

ZONING BOARD OF APPEALS

MEETING MINUTES OF FEBRUARY 3, 2022

The Zoning Board of Appeals held a meeting at 3:00 p.m. on Thursday, February 3, 2022 via WEBEX. Audio 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 and Brian Avallone.

EXECUTIVE SESSION

1. Minutes of January 6, 2022: Brian Avallone moved and Jane G. Nishball seconded to approve the minutes as presented. Motion passed unanimously.
2. Approval of Secretary’s Fee: Brian Avallone moved and Katie O’Grady seconded to approve the proposed minutes as presented. Motion passed unanimously.

Executive Session started at approximately 2:45 p.m.

GENERAL SESSION

CONTINUED DOCKET:

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 3/3/22

GENERAL DOCKET:

1. **401 Springer Road, Map 121, Parcel 27N. Petition of Debra Cavalier for a variance of the Zoning Regulations; Section 5.2.4 to reduce the side setback and front line setback from 25 ft. and 50 ft., proposing 15.7 ft. and 32 ft. and Section 5.2.5 to increase lot coverage from 10%, currently 8.52%, proposing 10.85%. Permission to construct a 1 ½ story one car detached garage with storage above. Premises: AA Zone**

Debra Cavalier spoke on her behalf. She wishes to construct a one (1 ½) story 270 sq. ft. garage with a 365 sq. ft. art studio. This will be in a one (1 ½) story building with attic space for art supplies and will be placed at the end of the driveway. This is an undersized, legal, nonconforming lot. I am in

compliance with both my neighbors' line of sight. The existing structure is a one (1) car garage and is not functional as it is difficult to maneuver in and out and lacks storage. It is my intention that the structure fit into the landscape and enhance the overall property. There have been long discussions with my neighbors about the project and we have all come to an agreement on the aesthetics of the proposed garage.

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

2. 163 Oldfield Road, Map 182, Parcel 219. Petition of Phoenix Surgicals, LLC for a variance of the Zoning Regulations; Section 12.7.6.2 to reduce the side setback from 10 ft., currently 1.2 ft., proposing 1.2 ft. and Section 12.6.2 to reduce the required parking spaces from 3, proposing 1. Permission to renovate an existing garage and construct a 2nd floor addition. Premises: NDD Zone

Attorney William J. Fitzpatrick III presented on behalf of owner Phoenix Surgicals, LLC. The applicant is requesting a variance of Section 12.7.6.2 of the Zoning Regulations to permit a reduction in the side property line setback from 10 feet, presently 1.2 feet, to 1.2 feet; and a variance of Section 12.6.2 to permit a reduction in required parking from three spaces to one space in conjunction with the renovation of an existing garage and the addition of a second floor office.

The applicant here is the owner of the office building located at the intersection of Oldfield Road and Reef Road. This property is located in the Neighborhood Designed Business District and contains 10,067 square feet. There is no minimum lot area requirement in the Neighborhood Designed Business District (NDBD). This property is identified in the Town Assessor's records as Parcel 219 on Assessor's Map 182.

This property was converted from a daycare use to an office use in 1985 here was no garage on the premises at that time. Subsequently, in 2001 the then owner received a zoning compliance approval for the construction of a garage on the premises to the rear of the office building. The purpose of the garage was for the parking of the building owner's vehicle. The intent of the applicant is to add a second floor office, comprising 600 square feet, to the existing garage.

To that end, the applicant is requesting a variance of Section 12.7.6.2 of the Zoning Regulations to permit a reduction in the side property line setback from 10 feet, presently 1.2 feet, to 1.2 feet; and a variance of Section 12.6.2 to permit a reduction in required parking from (3) spaces to (1) space in conjunction with the renovation of an existing garage and the addition of a second floor office.

The first variance requested is a reduction in the side property line setback from 10 feet, presently 1.2 feet, to 1.2 feet. This variance request is essentially technical in nature since the relevant regulation (Section 12.7.6.2) permits a side property line setback of either zero feet or not less than 10 feet. Here the original zoning compliance approval anticipated a zero side property line setback, but the garage was actually constructed 1.2 feet from the side property line. The proposed second floor of the garage will be located the same distance (1.2 feet) from the side property line. As such, there is no negative impact on any neighboring property owner.

The second variance request is to reduce the required parking for the proposed second floor of the garage from (3) spaces to (1) space. The one space provided is the garage itself. The proposed second floor office will be occupied by the building owner. His office is presently located in the office building

and his intent is to create a separate, significantly more private, office space on the garage second floor. The owner will utilize the first floor garage area for parking his vehicle.

The pictures of the parking area submitted with this application were taken on Tuesdays and Thursdays at 10:30 a.m. and 2:30 p.m. for a period of several months last fall and show there is always parking available on site. This site is not overbuilt since the building coverage is 21.1% when 75% building coverage is permitted in the NDBD. Similarly, the total floor area ratio, with the second floor garage office constructed, is 40.38%, when 100% floor area ratio is permitted in the NDBD.

Approval of this application permits the construction of an office for the property owner on the second floor of the existing garage, on the existing garage footprint, with no construction any closer to a neighboring property owner than at present, on a site with parking available if needed.

GRANTED: Brian Avallone *moved* and Terry Keegan *seconded* to approve the proposed application. *Motion passed unanimously*

3. 6 Boroskey Road, Map 77, Parcel 490. Petition of 6 Boroskey Drive, LLC for a variance of the Zoning Regulation; Section 5.2.4.2 to reduce the street line setback for an unenclosed structure on a corner lot from 17 ft., currently 9.1 ft., proposing 6.5 ft. Permission to allow an existing set of stairs off an open front porch. Premises: B Zone

Lucas Papageorge, managing member presented. Section 5.2.4.2 allows for ground story unenclosed porches to extend into area required for setback from street line. Our existing, non-conforming structure was at 14.2 ft. and stairs are built that extend 7.7 ft. off of the house (excluding 1st step which is under 12 ft.) We are requesting this variance to allow the 9 ft. setback be reduced to 6.5 ft.

Our hardship lies in that the existing property had an existing non-conforming structure with a street line setback of 14.2 ft. instead of the prescribed 17 ft. In the permitted reconstruction of the home, the design and construction was done using section 5.2.4.2 for a ground floor allowing an unenclosed porch to extend into the area required for setback from street line 8ft. in a B Zone.

Being that the 14 ft. setback is allowed on this structure, the unenclosed porch should be approved to extend to the allowed 8 ft. As written the zoning regulation does not differentiate between allowed per 5.2.4 and allowed through other means.

The use of an existing structure and on a corner lot of this property and the need for grading caused undue hardship in our construction.

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

4. 86 French Street, Map 238, Parcel 71. Petition of Kathleen A. and Andrew B. Wile for a variance of the Zoning Regulations; Section 11.11.2 and 11.15 to reduce the two street line and one side line setbacks from 15 ft., 15 ft., and 5 ft., currently 2.7 ft., 10.6 ft. and 13 ft., proposing 5.3 ft., 10.9 ft. and 1.5 ft. for an open mechanical platform and Section 11.10 to increase lot coverage from 20%, currently 39.3%, proposing 49%. Permission to construct a FEMA compliant two story single family dwelling with open porches and balconies. Premises: BD Zone

Andy Wile, owner, presented on their behalf; Architect, William Leavy also presented. They propose a new 2 story single family residence in the beach district. They are creating a modern style single family home which fits in the plan of conservation and development. The footprint is 25' x 33'6" with a deck. The 2nd floor is twisted 15° with a plan dimension of 27'6" x 25'-10 5/8".

Our hardship lies in the fact that we have a non-conforming lot at 2,250 sq. ft., 24% of the 9,375 sq. ft. normal lot size. We are asking for a variance for lot coverage, setbacks from the street line and side yard setbacks. For our design on a compliant lot our coverage would be approximately 11%. We are asking for 49% lot coverage to create our 1 bedroom residence on a non-conforming lot that is ¼ the size of a compliant lot. We are bound by 2 street lines both being one way streets. Our design melds the needs of the owners and the aesthetics of the neighborhood. The main structure of the house is 5' off the right side yard. The deck on the right side is provided for the United Illuminated meter. We pushed the house towards French Street so we would not be too close to the rear setback.

There were multiple neighbors in opposition.

DENIED: Brian Avallone *moved* and Terry Keegan *seconded* to approve the proposed application. *Motion denied 3-2.* (Brian Avallone and Terry Keegan were in favor).

5. 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 lines and rear line setbacks from 30 ft., 22 ft., and 30 ft., currently 18.7 ft., 16 ft. and 40.1 ft., proposing 18.3 ft., 16 ft. (to house), 6.4 ft. (to stairs) and 25.3 ft. (to rear 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 50%. Permission to construct additions, front porch, rear stairs and to make the dwelling FEMA compliant. Premises: A Zone

Erin Delottie presented on behalf of TJK Builders as Owner of Record. This property has been abandoned for a number of years and is not FEMA compliant. We currently live across from 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 would like approval to expand the two-car garage with an addition over it, add a front porch, and build a 2-story addition out 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 not 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%.

Addressing concerns from the Board at last month's meeting, we made adjustments and have brought the total floor area ratio down from 60% to 50%.

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, 29 Newton Street; 716, 451, 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 ratio of 48.4%. This application was also for an addition involving both first and second floor expansion and a new front porch.

With the support of our neighbors, we ask that the Board consider our hardship and grant approval. We would like to have a home that meets our family's needs while staying in our neighborhood.

GRANTED: Brian Avallone *moved* and Katie O'Grady *seconded* to approve the proposed application. *Motion passed 4-1* (Jane G. Nishball was opposed)

- 6. 463 Davis Road, Map 47, Parcel 146. Petition of Robert C. and Lynette R. Darken for a variance of the Zoning Regulations; Section 5.2.4 to reduce the street line setback from 40 ft., currently 30.9 ft., proposing 35.6 ft. and Section 5.2.5 to increase the lot coverage from 15%, currently 21.5%, proposing 21.6%. Permission to construct a one story addition in place of a side open porch. Premises: R-3 Zone**

William Nyiri, Contractor, presented on behalf of the owners. We wish to construct a 7' x 7'4" one (1) story addition over the existing side entry room. Our hardship is that we are a legal non-conforming dwelling in an R-3 residential zone. The minimum legal lot size is 20,000 sq. ft. We are less than half of that at 9,380 sq. ft. The minimum street line set back is 40 ft.; the existing dwelling sits at 30.9 sq. ft. We are only seeking a modest sized (1) story addition that sits 35.5 feet from the street.

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

- 7. 44 Turney Road, Map 139, Parcel 360. Petition of David S. and Carolyn Houghton for a variance of the Zoning Regulations Section 5.2.5 to increase lot coverage from 20%, currently 21.3%, proposing 20.8%. Permission to re-construct a fire damaged two car garage with storage above. Premises: A Zone**

Dave & Carolyn Houghton presented on their own behalf. They wish to rebuild a 20'x 24' two (2) car garage with storage above, that was destroyed in a fire.

My home was built in 1923. I purchased my home in 1995, which predates the adaptation of current zoning regulations. The current footprint of my house has not changed since it was built, and is

currently a legal, non-conforming structure. Since the fire that destroyed our two car garage on or about August 1, 2021 we have discussed rebuilding the garage with our contractor and architect. We are proposing to move the structure to comply with setbacks and are seeking a very modest lot coverage increase to rebuild a compliant garage.

GRANTED: Brian Avallone moved and Terry Keegan seconded to approve the proposed application. Motion passed unanimously.

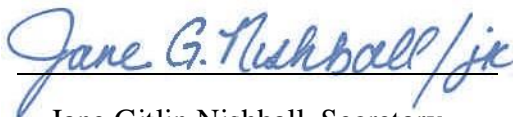
8. **5545 Park Avenue, Map 14, Parcel 2. Petition of 5545 Park Avenue for a variance of the Zoning Regulation Section 5.2.2 to increase the number of stories/height from 3 stories/40 ft., proposing 4 stories/56.6 ft.; Section 5.2.5 to increase the total lot coverage and total floor area from 15% and 30%, proposing 25.9% and 107.7%. Permission to construct a (4) story dormitory. Premises: R-3**

The proposed application was withdrawn.

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 and issuance of a Zoning Compliance.**

The proposed application was continued to 3-3-22.

There being no further business to come before the Commission, at approximately 4:30 p.m. Chairman Coyne adjourned the meeting.



Jane Gitlin Nishball, Secretary



Jodi Karagianes, Clerk

KEVIN COYNE, CHAIRMAN

JANE GITLIN NISHBALL, SECRETARY

JODI KARAGIANES, CLERK