

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

**ZONING BOARD OF APPEALS  
REGULAR MEETING  
MARCH 19, 2012  
7:15 P.M.  
TOWN HALL ANNEX - MEETING ROOM A**

**PRESENT:** Sally Poundstone, Chairwoman; Timothy Meyer, Vice Chairman; John Comiskey, Secretary; Brian Lilly; Peter Shiue, Alternate

**ABSENT:** Steven Davidson, Joe Fiteni, Barbara Frees (notified intended absences)

**A. CALL TO ORDER**

Mr. Shiue, acting as Chairman, called the meeting to order at 7:18 P.M. The Board decided to elect Officers this evening as only one regular member was absent and it is only regular members who are permitted to vote for officers.

**B. ELECTION OF OFFICERS**

**MOTION** was made by Mr. Comiskey, seconded by Mr. Meyer, to nominate Ms. Poundstone for Chairman.

There were no other nominations for Chairman. The motion on the table carried (4-0).

**MOTION** was made by Ms. Poundstone, seconded by Mr. Comiskey, to nominate Mr. Meyer for Vice Chairman.

There were no other nominations for Vice Chairman. The motion on the table carried (4-0).

**MOTION** was made by Ms. Poundstone, seconded by Mr. Meyer, to nominate Mr. Comiskey for Secretary.

There were no other nominations for Secretary. The motion on the table carried (4-0).

**C. PUBLIC HEARINGS**

**1. #12-03-02 BUHLER 4 MAPLE STREET**

Ms. Poundstone called the Hearing to order at approximately 7:25 P.M., seated members Comiskey, Lilly, Meyer, Shiue, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated March 6, 2012 and details of the application and the hardship as described on the application.

Present was Diane Buhler, applicant.

Ms. Buhler explained details of the application. She stated that an as-built drawn up after some recent construction was completed on the site, pursuant to a variance that was granted back in 1999, revealed that coverage was slightly greater than what is permitted. She stated that setbacks are completely compliant but building coverage is 10.39% where only 10% is permitted, amounting to approximately 62.8 square feet of overage. Mr. Nerney explained further that the 0.37+/- acre subject parcel is located in a one-acre zone and is thus burdened by one-acre coverage restrictions that were adopted after the home was built.

Ms. Buhler distributed photos of the deck that was built in 2005, noting in particular how shallow the deck is at approximately 5 feet in width. She also explained that access to the back yard would be restricted if the deck's current configuration were altered.

Mr. Comiskey noted for the record that the deck is not constructed tightly and therefore water can drain through.

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

James Birch, 8 Evergreen Avenue, spoke in support of the application, noting that the portion of decking that would need to be removed to reduce building coverage to conforming levels is very small and would present a real hardship to the property owner. He stated that his property faces the subject property, noting that the deck is not visible to most of the surrounding neighbors and the recent site improvements have increased the value of the subject property as well as the neighborhood.

Pamela Mannes, 2 Maple Street, expressed support for the application. She noted that her property abuts the subject property and the deck is barely visible from her house.

Mr. Comiskey read into the record a letter dated March 8, 2012 from Karin Venditti to the Zoning Board of Appeals.

There being no further comments, the public hearing was closed at 7:38 P.M.

**2.      #12-03-03                      McCULLOCH                      5 RIDGEWOOD ROAD**

Ms. Poundstone called the Hearing to order at 7:38 P.M., seated members Comiskey, Lilly, Meyer, Shiue, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated March 6, 2012 and details of the application and the hardship as described on the application.

Present was Andrew McCulloch, applicant.

Mr. McCulloch reviewed details of the application, noting the need for a storage shed to house tools, lawn equipment, etc. He cited the 0.5+/- acre size of his parcel which he noted is located in a two-acre zone and thus constrained by two-acre setbacks and coverage restrictions. He noted further that the property is constrained by a septic tank that is located in the front of the site; the proposed shed would be screened by evergreens; and his neighbor supports the application.

Mr. Comiskey referenced a concrete slab that is located next to the garage, questioning why the applicant could not utilize this existing slab for the proposed shed. Mr. McCulloch stated that placing the shed in front would have a negative visual impact and he noted further that almost the entire lot, given its small size, encroaches on setbacks, and therefore no alternative location is available for the shed.

Mr. Comiskey read into the record a letter of support dated February 26, 2012 from Eric Migiano.

In response to a question from Mr. Shiue regarding the possibility of reducing the 8x14-foot size of the proposed shed, Mr. McCulloch explained that there is only a 1-car garage on the property and the shed size represents the minimum space needed.

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

There being no further comments, the public hearing was closed at 7:48 P.M.

**3. #12-03-04**

**OLIVER**

**77 FOREST LANE**

Ms. Poundstone called the Hearing to order at 7:48 P.M., seated members Comiskey, Lilly, Meyer, Shiue, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated March 6, 2012 and details of the application and the hardship as described on the application.

Present were Michael and Christine Oliver, applicants.

Ms. Oliver distributed plans with revised shading but with no changes to the dimensional measurements; and four letters of support from neighbors.

Mr. Oliver briefly reviewed a history of the subject parcel. He referenced posted plans from 2008 (for which variances were previously granted) as well as the applicants' currently proposed plans. He explained that the variances granted in 2008 (stemming from the pre-existing nonconforming nature of their undersized lot) were never implemented due to the economic climate of the time. He stated that they have since reconsidered the old plan and are now proposing a less invasive and overall better use of the property which no longer requires relocating the driveway or having to deal with potential drainage and runoff issues as a result of such relocation.

Mr. Oliver reviewed details of their current plans, noting that they would be transforming their 3 bedroom, 1.5 bath ranch style home into a 4 bedroom center hall colonial in order to accommodate their growing family. He explained that their plans include widening and adding a second story to the home, and adding a single story garage. He compared these plans to those of 2008, noting that they would not be disturbing the existing foundation; there would be less excavation; the previously proposed second story on the garage would be eliminated; the front porch would be reduced from 26 feet in length to 14 feet; and the overall mud room size would be reduced by about 50 square feet.

Mr. Oliver addressed issues of hardship, referencing existing non-compliant areas on the posted plan and the fact that almost any proposed work would require variances. He explained that their 1.06+/- acre parcel is pre-existing nonconforming, located in a two-acre zone and thus restricted by two-acre zoning requirements, and is further constrained by its pie-shaped configuration. He noted that the proposed renovations would be fully compliant if their one-acre parcel were located in and regulated by one-acre zoning requirements. He also noted that the building coverage currently proposed is effectively the same as what was granted back in 2008. He felt that the logic applied back then when the 2008 variances were granted applies equally in the current situation, and he noted further that neighbors next door and across the street all support the subject application.

Questions arose regarding the variances that were previously granted in 2008 and the fact that if the subject application were to be approved, then both sets of approved variances

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would technically be filed on the land records for this parcel. Mr. Nerney explained that while the Board cannot officially extinguish a past variance, the applicant may relinquish it by recording on the land records a document that essentially erases the previous variance.

The applicants indicated that they would be happy to rescind the prior variances if the subject application were granted. It was further noted that if the applicants were to build the currently proposed plans, they would essentially be prohibited from building any of the previously proposed 2008 site modifications since they would already be over the allowed building coverage percentage for the site.

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

Sara Quantock, 73 Forest Lane, stated that she fully supports the application, noting that she had already submitted a letter into the record.

Joe Pozzi, 25 Forest Lane, expressed a preference for the proposed plan as compared to the plan previously approved in 2008, citing in particular the fact that the driveway will no longer be relocated as part of the subject plan, which he felt would have had a negative impact on his property.

David Lasnick, attorney for the applicants and present in the audience, stated that the applicants would be willing to withdraw their prior variance approvals, noting again that if they built per the subject plans, they would be precluded from building per the previous set of plans because of excess building coverage that would result. Mr. and Mrs. Oliver indicated their commitment to withdraw the previous variance approvals on condition that the subject application is approved.

Frank Sabato, 78 Forest Lane, expressed support for the application, noting that the currently proposed plan is better and less invasive than the first approved plan.

Mr. Comiskey cautioned the applicants about some recent changes that he thought could potentially impact their plans from a Health Department perspective, referring in particular to new septic system requirements, although he noted that the Zoning Board has no purview over such issues.

Mr. Comiskey read into the record four letters of support from – Joseph and Courtney Pozzi (dated March 14, 2012); Marie and Sam Johnson (dated March 9, 2012); Kevan and Sara Quantock (dated March 13, 2012); and Frank and Lorraine Sabato (dated March 12, 2012).

There being no further comments, the public hearing was closed at 8:22 P.M.

**4. #12-03-05**

**DUMSER**

**13 DEERFIELD ROAD**

Ms. Poundstone called the Hearing to order at 8:22 P.M., seated members Comiskey, Lilly, Meyer, Shiue, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Comiskey read the legal notice dated March 6, 2012 and details of the application and the hardship as described on the application.

Present were J. Casey Healy, attorney; Dennis Peters, designer; and Robert Dumser, applicant.

Mr. Healy reviewed details of the subject application, noting that the small-sized pre-existing nonconforming parcel (less than half-acre) is located in and restricted by one-acre zoning requirements. He noted that the house was constructed in 1949 when no coverage or setback regulations were in force, and most of the surrounding neighborhood was also created prior to zoning regulations. He explained that the applicant wishes to add a garage bay and incorporate some minor modifications to the residence that will actually result in a reduction of living area square footage overall.

Mr. Peters briefly reviewed proposed plans for the site, noting that most of the changes are interior and would not impact setbacks in any way, except for the proposed garage modifications. He noted that the applicant had originally considered adding a second floor above the proposed garage but decided against such a request in an effort to reduce the overall nonconformity proposed.

Addressing the issue of the proposed second garage bay, Mr. Healy explained that Mr. Dumser owns a pick-up truck in connection with his construction work (with no lettering/advertising on it) which doesn't fit into the existing 1949-constructed garage and the second bay would allow him to get the truck off, and shield it from, the street.

Addressing Board concerns regarding the excessive site coverage proposed for the site (21.6% where 17.3% currently exists), Mr. Dumser was amenable to changing the driveway configuration by removing some of the turnaround pavement currently proposed, particularly on the left-hand side of the garage and leading up to the front portico entrance. The question arose as to whether the applicant could maintain the existing coverage level of 17.3% by incorporating the aforementioned driveway modifications into the site and thus not require a site coverage variance at all. Mr. Healy agreed that the applicant would figure out a way to stay at the existing 17.3% level and thus not require the requested site coverage variance at all.

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

James Burch, 8 Evergreen Avenue, expressed support for the application, noting that the applicant's efforts will improve the house and the surrounding neighborhood.

Sue Sterling, 11 Deerfield Road, stated that she had no problem with the application as proposed and would love to see the property improved.

Pamela Mannes, 2 Maple Street, expressed support for the application, noting that the house needs some “TLC” and the applicant’s efforts will improve the neighborhood as well.

For the record, Mr. Healy stated that the applicant would withdraw the variance request for additional site coverage of 21.6%.

There being no further comments, the public hearing was closed at 8:50 P.M.

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

Ms. Poundstone called the Regular Meeting to order at 8:50 P.M., seated members Comiskey, Lilly, Meyer, Shiue, and Poundstone, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

**1. #12-03-02 BUHLER 4 MAPLE STREET**

The Board discussed the subject application.

It was the general consensus of the Board that the variance as proposed would not be problematic since the deck is fully contained within the required setbacks. The slope/topography of the land was also noted as a hardship/constraining factor for the site.

MOTION was made by Mr. Lilly, seconded by Mr. Meyer, and carried unanimously (5-0) to **grant** the variance, as per submitted plan prepared by Mark H. Sullivan, L.S. dated November 15, 2008 and received February 23, 2012, on grounds that sufficient hardship was demonstrated given the pre-existing nonconforming nature of the small 0.37-acre lot which is located in and constrained by one-acre zoning restrictions.

**2.      #12-03-03                      McCULLOCH                      5 RIDGEWOOD ROAD**

The Board discussed the subject application.

Mr. Comiskey had reservations regarding the existing concrete slab on the property which he felt contributes to building coverage and which doesn't appear to be of any use, although he understood the applicant's need for additional storage space that would be afforded by the proposed shed. He felt that there might be a better solution than what was proposed.

Mr. Shiue also felt that it would be preferable if the applicant could eliminate some other building coverage in an effort to offset the shed's additional impact in that regard.

Mr. Meyer agreed that it would be advantageous if the applicant could avoid adding more building coverage to the site.

It was noted that the neighbor's shed, located partially on the applicant's property, is contributing to the overall coverage numbers for the site.

Ms. Poundstone stated that she did not share the other Board members' concerns regarding coverage.

After further discussion, most of the Board reconsidered their previously expressed opinions, citing the small lot size, the neighbor's shed which contributes to coverage for the site, and the fact that perhaps the problem would not exist if the slab wasn't already pre-existing on the site.

MOTION      was made by Mr. Lilly, seconded by Ms. Poundstone, and carried (4-1) to **grant** the variance, per submitted plan prepared by Roger A. Stalker, LS, dated December 30, 2011 and received February 27, 2012, on grounds that sufficient hardship was demonstrated given the small lot size of 0.5+/- acre located in and restricted by two-acre zoning regulations which limit the available space for any additions that would make the house more suitable. Mr. Meyer opposed.



**3.      #12-03-04                      OLIVER                      77 FOREST LANE**

The Board discussed the subject application.

It was the general consensus of the Board that the subject application would be acceptable since it is compatible with the way the neighborhood is progressing, and the fact that the plans as currently proposed appear to be superior to those approved in 2008.

Mr. Nerney referenced a letter that was just drawn up and submitted into the record, signed by the applicants and their Attorney David Lasnick, indicating their withdrawal of the previous variances granted in 2008. The Board was comfortable with the document and with the fact that it was co-signed by an attorney.

MOTION      was made by Mr. Shiue, seconded by Mr. Meyer, and carried unanimously (5-0) to **grant** the variances, as per submitted plan prepared by Brautigan Land Surveyors, P.C., dated September 17, 2006, revised March 15, 2012, and received March 19, 2012, on grounds that sufficient hardship was demonstrated given the undersized nature of the lot which is located in and constrained by two-acre zoning regulations.

**4.      #12-03-05                      DUMSER                      13 DEERFIELD ROAD**

The Board discussed the subject application.

It was the consensus of the Board to approve the application, noting its opinion that the modifications proposed represent a nice improvement for the property and the neighborhood. The Board noted in particular the applicant's willingness to work with the Board by removing his request for a site coverage variance in light of the Board's concerns in that regard.

MOTION      was made by Mr. Meyer, seconded by Mr. Comiskey, and carried unanimously (5-0) to **grant** the variances, as per submitted plans prepared by Roger A. Stalker, dated January 13, 2012 and received February 27, 2012, on grounds that sufficient hardship was demonstrated given the small lot size of 0.429+/- acre which is located in and restricted by one-acre zoning requirements.

**E. OTHER BUSINESS**

**1. Minutes – February 21, 2012**

MOTION was made by Mr. Lilly, seconded by Mr. Comiskey, and carried unanimously (5-0) to approve the minutes of February 21, 2012.

Ms. Poundstone thanked Mr. Shiue for his service and willingness to act as Chairman for recent Zoning Board of Appeals meetings prior to election of 2012 officers.

**F. ADJOURNMENT**

MOTION was made by Mr. Lilly, seconded by Mr. Shiue, and carried unanimously (5-0) to adjourn at 9:18 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary