

TOWN OF WESTON, CONNECTICUT
ZONING BOARD OF APPEALS HEARING
February 23, 2010

MINUTES

Present: Board Members: Chairman MacLeod Snaith, Vice-Chairman Richard Wolf, Nick Noyes, Carolyn Mulcahey, Robert Gardner and Alternate: Ken Edgar

Mr. Snaith opened the public hearing at 7:40 p.m. Ms. Mulcahey, read the agenda into the record. Mr. Snaith then explained the public hearing procedure to the applicant.

81 DAVIS HILL ROAD, owners, DAVID & CLAUDIA TOM, Map 17 Block 2 Lot 19, Variance to Sections 312.5, 321.5 and 374 to allow for the enclosure of the space below the existing deck to create an enclosed garage space to be setback 19 feet from Martin Road
Claudia Tom came forward and described the proposal to make a 3 bay garage by enclosing the space under the deck. She indicated that at the last meeting the Board wanted more information and noted that their architect, Hunter Smith, submitted an additional drawing. Mr. Snaith noted that the plan shows the original ridge line and then the proposed ridge line of the revised roof over that area where the garage bay doors would be. He also noted that the plan showed a reduction in height and no increase of the footprint. Mr. Noyes stated that he would look favorably upon this proposal. Mr. Snaith noted that the building will not be used as a dwelling, it is going to be a carriage house, recreation, no living quarters will be involved.

Hearing no further discussion, the public hearing was closed.

38 KETTLE CREEK ROAD, owner, DANIEL OFFUTT, Map 29 Block 3 Lot 43, Variance to Sections 410 and 321.5 to allow a seasonal, temporary, removable bus shelter to remain in its current location.

Rogin Carroll, the applicant, came forward and stated that he is renting the house from the owner, Daniel Offutt. Mr. Carroll explained that there is a bus shelter in front of their house for the kids when they are waiting for the bus. He noted that there are a few others around town. Mr. Noyes stated that he did some research on what constitutes a structure and because it is a vertical and has a position on the ground, even though it does not have a foundation, it is considered a structure. He questioned Mr. Carroll about the permanence of the structure and Mr. Carroll stated that he could move it. It is seasonal, temporary and movable. Mr. Wolf questioned whether he could move it back far enough so that it would not be an issue. Discussion ensued.

Mr. Noyes then stated that the Board needs to base the variance on a hardship because it runs with the land and Mr. Carroll stated that it is a convenience and comfort to his daughter, but may not classify as a hardship. Mr. Snaith explained that without the hardship they would be creating a spot-zoning situation and noted that there should be something in the regulations to allow for this type of structure, but the problem is there has to be a reason why the property deserves this variance as something particular to this property vs. the person down the road. Discussion continued.

Mr. Snaith noted that, while there should be, there is no provision in the regulations for a temporary structure. Discussion continued. Mr. Noyes noted that there are a number of bus shelters around town.

Hearing no additional discussion, the public hearing was closed.

29 CARTBRIDGE ROAD, owner, DAVID SUARES, Map 24 Block 4 Lots 37 & 38, Variance to Sections 321.5 and 321.4 to construct a new dwelling to be setback 30 feet from the front property line on an existing lot where the lot width is less than the minimum of 170 feet. There was no one present to discuss the application. The matter was continued to the next meeting.

197 GODFREY ROAD EAST, owner, MARK E. HARPER, Map 16 Block 1 Lot 40, Variance to Section 321.5 to construct a small, one car garage to be setback 41 feet from the front property line and 25 feet from the side property line

Mark Harper, owner, came forward and stated that he had work done by an engineer and a surveyor and he would like to construct a garage. He then explained why he proposes to put the garage in that location, noting the difficulties he would face if he was to put the garage up against the house. Mr. Harper noted that he will be doing some adding on to the house and will be expanding the septic system which will take up the area on the entire side of the house. He also noted that the proposed location of the garage would make the driveway accessibility better. Mr. Harper explained that the garage would also be constructed of logs to match the house. Mr. Snaith noted that the lot pre-exists zoning and is only slightly less than .7 acres. Mr. Wolf noted that the application requests elevations and there doesn't seem to be any. Mr. Harper noted that the measurements are 20' x 26'. Mr. Noyes noted that the application states one-car garage and barn and questioned how wide does a one-car garage need to be? Mr. Harper explained that it will be one door, slightly offset so that on the other side there will be a door to go in and a little workshop/storage area on the side. Mr. Noyes commented that if the footprint could be made smaller there would be less of a setback problem. Discussion ensued.

Mr. Snaith noted that the Board would like to have something showing what the actual garage is going to look like and he would also like to see the garage be a little narrower. He noted that they don't care about how it looks, but they want to see the height and width and depth. Mr. Edgar explained that the Board likes to see exactly what they are approving so that the enforcement officer knows what has been approved. Mr. Noyes commented that with the size of the lot, it seems like a reasonable request for the garage but he would like to see the dimensions. Following some additional discussion, the discussion was continued to the next meeting.

Deliberations:

81 Davis Hill Road

Voting Members: Edgar, Wolf, Snaith, Noyes and Gardner

Mr. Snaith noted that they want to enclose the area underneath the deck to create a 3-bay garage, they are going to remove an existing sunroom, the building is existing and the lot is existing and he is inclined to approve the variance request as there is no increase in footprint and a decrease in the overall mass of the building. Mr. Wolf commented that he is in favor of granting the variance. Mr. Noyes noted that the hardships are the dimensions of the lot, and Mr. Snaith noted that the building and lot pre-exist zoning and nothing can be done without obtaining a variance.

Mr. Edgar noted that there is a restrictive covenant on the property and suggested that the Board should note that whatever they approve is subject to that restrictive covenant.

MOTION FOR APPROVAL

Mr. Edgar made a motion to approve a variance to Sections 312.4, 321.5 and 374 for 81 Davis Hill Road to allow for the enclosure of the space below the existing deck to create an enclosed garage space to be setback 19 feet from Martin Road. Such variance is subject to the restrictive covenants granted by the Town and as shown on plans prepared by Hunter Smith Associates, drawing A-1 dated 11/5/09 and revised 2/3/10 and drawing A-2 dated 2/3/10. The hardship is based on the pre-existing nonconforming dwelling and lot and the footprint will not be increased. Mr. Noyes seconded the motion. All in favor, the motion carried (5-0).

83 Kettle Creek Road

Voting members: Wolf, Snaith, Noyes, Gardner and Mulcahey

Mr. Wolf noted that most of the bus structures are located where the bus does not go into the street to pick up the children and the house did not seem to be that far from the street. He noted that it does fall under the definition of structure and does not think they can approve it without a hardship. Mr. Snaith questioned how this is a unique situation. Mr. Edgar commented that this is a good discussion for Planning and Zoning but it is outside of the Board's purview.

MOTION TO DENY

Mr. Noyes made a motion to deny the variance request for 83 Kettle Creek Road based on the lack of demonstrable hardship. Mr. Snaith seconded the motion. All in favor, the motion carried (5-0).

Mr. Snaith noted that Ms. Mulcahey tendered her resignation from the Zoning Board of Appeals. Ms. Mulcahey explained that she has too much on her plate.

APPROVAL OF MINUTES

Mr. Edgar made a motion to approve the minutes, as amended, and Mr. Wolf seconded. All in favor, the motion carried (5-0).

MOTION TO ADJOURN

Mr. Snaith made a motion to adjourn the meeting and Ms. Mulcahey seconded. All in favor, the meeting adjourned at 9:18 p.m.

Respectfully submitted,

Delana Lustberg
Board Clerk