

ZONING BOARD OF APPEALS

EXECUTIVE SESSION MINUTES – JANUARY 6, 2022

The Zoning Board of Appeals held a meeting at 3:00 p.m. on Thursday, January 6, 2022, Via WEBEX.

Audio Recording of this meeting can be found here: <https://fairfieldct.org/meetingrecordings>

MEMBERS PRESENT: Kevin Coyne, Chair; Terry Keegan, Vice Chair; Jane Gitlin Nishball, Secretary, Katie O’Grady

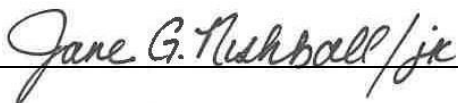
MEMBERS ABSENT: Brian Avallone

ALTERNATE MEMBERS PRESENT: Elise McKay, Alternate, sat in place of Jane G. Nishball on General Docket #3, Harold Zawadski sat in for Brian Avallone.

Approval of Minutes of December 9, 2021: Jane Gitlin Nishball *moved* and Terry Keegan *seconded* to approve the minutes as presented. *Motion passed unanimously.*

Approval of Secretary’s Fee: Katie O’Grady *moved* and Jane Gitlin Nishball *seconded* to approve the proposed minutes as presented. *Motion passed unanimously.*

Executive Session started at approximately 2:45 p.m. and the Public Hearing followed at 3:00 p.m.



Jane G. Nishball, Secretary



Jodi Karagianes, Clerk

ZONING BOARD OF APPEALS

GENERAL MEETING MINUTES – JANUARY 6, 2022

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MEMBERS PRESENT: Kevin Coyne, Chair; Terry Keegan, Vice Chair; Jane Gitlin Nishball, Secretary, Katie O’Grady

MEMBERS ABSENT: Brian Avallone

ALTERNATES PRESENT: Elise McKay, Alternate, sat in place of Jane G. Nishball on General Docket #3, Harold Zawadski sat in for Brian Avallone.

CONTINUED DOCKET:

10. 3280 and 3300 Post Road, Map 243, Parcel 129. Petition of Joseph Bertini for a variance of the Zoning Regulations; Section 12.7.6.3 to reduce the rear line setback to reduce the rear line setback from 10 ft., proposing 6 ft. Permission to establish a compliant commercial lot. Premises: DCD Zone

The proposed application was withdrawn.

11. 599 Kings Highway West, Map 243, Parcel 129. Petition of Joseph Bertini and Geraldine Carlson for a variance of the Zoning Regulations; Section 12.7.2 to reduce the minimum lot size from 10,000 sq. ft., proposing 4,912 sq. ft. and Section 12.7.3 to reduce the minimum lot square from 75 ft., proposing 62 ft. and Section 12.4.18 to exceed 50% residential use. Permission to establish a parcel with a single family dwelling. Premises: DCD Zone

The proposed application was withdrawn.

7. 250 Pequot Avenue, Map 241, Parcel 175A. Petition of Pequot Realty, LLC for a variance of the Zoning Regulations; Section 10.12 to increase the maximum lot coverage and total floor area from 20% and 50%, proposing 33.58% and 100%, and Section 10.6.7 to reduce the distance within 4 miles of another such district and Section 10.14 and 28.6.1 to reduce the minimum required off street parking from 74, proposing 52. Permission to construct 21 multi-family residential elderly family units. Premises: NDD Zone

The proposed application was continued to February 3, 2022

GENERAL DOCKET:

1. 131 Ruane Street, Map 180, Parcel 66. Petition of Scott L and Jennifer L Langlais for a variance of the Zoning Regulation; Section 5.2.5 to increase lot coverage from 20%, currently 20.6%, proposing 21.8%. Permission to construct a covered open front porch. Premises: A Zone

Owner Jennifer Langlais present on their behalf. They wish to construct a 26 ft.-10 in. x 6 ft. front porch to the home which will replace an existing 8 ft. x 5 ft. porch.

The home was built in 1994 while surrounding homes on Ruane are mostly 110+ years old. The surrounding homes in the neighborhood have front porches so this would be in keeping with the neighborhood. This lot is an existing non-conforming lot.

***GRANTED:** Jane G. Nishball moved and Katie O'Grady seconded to approve the proposed application. Motion passed unanimously.*

2. 100 Castle Avenue, Map 79, Parcel 201. Petition of Yadda Development, LLC for a variance of the Zoning Regulations; Section 5.2.2 to increase the number of stories from 2 ½, proposing 3 ½; Section 5.2.5 to increase the lot coverage and total floor area from 30% and 50%, proposing 32.2% and 84.1%. Permission to legitimize a construction error to a 4 family dwelling built in 2004. Premises: C Zone

Charles Jones, Architect presented on the owners behalf. The owner wishes to obtain a Certificate of Occupancy for the existing 2 story, 4 unit residential building constructed over 1st floor garages. The Certificate of Occupancy requires the 3 variances listed in our application to receive a Certificate of Zoning Compliance.

The appeal for a variance of Section 5.2.2 (maximum no. of stories), is based on the severe topography of the site and surrounding parcels. Maintenance of an existing right of way to 114 Castle Avenue and grades of adjacent parcels which caused a construction hardship. The original design of creating a ½ story garage became physically impossible resulting in a 3-story building.

The appeal for a variance of section 5.2.5 (maximum bldg. lot coverage), similarly arises from the severe topography of the site and surrounding parcels. The garage walls were increased in thickness causing the building coverage to exceed the maximum by 2.2% (275 sq. ft.).

The appeal for a variance of Section 5.2.5 (maximum floor area as a percentage of lot area) also arises from the severe topography of the site and surrounding parcels. The addition of the garage as a full floor increased the total floor area above the 50% permitted by regulations.

In all three cases, the underlying topography of the land is where the hardship arises and, as such, constitutes a peculiarly disadvantaged site.

After discussion with the Board and Zoning Enforcement Officer, Matt Decker, it came to light that documents are available that Mr. Jones had previously been advised were not. Mr. Jones requested to continue his appeal to allow time to investigate these documents and will come back to re-address the Board at a future date.

3. 87 Catherine Street, Map 182, Parcel 659. Petition of Alejandro and Andronica Alba for a variance of the Zoning Regulation; Section 5.2.4 to reduce the street line setback from 20 ft., currently 16.4 ft., proposing 18.9 ft. Permission to enclose part of an open porch with a one story addition. Premises: B Zone

Owner Annie Alba presented on their behalf. They wish to enclose a portion of a 5 ft.-11 in. x 10 ft. existing covered porch and relocate and center the front steps.

There is no buffer to the outdoor elements and as a result heat loss is significant when people enter and exit our home. This enclosure would mitigate that by simply relocating the entry door from the front to the side of the open front porch. We are not seeking any increase of coverage or floor area. This modest 6 ft. x 10 ft. addition will not only decrease our carbon footprint, but it will also provide much needed space for our growing family.

GRANTED: *Terry Keegan moved and Elise McKay seconded to approve the proposed application. Motion passed unanimously. Jane G. Nishball recused herself, Elise McKay sat in for her.*

4. 201 Old Mill Road, Map 179, Parcel 284. Petition of Mary Ellen and Mark A Casey for a variance of the Zoning Regulation; Section 5.2.5 to increase the lot coverage from 15%, currently 19.1%, proposing 20.7%. Permission to construct a rear addition. Premises: R-2 Zone

Owners Mary Ellen Casey and Mark Casey presented on their own behalf. They propose expanding the kitchen 5 ft. x 18 ft.; expanding the adjacent multipurpose room to the rear by 9 ft.; reconstruct the existing side porch into a year round studio; expand the second story bedroom to the rear by 5 ft.; add a new 4 ft. x 8 ft. covered porch at the front entrance; add a patio and entrance to the existing apartment.

The house was purchased with the intention of creating a first floor bedroom with a full bathroom to accommodate the decline in the owner's (Mark Casey) health.

The present small kitchen was built in the 1940's. The proposed plan will allow for adequate accessibility and functionality; this will remove the unnecessary hardship that exists with the kitchen in its current condition.

There will be no detrimental effects to our neighbors. As it pertains to the character of the neighborhood, this variance will allow us to improve the aesthetics of our home and the property values in the neighborhood.

GRANTED: *Katie O'Grady moved and Jane G. Nishball seconded to approve the proposed application. Motion passed unanimously.*

5. 41 Old Elm Road, Map 26, Parcel 280. Petition of Vera L and Vancler Candini for a variance of the Zoning Regulations; Section 5.2.4 to reduce the street line setback for an open porch from 30 ft., currently 17.8 ft., proposing 17 ft. and Section 5.2.5 to increase lot coverage from 15%, currently 17.82%, proposing 18.79%. Permission to remove and re-construct an open front porch. Premises: R-3 Zone

Weronica Oliveira de Souza, Architect presented on behalf of the owners. They wish to demolish an existing front porch and build a new one.

The hardship in support of this application is that the house was built in 1941 as a cape style and the lot is currently 8,075 sq. ft. when 20,000 sq. ft. is required. Moreover the minimum square on the lot is 67 ft. while existing 100 ft. is required. With this limitation the house is considered non-conforming with the current code, thus prohibiting us from doing a remodel on the existing front porch.

***GRANTED:** Terry Keegan moved and Jane G. Nishball seconded to approve the proposed application. Motion passed unanimously.*

6. 360 South Benson Road, Map 139, Parcel 418. Petition of Cornell and Lisa Staeger for a variance of the Zoning Regulations; Section 5.2.4 to reduce the street line and sum of two side line setbacks from 30 ft. and 25 ft., currently 24.1 ft. and 27.5 ft., proposing 24.1 ft. and 20.3 ft. and Section 5.2.5 to increase the lot coverage from 20%, currently 18.4%, proposing 21.7%. Permission to construct additions and front porch with stairs. Premises: A Zone

Owner Cornell Staeger presented on their behalf. They wish to close the existing below grade garage and driveway and relocate it to ground level by removing a playroom/office and laundry room on the left side of the house and replace that with a ground level garage, relocate the laundry room to the rear and relocate the playroom/office to above the garage.

Since we owned the home we have had a few instances of flooding due to the storm drains on South Benson getting backed up or not able to sustain in a heavy storm. As our driveway and garage are below grade, the water funnels into our garage and basement.

***GRANTED:** Terry Keegan moved and Jane G. Nishball seconded to approve the proposed application. Motion passed unanimously.*

7. 29 Merton Street, Map 179, Parcel 232. Petition of Johnathan Defeo for a variance of the Zoning Regulations; Section 5.2.4 to reduce the sum of two side line setbacks from 25 ft., currently 23.3 ft., proposing 21.3 ft. and Section 5.2.5 to increase the lot coverage from 20%, currently 19.8%, proposing 21%. Permission to construct a 2 story addition. Premises: A Zone

Attorney John Fallon presented on behalf of the owner, Jonathan DeFeo. Mr. DeFeo is the owner of the property located at 29 Merton Street. He resides there with his elderly mother who has a history of hip, back and knee issues. He makes this application for these variances in order to accommodate the construction of a small two story addition as shown on the site plan and architectural plans submitted.

As detailed in the architectural plans the first floor addition will consist of a small mudroom and access to the dwelling. This will allow easier and most importantly safer access to their home. The entry area will be completely covered and protected from the elements thereby providing unencumbered access to the home which will be especially beneficial to Mrs. DeFeo during the winter months and other periods of inclement weather. The additional first floor area will also provide for a small area for storage, the accessibility to which will be highly preferable than the current unfinished basement area. The second floor addition will accommodate a laundry room. The laundry area is presently located on the first floor which requires utilization of the stairs and its relocation to the second floor will again be beneficial to Mrs. DeFeo as a matter of convenience and safety. The second floor addition also accommodates a small enlargement of the existing bath to make it more accessible.

The property is located in the Residence A zone. It is a preexisting and legally protected lot with regard to its shape having a lot square of 60 ft. whereas the provisions of the current zone contemplate a 75 ft. lot square.

With regard to the hardship requirement there are two (2) factors which as a matter of law support a finding of hardship with regard to the property and the variances requested. As to hardship as it relates to the request for the sum of the side property line setbacks the controlling legal fact is that the lot in question is a valid and legally protected nonconforming lot as it relates to the lot shape requirements having a square of only 60 ft.. This provides a proper basis for a finding of hardship with regard to the setback variance. The nonconforming shape of the lot as legally protected directly relates to the need for the variance with respect to the side yard setbacks. Similarly, the variances arise from the historic location of the legally protected preexisting nonconforming structure. Such a factor also creates a basis for a finding of hardship.

The granting of the variances will not change the use of the property which will remain as a single family residence explicitly permitted in the zone. Other than the variances requested no other variances are sought.

Indeed, once the addition is constructed the floor area ratio will be only 32.1%, well below the allowed 40% in the zone. In addition, the small coverage variance of 1% will not have any adverse impact on properties in the area. The proposed addition as designed by John W. Sliva of Sliva Design & Build, LLC is attractive, harmonizes with the existing structure and the character of the neighborhood and will represent an aesthetic enhancement to the property.

In summary Mr. DeFeo seeks approval of the variances requested in order to accommodate a modest addition to the home where he and his mother reside that will provide safer access to the home during times of inclement weather, a small area for additional storage and a second floor laundry room and small bath expansion.

GRANTED: Jane G. Nishball moved and Katie O'Grady seconded to approve the proposed application. Motion passed unanimously.

8. 107 Newton Street, Map 139, Parcel 280. Petition of TJK Builders, LLC for a variance of the Zoning Regulations; Section 5.2.4 to reduce two street line setbacks from 30 ft. and 22 ft. and 12 ft. for an open porch, currently 18.7 ft. and 17.4 ft., proposing 18.7 ft., 15.9 ft. and 6.4 ft. to the open stairs and Section 5.2.5 to increase the lot coverage and total floor area from 20% and 40%, currently 15.7% and 27.1%, proposing 30% and 61.5%. Permission to construct a 2 story and 2nd floor additions with attic, and make the home FEMA compliant. Premises: A Zone

Erin Delottie as Agent, presented on behalf of TJK Builders, LLC, Owner of Record.

107 Newton Street has been an abandoned house for a number of years that is not FEMA compliant. We currently reside across the street at 88 Newton Street and our goal is to renovate 107 Newton Street and make that our primary residence in order to meet our growing family's needs. We have lived in the neighborhood for 12 years after renovating 88 Newton Street and want to make sure that 107 Newton Street stays within the character of the neighborhood.

We seek approval to expand the two-car garage with an addition over it, add a front porch, and build a 2-story addition out of the back of the house. During the renovation we will fill in the basement and bring the property into FEMA compliance.

The hardship of this property is that it is a legal non-conforming lot, compounded by having two street lines. The variances we are requesting do not substantially affect the Comprehensive Zoning Plan as the property will remain a single-family residence.

Rather than lifting the structure, we are using the existing footprint to keep the design of the home consistent with the surrounding neighborhood. In doing so we have to include the square footage of the garage in the floor area percentage even though it is no habitable. If we were to lift the property and exclude the garage from the floor area calculation, the floor area percentage would be 50.3%.

We believe that this request is not in excess of what has been approved in the past. We look to properties at 88, 80, 76, and 29 Newton Street as well as 716, 451 and 399 Riverside Drive and 74 and 167 Turney Road that have all been approved for more than 10-15% above the allowed floor area percentage.

Specifically 451 Riverside Drive was approved by the Board and granted variances allowing a coverage of 29.3% and total floor area ration of 48.4%. This application was also for an addition involving both first and second floor expansion and a new front porch.

With support of our neighbors, we ask that the Board consider our hardship and grant our approval.

***DENIED:** Terry Keegan moved and Jane G. Nishball seconded to approve the proposed application. Motion Denied 3-2 (Jane G. Nishball and Katie O'Grady opposed)*

9. 1088 Harbor Road, Map 241, Parcel 149. Petition of 1100 Harbor Road, LLC to reverse and modify the decision of the Zoning Enforcement Officer regarding a zoning compliance stamp on an application to the Historic District Commission. Premises: R-3 Zone

The proposed application was continued to February 3, 2022.

There being no further business to come before the Commission, at 4:37 p.m., Chairman Coyne adjourned the meeting.

Handwritten signature of Jane G. Nishball in cursive script.

Jane Gitlin Nishball, Secretary

Handwritten signature of Jodi Karagianes in cursive script.

Jodi Karagianes, Clerk