

ZONING BOARD  
OF  
APPEALS  
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238 Danbury Road  
Wilton, Connecticut 06897

**WILTON ZONING BOARD OF APPEALS MINUTES \***  
**JUNE 19, 2017 – REGULAR MEETING**

**PRESENT:** Joshua Cole, Chairman; Gary Battaglia, Vice-Chairman; Brian Lilly, Secretary; Libby Bufano; Ray Tobiassen; Jaclyn Coleman, Alternate; Kenny Rhodes, Alternate; Tracy Serpa, Alternate

**ABSENT:**

**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. #17-06-10 TOMAS 110 POND ROAD**

Mr. Cole 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 May 26, 2017 and details of the application and the hardship as described on the application.

Present was Dennis Peters, architect, on behalf of the applicant.

Mr. Peters referenced posted plans, noting that the configuration of the existing structure on the property creates a rear yard setback constraint, with the pre-existing structure already extending over the rear setback line. He cited the pre-existing nonconforming nature of the 0.926-acre lot, which is located in and constrained by 2-acre zoning, noting that the applicant has made a specific effort not to over-build the property, keeping it as a ranch and in character with the existing property and surrounding area. Addressing the issue of coverage, he stated that the existing garage is very tight, noting that the owners need a larger garage to make it usable for current day cars.

In response to questions from the Board, Mr. Peters explained further that the property predates zoning and would be conforming under today's requirements for 1-acre zoning. He confirmed that the coverage associated with the shed that is to be removed has not

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been included in coverage calculations.

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

Joanne King, 108 Pond Road, adjacent neighbor, expressed concern as to whether any trees would be cut down between her property and the subject site. She also asked whether another floor would be added to the structure. Mr. Peters responded no to both questions.

Diana Prince, 104 Pond Road, stated that she and the applicant share a driveway. She expressed concern with any potential damage to the driveway as a result of future construction and she wanted assurance that the applicant would cover any resulting expenses. Mr. Nerney suggested photographing and documenting current driveway conditions and sending a letter to the owner/applicant; he explained that the Board is not a judicial entity and thus would have no purview over such a matter.

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

### **2. #17-06-11 MAH 82 HORSESHOE ROAD**

Mr. Cole called the Hearing to order at approximately 7:26 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 May 26, 2017 and details of the application and the hardship as described on the application.

Present was Christopher Mah, owner/applicant.

Mr. Mah explained that the siting of the house, set back very far and close to the rear setback, in addition to the undersized nature of the 0.639-acre lot in a 1-acre zone, are hardships/constraints of the site. He stated that much of the lot (possibly as much as 50%) is unusable given the topography of the site. He further noted the inherent design issue of the residence whereby there is no room to access the mudroom and garage when a breakfast table and the breakfast bar counter is in use, thus restricting the location of the addition to the rear of the house where the kitchen is located.

In response to a question from the Board, Mr. Mah indicated that some of the patio may be relocated. Mr. Nerney explained that patios can extend halfway into the setback without requiring a variance.

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

There being no further comments, the public hearing was closed at 7:34 P.M.

**3. #17-06-12 POIRIER/MOSKAL 23 BOB WHITE LANE**

Mr. Cole called the Hearing to order at approximately 7:34 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 May 26, 2017 and details of the application and the hardship as described on the application.

Present were Kathleen Poirier, architect; and Daniel Moskal, owner.

Ms. Pourier reviewed proposed plans for the site, noting that the applicant would like to add a second story onto the existing structure to provide additional bedroom space. She explained that the home is currently sited within the setback since it was built in 1952 when required setbacks were smaller. She noted that the proposed addition will not extend beyond the existing footprint except for a proposed roof overhang of approximately 1.5 feet on the west side of the structure, which she felt was necessary for proper water drainage.

In response to questions from the Board, Ms. Pourier confirmed that the structure is legally nonconforming based on setback requirements in effect when it was built. She also confirmed that the only addition extending beyond the existing footprint is the proposed overhang.

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

There being no further comments, the public hearing was closed at 7:43 P.M.

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

Mr. Cole called the Regular Meeting to order at 7:43 P.M., seated members Battaglia, Bufano, Cole, Coleman, Lilly, Rhodes, Serpa, and Tobiassen, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

Mr. Cole scrambled the agenda to approve minutes prior to review of applications.

**D. OTHER BUSINESS**

**1. Minutes – May 15, 2017**

MOTION was made by Mr. Cole, seconded by Mr. Battaglia, and carried (7-0-1) to approve the minutes of May 15, 2017. Ms. Coleman abstained.

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Board members Rhodes and Serpa left the meeting room.  
Ms. Coleman was unseated.

### **1. #17-06-10 TOMAS 110 POND ROAD**

The Board briefly discussed the application. It was the consensus of the Board that hardship was demonstrated, given the under-sized lot and the pre-existing nonconforming nature of the property. The Board felt that the applicant had done a good job trying to adhere to 1-acre zoning requirements, noting further that the proposed addition was the minimum necessary to accommodate two current-day sized cars in the garage.

MOTION was made by Mr. Lilly, seconded by Mr. Tobiassen, and carried unanimously (5-0) to **grant** variances of Section 29-5.D to allow a building addition with a 41' rear yard setback in lieu of the required 50 feet; to allow building coverage of 9.3% in lieu of the 7% maximum permitted; and to allow total site coverage of 14.7% in lieu of the 12% maximum permitted; as per submitted "Zoning Location Survey" prepared by Ryan and Faulds dated December 1, 2016; and plan renderings A-1, A-2, A-3, A-4, A-5, A-6 and A-7, prepared by D. Peters Designs, LLC, dated May 19, 2017; on grounds that sufficient hardship was demonstrated due to the pre-existing nonconforming nature of the house, the topography of the land and undersized nature of the lot, and the fact that it is the minimum enlargement necessary to achieve the necessary garage space.

### **2. #17-06-11 MAH 82 HORSESHOE ROAD**

The Board briefly discussed the application. It was the consensus of the Board that hardship was demonstrated, given the undersized nature of the lot in a 1-acre zone, the topography of the lot, and the siting of the house so far back such that any reasonable addition would be within the setback.

MOTION was made by Mr. Cole, seconded by Mr. Lilly, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to allow a building addition with a 36.5' rear yard setback in lieu of the required 40 feet; as per "Proposed Zoning Location Survey" prepared by Riordan Land Surveying dated March 28, 2013, revised Dec 16, 2013 and May 22, 2017; on grounds that sufficient hardship was demonstrated due to the undersized nature of the 0.639-acre lot in a 1-acre zone; the topography of the lot with front slope; the existing siting of the house so far into the rear of the property; and the existing location of the kitchen making the proposed location the only feasible one, with the further understanding that it is the minimum necessary to accomplish the purpose.

**3. #17-06-12 POIRIER/MOSKAL**

**23 BOB WHITE LANE**

The Board briefly discussed the application.

It was the consensus of the Board that the proposed modifications are a reasonable use of the property and that nothing can be done on that west side without violating the setback. The Board felt that the lack of an eave on the west side of the structure could lead to safety issues, including water problems under the shingles, and that the eave intrusion is very minimal, not much larger than the existing gutters which already protrude about 8 inches into the setback. It was also noted that the lot is very narrow and was developed when the required side setback was only 20 feet.

MOTION was made by Mr. Cole, seconded by Mr. Tobiassen, and carried unanimously (5-0) to **grant** a variance of Section 29-5.D to allow a building renovation and addition with a 22.0' side yard (west) setback in lieu of the required 30 feet; as per "Property Survey" prepared by Pah, Inc., dated November 18, 2015 and revised May 23, 2017, and submitted plans A-1, A-2 and A-3 dated May 25, 2017; on grounds that hardship was demonstrated due to the pre-existing nonconforming nature of the existing structure and the narrow shape of the lot, with the further understanding that the addition will be entirely within the existing footprint, except for the 1.5-foot overhang encroachment, which is very minor and a reasonable use of the property due to safety concerns/drainage.

#### **E. ADJOURNMENT**

MOTION was made by Mr. Lilly, seconded by Ms. Bufano, and carried unanimously (6-0) to adjourn at approximately 8 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary

