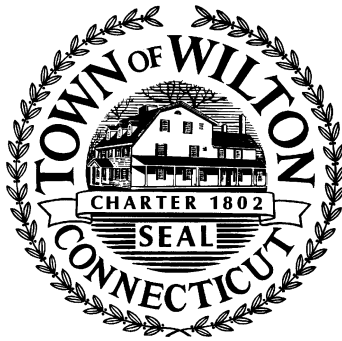


ZONING BOARD  
OF  
APPEALS  
Telephone (203) 563-0185  
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TOWN HALL ANNEX  
238 Danbury Road  
Wilton, Connecticut 06897

**ZONING BOARD OF APPEALS  
REGULAR MEETING  
SEPTEMBER 16, 2013  
7:15 P.M.  
TOWN HALL ANNEX - MEETING ROOM A**

**PRESENT:** Sally Poundstone, Chairwoman; Brian Lilly; Albert Nickel; Libby Bufano, Alternate; Joe Fiteni, Alternate

**ABSENT:** John Comiskey and Timothy Meyer (advised intended absences)

**A. CALL TO ORDER**

Ms. Poundstone called the meeting to order at 7:17 P.M. She briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

**B. PUBLIC HEARINGS**

**1. #13-09-11 CALLARI 89 MUSKET RIDGE ROAD**

Ms. Poundstone called the Hearing to order at 7:17 P.M., seated members Bufano, Fiteni, Lilly, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly, acting as Secretary in the absence of Mr. Comiskey, read the legal notice dated September 3, 2013 and referenced details of the application and the hardship as described on the application.

Present were Flavia Callari, owner/applicant; Michael Fromm, architect; and Bob Kijek, builder.

Ms. Callari stated that she purchased her home about 13 years ago, noting that an addition had already been built onto it for which a variance had previously been granted. She reviewed her plans to connect the existing den and kitchen, noting that the roofline would extend approximately 3 feet into the setback, although the building footprint itself would remain the same.

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Messrs. Fromm and Kijek explained that the plan is to bring up the roofline to match the existing roofline from the previously granted variance.

Ms. Callari cited hardships of the property, referring in particular to the topography of the site (i.e. the backyard is a cliff) and the extreme narrowness of the parcel.

Mr. Nerney noted for the record that the lot, as currently configured, would not meet current day minimum box standards for a two-acre zoned residential lot.

Ms. Callari confirmed that the adjacent neighbor did not express any objection to the proposed site renovations.

Ms. Poundstone asked if anyone wished to speak for or against the application.

There being no further comments, the public hearing was closed at 7:26 P.M.

### **2. #13-09-12 SMITH**

### **26 LOVERS LANE**

Ms. Poundstone called the Hearing to order at 7:26 P.M., seated members Bufano, Fiteni, Lilly, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly, acting as Secretary in the absence of Mr. Comiskey, read the legal notice dated September 3, 2013 and referenced details of the application and the hardship as described on the application.

Present were Kevin O'Brien, licensed real estate agent and land use consultant; and Walt Smith, owner.

Mr. Nickel noted for the record that he knows one of the property owner's neighbors, although he did not feel it represented any conflict of interest.

Mr. O'Brien stated that the property was purchased in 1962, noting that an addition was recently added onto the back of the 1759 house. He referenced the owner's current plans for a small addition onto the northeast corner of the structure where a 27.1-foot front yard setback exists and where a 26.5-foot setback is being proposed.

Addressing hardships of the site, Mr. O'Brien cited the Inland Wetland Department's requirement to stay 100 feet away from the brook, as well as the severe land contours from the back of the structure going south, limiting areas where expansion could occur on the property. He distributed an artist's rendering of the site dating from 1935, noting a cow pasture and dairy farm where the current Merwin's Meadow pond currently exists.

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Mr. O'Brien noted for the record that existing building and site coverages are not anywhere near what is allowed in a two-acre zoned parcel.

Mr. Nerney reminded the applicant that the parcel is located in a floodplain and, as a result, might require elevation of the proposed addition. Mr. O'Brien responded by noting that the proposed addition will not be in the floodplain.

Ms. Poundstone asked if anyone wished to speak for or against the application.

There being no further comments, the public hearing was closed at 7:32 P.M.

### **3. #13-09-13 SCHLECHTER 46 GLEN HILL ROAD**

Ms. Poundstone called the Hearing to order at 7:32 P.M., seated members Bufano, Fiteni, Lilly, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly, acting as Secretary in the absence of Mr. Comiskey, read the legal notice dated September 3, 2013 and referenced details of the application and the hardship as described on the application.

Present were Aaron and Alexa Schlechter, owner/applicants; and Michael Schulta, builder.

Mr. Schlechter stated that the structure was built with a dormer on the southeast corner. He noted the applicant's desire to add a dormer onto the rear, resulting in a rearrangement of the internal space and an updated bathroom, along with new siding, insulation, etc.

Mr. Schulta explained further that the intent was to bring the wall space up to 8 feet to allow for more usable space in the cape-style home.

Mr. Nerney noted for the record that the renovations, which he indicated were minor in nature, were already completed, noting further that there was a lack of knowledge regarding the need for a permit. He confirmed that the completed work involved a dormer and a change in roofline.

Mr. Schulta acknowledged his error, noting that he was of the belief that the project involved a side setback whereas it actually involved a front setback, which was larger and more constraining, in addition to the fact that they were under a time constraint due to an au-pair situation beginning in September. He referenced an additional constraint in that the center line of Glen Hill Road swales down and thus cuts into the property line even further.

Mr. Nerney also noted that the structure was built prior to the 50-foot front yard setback

requirement.

Ms. Poundstone noted for the record that it would have been useful/helpful if the applicant had clearly indicated to the Board that the work was pre-existing, i.e. had already been completed.

Mr. Schlechter stated that the applicant had not attempted to conceal anything. He noted that it was only when Mr. Schulta had come in to the office to obtain a permit that he found out about the setback issue. He referenced the steep slopes and ledge on the property and the constraints posed by the geothermal heating/cooling system which requires 3 wells on the site. As a result, he stated that the only portion of the house that could be expanded is the area that is the subject of this application.

Ms. Poundstone asked if anyone wished to speak for or against the application.

There being no further comments, the public hearing was closed at 7:42 P.M.

**4. #13-09-14 PENCU**

**20 BRANDON CIRCLE**

Ms. Poundstone called the Hearing to order at 7:42 P.M., seated members Bufano, Fiteni, Lilly, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly, acting as Secretary in the absence of Mr. Comiskey, read the legal notice dated September 3, 2013 and referenced details of the application and the hardship as described on the application.

Present were Rachel and Alexander Pencu, owners/applicants.

Ms. Pencu stated that they purchased their 1925-built home this past July, noting that the unfinished space above the garage is only accessible through an exterior staircase. She stated that they would prefer to have an interior staircase which requires a small bump-out to the mudroom (less than 40 square feet) in order to provide the necessary stairway access. She explained that the proposed bump-out would minimally impact site coverage but not setbacks. She noted that the garage roofline will be changed, although the garage itself would not be extended out any further.

Addressing the issue of hardship, Ms. Pencu noted the unusual shape of the parcel which has a very long narrow strip of land out to Liberty Street (since its original address was 41 Liberty Street). She explained that not only can this portion of land not be considered towards site coverage calculations, but it also causes the property to be considered a corner parcel with two front yard setbacks. She noted further that the lot consists of only 1.82 acres in a two-acre zoned area, further constraining site coverage calculations for the site.

Mr. Pencu explained that the only usable space actually gained will be head room as a result of the proposed dormers, since the additional mudroom space will be primarily to accommodate the stair turnaround.

Mr. Lilly noted the property's extensive paved driveway and its significant contribution towards site coverage. He asked whether any thought was given to removing the circular portion of the driveway to reduce the amount of coverage on the site. The applicants explained that they really appreciate having the circular driveway because their small children enjoy riding their bikes and playing on it. In response to another question from the Board, they indicated that they did not plan to remove the existing exterior stairs.

Ms. Poundstone asked if anyone wished to speak for or against the application.

There being no further comments, the public hearing was closed at 7:50 P.M.

**5.      #13-09-15      TOTTEN                              37 LONGMEADOWS ROAD**

Ms. Poundstone called the Hearing to order at 7:50 P.M., seated members Bufano, Fiteni, Lilly, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly, acting as Secretary in the absence of Mr. Comiskey, read the legal notice dated September 3, 2013 and referenced details of the application and the hardship as described on the application.

Present were Robert and Susan Totten, owners/applicants; and Dennis Peters, designer.

Mr. Peters explained that the goal of the proposed renovations is to add a second floor to provide additional space for the applicants' growing family. He noted that a small portion of the existing southwestern corner of the structure is currently over the setback line, equivalent to roughly 50 square feet of space. He explained that the proposed changes would not involve any change in the footprint of the existing garage structure, but rather will only involve a steeper pitched roof over that area.

Addressing the issue of hardship, Mr. Peters explained that there was an increase in side yard setback regulations from 30 feet to 40 feet since the house was originally built. He also noted the fan shape of the lot which further constrains the site.

Ms. Poundstone asked if anyone wished to speak for or against the application.

There being no further comments, the public hearing was closed at 7:55 P.M.

**C. APPLICATIONS READY FOR REVIEW AND ACTION**

Ms. Poundstone called the Regular Meeting to order at 7:55 P.M., seated members Bufano, Fiteni, Lilly, Nickel, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

**1. #13-09-11 CALLARI 89 MUSKET RIDGE ROAD**

The Board briefly discussed the application. Mr. Lilly noted that the addition itself would be within the required setbacks and the only change would be to a pre-existing nonconforming roof to allow it to fit in with the new addition. It was the consensus of the Board to approve the application, as submitted.

MOTION was made by Mr. Lilly, seconded by Mr. Nickel, and carried unanimously (5-0) to **grant** the variance of Section 29-5.D to allow a building addition with a 36.9-foot side yard setback in lieu of the required 40 feet; as per submitted Zoning Location Survey prepared by Redniss & Mead, dated July 17, 2013, and submitted Construction Documents, prepared by MAF Architects, dated June 7, 2013; on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the property, and the fact that proposed renovations will just change the roofline and not encroach further into the setback.

**2. #13-09-12 SMITH 26 LOVERS LANE**

The Board briefly reviewed the application. It was the consensus of the Board to approve the application, as submitted.

MOTION was made by Mr. Fiteni, seconded by Ms. Bufano, and carried unanimously (5-0) to **grant** the variance of Section 29-5.D to allow a building addition with a 26.5-foot front yard setback in lieu of the required 50 feet; as per submitted Zoning Location Survey, Proposed, prepared by Ryan and Faulds, dated January 28, 2013; on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the historical structure, the required 100-foot setback from a watercourse, and the very steep slopes that exist on the property.

**3. #13-09-13 SCHLECHTER**

**46 GLEN HILL ROAD**

The Board reviewed the application. Mr. Lilly noted that although the work was already completed, there is no further encroachment into the setbacks and the Board would probably have approved the application had it been submitted prior to the work being completed. He also felt that in the future any such application should clearly indicate that the work was already performed.

Ms. Poundstone felt that the manner in which this occurred was unfortunate and upsetting. She found it difficult to understand how such a mistake could have been made given the experience level of those involved.

MOTION was made by Mr. Lilly, seconded by Ms. Poundstone, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to allow a building addition with a 41-foot front yard setback in lieu of the required 50 feet; as per submitted Property Survey prepared by PAH, Inc. Land Surveyors dated July 8, 2013, and Alterations for Schlechter Residence prepared by Cad Visuals Design Group dated March 22, 2013; on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the property.

**4. #13-09-14 PENCU**

**20 BRANDON CIRCLE**

The Board reviewed the application and had no issues with the requested setback variances. However, Mr. Lilly expressed some reservations with the requested site coverage variance of 15.06% where 15.02% currently exists. He felt that the parcel is already so far over the allowed amount, noting that an easy solution exists (i.e. removing some of the existing driveway pavement) to lower site coverage on the parcel.

Mr. Nerney noted for the record that the .04% difference amounts to approximately 28 square feet of overage. Mr. Lilly asked at what point it becomes too small to worry about. Ms. Poundstone felt that the past is the past, noting that if another application for the same parcel were to come along, she would be very wary, but she felt that the proposed .04% was de minimus.

Mr. Fiteni noted for the record that the subject lot would not even be permitted under current zoning regulations.

MOTION was made by Mr. Nickel, seconded by Ms. Poundstone, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to permit additions resulting in a front yard setback of 33 feet where 50 feet is required, a side yard setback of 30.3 feet where 40 feet is required and site coverage of 15.06% where 15.02% currently exists and 12% maximum is allowed; as per submitted Zoning Location Survey prepared by Redniss &

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Mead dated August 21, 2013; and Elevation Plans EX-01, EX-02, PL-01, PL-02, PL-03, PL-04, PL-05, and PL-06, prepared by LF. Garcia Architects LLC, dated August 17, 2013; on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the property, as well as the size and odd shape of the lot.

### **5. #13-09-15 TOTTEN 37 LONGMEADOWS ROAD**

The Board briefly discussed the application. It was the consensus of the Board to approve the application, given the pre-existing nonconforming nature of the property, and the fact that only the roofline would be involved with no further increase to the footprint.

MOTION was made by Ms. Bufano, seconded by Ms. Poundstone, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to permit an addition resulting in a side yard setback of 34.0 feet where 40 feet is required; as per submitted Zoning Location Map prepared by Stalker Land Surveying, Inc., dated June 11, 2013, and Drawings P-1, P-2, P-3, P-4, E-1, E-2, E-3 prepared by D. Peters Designs, LLC, dated August 20, 2013; on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the property.

## **D. OTHER BUSINESS**

### **1. Minutes – July 15, 2013**

MOTION was made by Mr. Nickel, seconded by Mr. Fiteni, and carried unanimously (5-0) to approve the minutes of July 15, 2013.

## **E. ADJOURNMENT**

MOTION was made by Mr. Fiteni, seconded by Mr. Nickel, and carried unanimously (5-0) to adjourn at approximately 8:15 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary