addition with a 20-foot front yard setback in lieu of the required 40 feet; and to allow a building addition (2-car garage) with a 37-foot front yard setback in lieu of the required 40 feet; as per submitted Map of Property prepared by Roland H. Gardner, revised Dec 16, 2017 and May 2, 2018; and elevations/drawings, pages 1 through 5, dated September 10, 2017; on grounds that sufficient hardship was demonstrated, as heretofore noted, including the undersized nature of the one-acre zoned lot, and the narrow/thin lot configuration with a very small building envelope; with the understanding that denial of the requested variances would deprive the applicant of reasonable use of the lot or structure; reconstruction of the garage is a reasonable use of the property; it is in harmony with the general intent of the regulations and will not be injurious to the neighborhood or to public health, safety and welfare (in fact, the proposed garage reconstruction would improve roof drainage issues and be better for public health); it is not based on the nonconformity of neighboring lots/structures or based on a financial or economic hardship; and the proposed improvements would likely add to the appeal/image of the neighborhood.

3. #18-06-10 CAMPBELL/DE SOUZA 192 CHEESE SPRING RD

Mr. Holdridge was unseated. Mr. Bigosinski was reseated.

The Board briefly discussed the application. Mr. Cole noted the significant hardships presented by the site, including a pre-existing nonconforming structure built partially into the setback line; wetland issues; severe rock outcroppings; steep slopes; the septic location and the desire to maintain a portion of buildable area for reserve septic in the future. He noted further that the proposed addition represents a very minimal intrusion due to a previous incorrect measurement of an already existing condition, and the neighbors most impacted to the north and west offered their support.

MOTION was made by Mr. Cole, seconded by Mr. Battaglia, and carried (4-0-1) to **grant** variances of Section 29-5.D to allow a sports court and a building addition with 20' and 26'9" side yard setbacks, respectively, in lieu of the required 40 feet; as per submitted

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ZBA Minutes – June 18, 2018 - Page 7

Zoning Location Survey prepared by Ryan and Faulds, dated May 22, 2018; on grounds that sufficient hardship was demonstrated, as heretofore noted, including the steep topography of the property, as well as existing wetlands on the site, with the understanding that denial of the requested variances would deprive the applicant of reasonable use of the lot or structure; it is the minimum adjustment necessary to accomplish the purpose; it is in harmony with the general intent of the regulations and will not be injurious to the neighborhood or to public health, safety and welfare; it is not based on the nonconformity of neighboring lots/structures or on a financial or economic hardship; and the two neighbors most impacted are in favor of the proposal. Mr. Bigosinski abstained.

D. OTHER BUSINESS

1. Approval of Minutes – May 21, 2018

MOTION was made by Mr. Cole, seconded by Mr. Gunther, and carried (6-0-1) to approve the minutes of the Regular Meeting on May 21, 2018, as amended on page 6, last paragraph, last phrase to read as follows “nor was any *certificate of* zoning compliance issued for the use (again, no evidence of such was submitted into the record).” Ms. Serpa abstained.

MOTION was made by Mr. Gunther, seconded by Mr. Battaglia, and carried (6-0-1) to approve the minutes of the Special Meeting/Educational Seminar on May 21, 2018 as drafted. Ms. Serpa abstained.

E. ADJOURNMENT

MOTION was made by Mr. Battaglia, seconded by Ms. Serpa, and carried unanimously (7-0) to adjourn at approximately 8:15 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary

