

TOWN OF WESTON, CONNECTICUT
ZONING BOARD OF APPEALS HEARING
April 26, 2016

MINUTES

Present: Board Members: Chairman MacLeod Snaith, Vice-Chairman Glenn van Deusen, Donald Scarborough, Dan Gilbert, Bob Machson and Alternate: James Carlon 7:44
Also present: Tracy Kulikowski, Land Use Director, Pat Sullivan, Town Attorney

Mr. Snaith opened the public hearing at 7:30 p.m. The Board Secretary read the agenda into the record. Mr. Snaith explained the procedure for the applicant.

CONT. 2 STEEP HILL ROAD, owner, MATTHEW and ELIZABETH SALEM, Map 23, Block 3, Lot 10, Variance to Sections 321.6 and 374 of the Zoning Regulations to demolish the existing non-conforming barn that is approximately 9 inches from the front property line and rebuild a new barn. The reconstructed barn would have a smaller footprint and it would be moved back from the road to be located 7.4 feet from the front property line.

Elizabeth Salem came forward and stated that she had no additional information to present. Mr. Machson noted that he was new to the Board and in looking to Section 374 it essentially suggests that you can replace anything that was there before. He also discussed some case law related to this matter. Pat Sullivan, Town Attorney, came forward and discussion ensued regarding intent and abandonment noting that unless there is intent, there is no abandonment.

Mr. Snaith commented that Section 375.1 of the Zoning Regulations uses the word destroyed or damaged and would seem to imply total destruction of the building and also applicable to Section 374. Attorney Sullivan stated that none of that language, repair, restore or rebuild, seems to matter if you are putting back something that you are already entitled to. She stated it looks like what they are trying to do is move the barn off the road, maintain the rectangle of the barn farther off road than is now. Mr. Gilbert questioned why they even need a variance if that is the case? Attorney Sullivan stated that she is not sure that they do, but the best way to do it and get a legitimate location is to have a variance that runs with the land. Discussion ensued.

Following discussion, Mr. Snaith read a letter from a neighbor expressing support of the variance.

Hearing no additional discussion, the public hearing was closed at 8:45 p.m.

11 LAUREL RIDGE LANE, owner, NIKOLL DUSHKU and COLLEEN KELLY, Map 10, Block 2, Lot 9, Variance to Section 374 to approve a modified second story addition to an existing nonconforming house. The ZBA previously approved variances to Section 321.6 and 374 to construct a second story addition, as well as an open porch/wrap-around deck and a two-car garage to be located 35.5 feet from the front property line and 22.3 from the side property line on September 29, 2015.

Mr. Dushku came forward to present the application. He explained that they were granted a variance in September for the exact footprint and the only change is to a dormer on the second floor since there is a head space issue. The dormer encroaches within 3 feet of the front setback. He stated that the hardship is they won't be able to do the addition if they can't get the dormer.

DELIBERATIONS:

11 LAUREL RIDGE LANE

Voting Members: Snaith, van Deusen, Scarborough, Machson, Gilbert

Mr. Machson opened deliberations by stating he had difficulty in reading this application because his reaction is that the prior variance was improperly granted as the grounds for approval were inadequate. Mr. Gilbert stated that his sense is that the ZBA made a decision and approved the variance and if these plans were wrong, they wouldn't have approved it. There are no significant differences and if the dormer was part of the plan initially, it would have been approved. Mr. Scarborough agreed. Mr. van Deusen commented that the volume is not affecting density or setbacks height and agrees that had it been in the original submission, it would have been approved and the reasons stated in the original motion would be the same reasons given for justification of hardship for this matter.

MOTION FOR APPROVAL

Mr. van Deusen made a motion to approve a variance request for 11 Laurel Ridge, for modification of a previously approved second story addition to an existing nonconforming house, as shown on plans prepared by John Mallozzi, P.E. dated 2/24/16 and a survey prepared by Richard W. Plane, Land Surveyors, last revised 4/4/2016. Mr. Gilbert seconded the motion. The motion was voted on and carried (4-1 [Machson]).

2 STEEPHILL ROAD

Voting Members: Snaith, van Deusen, Scarborough, Machson, Gilbert

Mr. van Deusen asked the Town Attorney some clarifying questions regarding Constitutional Law issues brought up by Mr. Machson, followed by Mr. Snaith getting a sense of the meeting.

MOTION FOR APPROVAL

Mr. Machson made a motion to approve a variance for 2 Steephill Road to allow a structure to be located 7.4 ft. from the property line as shown on plans prepared by Dennis Delius dated 4/28/15 and revised 3/14/16. Also architectural sketches prepared by Haver & Skolnik Architects, dated 1/16/16 and revised 2/10/16. The hardship is based on the fact that if they fail to grant a

variance, it would prohibit the owners from reducing the nonconformity. Mr. Gilbert seconded the motion. The motion was voted on and carried (4-1 [van Deusen]).

APPROVAL OF MINUTES

Mr. van Deusen made a motion to approve the Minutes from the March 22, 2016 meeting and Mr. Snaith seconded. All in favor, the motion carried (5-0).

MOTION TO ADJOURN

Mr. Gilbert made a motion to adjourn and Mr. van Deusen seconded. All in favor, the meeting adjourned at 8:50 p.m.

Respectfully submitted,

Delana Lustberg
Board Secretary

Date Approved: 6/28/2016