

TOWN OF WESTON, CONNECTICUT
ZONING BOARD OF APPEALS HEARING
July 28, 2009

MINUTES

Present: Board Members: Chairman Richard Wolf, Vice-Chairman MacLeod Snaith, Carolyn Mulcahey, and Alternates: Marianne Murray and Ken Edgar

Mr. Wolf opened the public hearing at 7:37 p.m. Tracy Kulikowski, acting as the Board Secretary, read the agenda into the record. Mr. Wolf then explained the public hearing procedure to the applicants.

11 BLUEBERRY HILL ROAD, owners, JACOBY, FRANK & DORIS, Map 24, Block 5, Lot 3, Variance to Section 321.5 of the zoning regulations to allow an existing swimming pool to remain 27.1 ft. from the side line; (b) existing pool shed to remain 28.8 ft. from rear; (c) existing filter to remain approx. 24 ft. from the rear line and (d) existing shed to remain in side yard setback area.

Doris Jacoby came forward and stated the issue of the shed encroaching on the neighbor's property is still in the process of being worked out with the neighbor. The other issues concern the pool and there seemed to be discrepancy between the surveys. Last month they were asked to try to resolve that discrepancy and called Denis Delis (sp.) for clarification. She explained to him that their pool company, Lang Pools, used the stakes from the 2004 survey to measure from and asked whether he would come out and do another survey. Mr. Delis explained that he stood by his survey and it would be a waste of money for him to come back and do it again.

Mrs. Jacoby then stated that since last meeting nothing has really changed except they obtained a letter from neighbors, Mr. & Mrs. Vogel indicating that they had no objection to the pool remaining in its location. She explained that neither the pool nor pool shed and equipment were visible because of the trees and fence. Mr. Snaith then questioned whether the Jacoby's had considered a land swap with the neighbors to bring their pool into conformity. Discussion ensued.

Discussion then returned to the shed that is on the neighbor's property. Mrs. Jacoby explained that there is a concrete pad under the garden shed that has been there over 25 years and it was a shock to them that the grandfathering clause would not help that issue. Mr. Snaith noted that the shed was replaced in 2004 and he disagreed with Mr. Turner's determination that it was a grandfathered situation.

Mr. Gutowski, neighbor, came forward and expressed his concerns regarding the shed on his property.

Mr. Jacoby noted that breaking up the concrete base is not a big deal and moving the shed 4 feet to keep it off the neighbor's property is not a problem, and they will do that if they have to. Mr. Wolf stated that he would have a problem with moving the shed but not keeping it within the

setback requirements. Mr. Snaith stated that he is looking for the hardship to base a variance on. Discussion continued.

Discussion then turned to the pool and pool equipment. Mrs. Jacoby stated that they could move the pool shed the 14 inches needed to bring it into conformity and Lang Pools had said that they would be able to move the equipment if there was no other option. She also stated that they could pursue the option of the land swap if the Board did not think that this would warrant a variance. Mr. Snaith stated that he has a problem with a 2.5 ft. error in the encroachment based on negligence. It is not a hardship created by the land, it is a problem created by the surveyors or the pool company. Mrs. Jacoby then submitted a letter summarizing their issues.

Hearing no other discussion, the public hearing was closed.

97 KETTLE CREEK ROAD, owners, SPITZER, BRENT & JACQUELINE, Map 29 Block 4 Lot 21, variance to Section 321.5 of the Zoning Regulations to allow the construction of a new porch attached to an existing porch on an existing non-conforming house that would be setback 36.1 feet from the front property line.

Michele Holmes and Adam Negri, representing the owners, came forward to present the proposal. Ms. Holmes stated that they were before the Board in December and they are back with some revisions based on suggestions by the Board. She presented a plan with the area in question highlighted and stated that the house is built in the setback. The area is a connection from an old porch to a new porch and they are asking for 58 sq. ft. so they can make that connection. Ms. Holmes noted that their hardship is based on the fact that the house is pre-existing and non-conforming as well as the one acre lot. She explained the revisions from the original plan noting that they reduced the 3 car garage to a 2 car garage and made changes to try to get that porch to conform as much as possible. Discussion ensued.

Ms. Mulcahey asked how the covered porch had changed from its previous proposal. Ms. Holmes noted that the old existing porch came out to the front of the house and they have cut that back.

Hearing no other discussion, the public hearing was closed.

146 LYONS PLAIN ROAD, owner, SAWCH, WILLIAM, Map 27 Block 1 Lot 26, variance to Section 321.5 of the Zoning Regulations to allow construction of a 2 car garage addition on an existing non-conforming house that would be setback 26 feet from the front property line.

William Sawch came forward to present the proposal and stated that he was before the Board for a variance 19 years ago. He has lived in the house for a long time and it was originally a small servants quarters to another house in the area. The front of his house is 26 feet from the road and the back of the living space is 46 feet so the entire house is within the setback. He was granted a variance 19 years ago to expand the house and added 2,000 sq. ft. He is back to replace the existing small one car garage with a two car garage and have a home office above that. The property slopes so it will appear to be a one-story garage from the front. Mr. Sawch explained that he is dealing with significant topography issues, the river behind the house as well as connection issues to make the house cohesive.

Ms. Mulcahey asked whether Mr. Sawch had any architectural drawings with elevations and Mr. Sawch stated that he wanted to get approvals before getting those done. Mr. Wolf stated that he thought there were ways to continue to expand the house and respect the 50 ft. setback. Mr.

Sawch stated that if he were to respect the 50 ft. setback, the garage would be down a level from the existing house and on the septic tank or existing well. Discussion ensued. Mr. Sawch then presented elevation drawings for the members to review. Mr. Snaith questioned whether Mr. Sawch had considered moving the connector back and the home office area back. Discussion on alternatives ensued.

Ms. Mulcahey then asked Mr. Sawch to explain the drainage issue affecting the entrance to the garage. He explained how the runoff came down his driveway and into his existing garage and basement. Discussion continued.

Hearing no additional discussion, the public hearing was closed.

DELIBERATIONS:

11 Blueberry Hill Road

Mr. Edgar noted that they should not consider the shed that is over the property line since they do not have the ability to grant a variance for that. Mr. Snaith commented that they can't grant the variance plus there is no hardship. He stated that the other shed is the same situation in terms of construction and it can be moved the 14 inches and he would not grant a variance for that since there is also no hardship. Discussion began on the existing pool and the fact that there is no hardship either. Mr. Snaith noted that moving the pool equipment is not a big deal and the only thing that is a big deal is moving the pool. Ms. Mulcahey commented that the applicants' only recourse is to go back to their contractor.

MOTION

Mr. Snaith made a motion to deny the variance requested for 11 Blueberry Hill Road, owners, Jacoby, specifically the variance to allow the swimming pool encroachment, the variance for a pool shed encroachment, the variance for the existing pool filter encroachment. The Board cannot rule on the existing shed because it exceeds the Board's jurisdictional authority. Ms. Mulcahey seconded the motion. All in favor, the motion carried (5-0).

97 Kettlecreek Road

Ms. Mulcahey began by commented that she thinks they did a good job in refining the request and diminishing some of the impacts into the setback, particularly with the garage, but doesn't think that the porch is a hardship issue. Mr. Snaith commented that he does not think it is an unusual request or design feature to have the porch connect the mudroom and the formal front entry. As the house is preexisting nonconforming, the front of the house is in the setback area and the only way to do anything in the front is to get a variance. Mr. Wolf commented that he thinks it is a reasonable accommodation and accepts the issue of hardship with the house already existing in the setback and the necessity to create a covered walkway to connect the different parts of the house. Mr. Edgar concurred that it is a relatively small encroachment and a necessary encroachment because of the location of the house.

MOTION

Mr. Edgar made a motion to grant a variance for 97 Kettlecreek Road, owners, Spitzer, to allow construction of a new porch attached to an existing porch on an existing nonconforming dwelling based on the hardships that the existing house is nonconforming and there is a safety component enhanced by combining such entrances, as shown on a plan prepared by Brautigan Surveyors dated 9/11/07 and revised 4/15/09. All in favor, the motion carried (5-0).

146 Lyons Plain Road

Mr. Wolf opened discussions and stated that he finds it difficult accepting the fact that an architect can't work within their setback regulations and still accomplish the proposal the owner has provided. Mr. Snaith agreed with Mr. Wolf, up to a point, he does not think that building on that side of the house they could meet the 50 foot setback but feels that they could at least try. Discussion ensued.

Mr. Edgar then questioned if the Board denied the variance request whether the applicant would be allowed to come back and re-present. Ms. Mulcahey stated that they could deny it without prejudice. Mr. Edgar then questioned whether they could re-open the public hearing to ask some clarifying questions and discussion ensued.

MOTION

Mr. Edgar made a motion to re-open the public hearing of 146 Lyons Plains Road and Mr. Snaith seconded. All in favor, the motion carried (5-0).

Mr. Sawch stated that he thought that he could come in with preliminary designs, but would be happy to come back with more detailed plans. Mr. Edgar suggested that Mr. Sawch come back with a new set of definitive designs that are responsive to the concerns of the Board, heard at the meeting tonight.

Ms. Mulcahey reiterated Mr. Edgar's statement that they are not looking for him to submit a hypothetical, they would like to see a definitive new plan that takes into consideration some of the Board's concerns. Discussion continued.

Following discussion, it was decided that Mr. Sawch would return at the August 25, 2009 meeting with potential alternatives.

APPROVAL OF MINUTES

Mr. Snaith made a motion to approve the minutes, as amended, from the June 23, 2009 meeting and Ms. Mulcahey seconded. All in favor, the motion carried (5-0).

MOTION TO ADJOURN

Mr. Wolf made a motion to adjourn the meeting and Mr. Snaith seconded. All in favor, the meeting adjourned at 9:55 p.m.

Respectfully submitted,

Delana Lustberg
Board Clerk