

ZONING BOARD OF APPEALS
SPECIAL MEETING MINUTES

The Zoning Board of Appeals held a special meeting at 4:00 p.m. on Thursday, May 12, 2022. This meeting was held in a hybrid manner.

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, Brian Avallone

EXECUTIVE SESSION

1. Approval of Minutes of Thursday, April 7, 2022
2. Approval of Secretary's Fees

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 total lot coverage and total floor area from 20% and 50%, proposing 33.66% and 127.69%, 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 63, proposing 52 and Section 10.11 to increase the number of stories from 3, proposing 4. Permission to construct a proposed, (4) story, elderly multifamily (18) unit residential building. Premises: NDD Zone

The proposed application was Withdrawn

3. 1386 Hillside Road, Map 173, Parcel 73. Petition of Erik and Heather Mahland for a variance of the Zoning Regulations; Section 5.2.4 to reduce the street line setback from 60 ft., currently 45.2 ft., proposing 35.7 ft. Permission to construct a (1) one-story detached pool house. Premises: AAA Zone

The proposed application was Continued to June 2, 2022

8. 95 Old Post Road, Map 241, Parcel 216. Petition of Baltimore Associates Limited Partnership for a variance of the Zoning Regulations; Section 12.7.6.1 to reduce the street line setback from 25 ft., currently 20.9 ft., proposing 21 ft., and Section 28.8 to reduce the required parking spaces from 24, proposing 21. Permission to construct a new (3) story, mixed-use building. Premises: DI Zone

Attorney, Bill Fitzpatrick presented on behalf of the applicant. Architect, Jack Franzen of JZ Franzen Assoc. also spoke. The intent of the applicant is to re-zone the property as Designed Commercial District and to construct a three-story mixed use building, with retail on the first floor, office use on the second floor, and three residential apartments on the third floor. To that end, the applicant is requesting a variance of the Sections noted

95 Old Post Road (continued)

above, to permit a reduction in required parking from 24 spaces to 21 spaces in conjunction with the construction of a new mixed-use building.

The first variance request is a reduction of the street line setback from the required 25 feet, presently 20.9 feet, to 21 feet. The first factor for the Board to take into account is the fact that the proposed street setback is actually minimally further from the street than the existing building is at present. As such, the proposed building location is a reduction, although slight, of the existing street line setback non-conformity.

An additional factor for the Board to evaluate in considering this variance request, as well as the second variance request, is the nature and configuration of this parcel of land. The property is a triangular shape, which makes the layout of buildings and parking more difficult. In addition, this property has inland wetland soils, as shown on the site plan submitted, along the entire length of the rear property line, which pushes the building and the parking toward Old Post Road.

The second variance request is for a reduction in the required parking for the proposed mixed-use project from 24 parking spaces to 21 parking spaces. As noted above, the triangular configuration of the property, as well as the presence of inland wetlands along the entire rear property line, makes the design of the parking and building more difficult. An additional factor for the Board to consider in evaluating the second variance request is Section 28.6.1 of the Zoning Regulations. Section 28.6.1 states that "When dwelling units are located in a Commercial District as permitted in Section 12 of these Regulations, the Residential Parking requirement may, at the Commission's discretion, be reduced by up to fifty (50%) percent. This is precisely what is being requested in this application. The three proposed residential units have a parking requirement, per Section 28.6.1, of two spaces per unit, or a total of six spaces. The applicant here is requesting a reduction in the residential parking requirement of 50%, reducing the six space residential parking requirement to three spaces. The reduction of three spaces makes up the parking shortfall which is a reduction from 24 spaces to 21 spaces.

The rationale for the reduction of residential parking in a mixed-use building in a commercial district as acknowledged by this Zoning Commission and enacted in section 28.6.1 is that residential units are likely to have parking demands that do not conflict with the parking demands for the commercial tenants. The likely highest residential parking demand is after 6 pm, the time when the retail parking demand and office parking demand is minimal. Approval of this application permits the elimination of the one story building, construction of a new mixed-use building with no construction any closer to a neighboring property owner than at present.

Attorney Kevin Curseaden, representing property owners at 96 Old Post Road, Mark Finlay of Mark Finlay Architects spoke in opposition.

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

GENERAL DOCKET:

1. 108 Edgewood Place, Map 30, Parcel 114. Petition of Jodi Sacks for a variance of the zoning regulations section 5.2.5 to increase lot coverage from 20%, currently 28.1%, proposing 30.6%. Permission to construct a rear one story addition with landing and stairs. Premises: A Zone

Ted Levis, Architect, presented on behalf of the petitioner. The work here will consist of a single story addition which will add approximately 180 gross sq. ft. of living space. The proposed addition maintains the existing side and front yard setbacks and has a similar appearance from the street. The architectural program of a sitting area, bathroom, and laundry room will remain the same as the existing. The additional square footage will allow the homeowner to reconfigure the spaces to allow for a better layout and function to this area of the house. We believe that the subject property is zoned inaccurately. The characteristics of this parcel of land should fall within a "B" Zone, not its current designation of an "A" Zone.

The current residence is an existing non-conforming structure with the following deficiencies: minimal lot area, minimum square on a lot, minimum lot frontage, minimum setback from the street, the minimum combined side yard setback, and doesn't meet the lot coverage percentage. The subject residence shares the same property limitations with five other properties either adjacent and or across Edgewood Place.

One (1) neighbor at 98 Edgewood Place spoke in opposition.

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

2. 448 Ruane Street, Map 182, Parcel 837. Petition of Kardamis Construction, LLC for a variance of the zoning regulations section 5.2.4 to reduce the primary street line setback on a corner lot from 20 ft., currently 19.3 ft., proposing 19.3 ft. Permission to construct a 2nd floor addition with attic. Premises: B Zone

Dean Kardamis, property owner, spoke on his own behalf. He is seeking permission to convert a one (1) story dwelling to a 2 ½ story, single-family dwelling. New 1 ½ stories will be over the existing footprint.

The home was built in 1954 and is a legal, non-conforming structure, as it currently sits inside the required street line set back on a corner lot. Mr. Kardamis explained that he informed the neighbors, who were concerned about the height, that if the house was rebuilt it would be higher.

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

3. 301 Palamar Drive, Map 74, Parcel 149. Petition of Frank M. and Lisa M. Cavalea for a variance of zoning regulations section 5.2.4 to reduce the side setback from 15 ft., currently 13.2 ft., proposing 13.2 ft., and Section 5.2.5 to increase the total lot coverage from 15%, currently 17.65%, proposing 20.29%. Permission to construct a rear one-story addition. Premises: R-3

301 Palamar Drive (continued)

Richard Kornutik, Architect, presented on behalf of the petitioner. They wish to construct a 15' x 18' one level sunroom to the rear of this single family home currently under construction. The property is located in a R-3 zone, however, the lot is non-conforming. The lot only has 13,834 sq. ft., which reduces the side setback lines. If the property was conforming the setback lines would not be an issue for the sun porch.

Neighbor, Trina Wong of 42 Newport Place sent an email in opposition in regards to wetlands.

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

4. 79 Ann Street, Map 182, Parcel 676. Petition of Shailen Patel for a variance of the zoning regulations section 5.2.4 to reduce the sum of two sideline setbacks from 15 ft., currently 16.7 ft., proposing 13.4 ft. Permission to remove existing garage and construct two (2) one-story additions. Premises: B Zone

Shailen Patel, owner, presented on his own behalf. He wishes to remove an existing garage and build a two (2) story garage with additional living space above. The existing house was built in 1941 and the garage was built to fit a much smaller car at ten (10) ft. wide. This width and height do not allow for a standard garage door, or the ability to open a car door if inside. The additional feet and height will allow an additional off street parking space. It was previously approved for a variance, but was not at the proper measurements. This will be a phase in project, once one project is complete and closed out, we have to wait one year to start the 2nd phase.

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

5. 1460 Post Road, Map 180, Parcel 246. Petition of 1460 Post Road, LLC. for a variance of zoning regulations section 28.6.12 to reduce the required parking for outdoor dining by nine (9) spaces. Permission to establish a rooftop patio for outdoor dining. Premises: CDD Zone

Joe Morris presented on behalf of the petitioner. They wish to construct a roof top deck to accommodate patrons not wishing to dine inside. The customer portion of the deck will be 475 sq. ft. A floating staircase will go from the main floor to the roof. The staircase will terminate in a glass vestibule which will be placed flush to the west property boundary and ten (10) feet from the east.

Due to the unusual circumstances created by the pandemic, customers prefer an open air dining option. Due to the placement and location of the restaurant, the roof is the only viable option. Other buildings on the block were constructed in the early 1900's with no allowances for parking. Fortunately, the downtown area has morphed over the past decade to be more foot traffic friendly. There is also public parking available at the train station and across the street on Reef Road.

1460 Post Road (continued)

The chairman made note that this request was amended; now requesting a variance for four (4) spaces instead of the original nine (9).

There were several emails submitted in support of this project. Attorney Joel Greene, on behalf of E&F Associates, speaking in opposition.

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

6. 45 Fields Rock Road, Map 226, Parcel 13. Petition of Lisa Doocy for a variance of zoning regulations section 5.2.4 to reduce the street line setback from 50 ft., currently 24.5 ft., proposing 26.0 ft. Permission to raise the eave line to create adequate height for a bathroom remodel. Premises: AA Zone

Linda Batchelder, Architect, presented on behalf of the petitioner. The homeowner wishes to raise the eave on a 12' x 14' section of the house while maintaining the existing ridge height. The purpose of this project is to renovate the existing bathroom and create 7'-6" headroom in the bathroom and adjacent walk-in closet. The existing ceiling in the bathroom and closet starts at 4'6" and slopes up to 7'3" height. The proposed project will align the proposed eave with the existing main house eave. The project is held back from the east end (street side) of the house by 1.5' to maintain the original low gable on the street side. The proposed project raises the eave by +/- 3 ft. The existing house is built within the current street setback.

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

7. 168 Willow Street, Map 241, Parcel 158A. Petition of 168 Willow Street, LLC. for a variance of the zoning regulations section 5.1.5(a) to allow an accessory structure on a parcel that does not have a primary dwelling. Permission to remove and rebuild a barn. Premises: R-3

Attorney John Fallon presented on behalf of the petitioner. Architect, Jack Franzen, J.P. Franzen Associates, representing Fred Ryan, also spoke.

This parcel has no residence located thereon, but does have a barn that is currently in very poor condition which has been located on the property for many decades. The adjacent parcel at 171 Old South Road is owned by 171 Old South Road, LLC and has located thereon a single-family residence. Mr. Fred Ryan is the beneficial owner of both LLC's. He resides with his family at 171 Old South Road and recently purchased the property at 168 Willow Street.

Mr. Ryan acting through 168 Willow Street, LLC makes this application for permission to remove the existing barn and construct a new barn on the property. The technical provisions of the Zoning Regulations as found in Section 5.1.S(a) provides that an accessory structure such as a barn, is permitted in all residential districts. Subsection (a) states that "the accessory use should be located on the same lot with the permitted use to which is accessory". Mr. Ryan requests a variance of this section of the regulations so as to allow for the construction of a

168 Willow Street (continued)

new barn replacing the current one at 168 Willow Street. The new barn, will be used solely by Mr. Ryan and his family accessory to, and in conjunction with, their home located on the adjacent lot at 171 Old South Road. The proposed barn would be a three (3) bay post and beam wood structure with a saltbox roofline measuring 34' x 36', the height to the midpoint of the roof will be 17.5 feet. This placement in the southwest corner of the property will conform to the R-3 accessory setbacks for a structure over 15' in height. There will be no habitable space, no sanitary facilities, and no conditioned space. This barn will be used for the storage of vehicles and other storage needs.

There will be no substantial effect on the Comprehensive Plan in that the establishment of such an accessory structure to be used in conjunction with the adjacent single-family dwelling is consistent with the historical utilization of the property and constitutes a permitted use in the zone. A barn has been located on the subject parcel for many, many decades and the removal of the existing barn which is in poor condition and its replacement with the newly beautifully designed one as proposed will have no adverse effects and will in fact have a beneficial impact relative to the aesthetics of the neighborhood and safety.

The hardship here lies in the fact that this barn has been located on this parcel for many, many decades despite the fact that no principal use is located thereon and the applicant simply wishes to replace the existing barn with a new one to be used solely in conjunction with his use and enjoyment of his single-family home at 171 Old South Road. The application of the specific regulation in question would technically negate his ability to continue to utilize the proposed newly constructed barn solely in conjunction with his home at the adjacent property. The granting of the variance as requested will not result in any change of use of the property from what has been historic for many decades and will result in a significant improvement to the aesthetics of the property by way of the removal of the existing barn which is in poor condition and its replacement with the proposed barn structure as designed by Mr. Franzen and his colleagues.

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

8. 552 Knapps Highway, Map 42, Parcel 649. Petition of Michael Carafotes for a variance of the zoning regulations section 5.2.4 to reduce the rear and two (2) sideline setbacks from 30 ft. and 15 ft., currently 3.25 ft., 3.75 ft. and 5.4 ft., proposing 3.25 ft., 3.75 ft. and 5.1 ft., and section 5.2.5 to increase the total lot coverage and total floor area from 15% and 30%, currently 13.2% and 17.2%, proposing 19.28% and 33.04%. Permission to construct a two (2) story and 2nd floor additions with open, covered porch.

Michael Carofotes presented on his own behalf. He wishes to construct a second floor and garage that will consist of two (2) bedrooms, one (1) master bedroom and 2 ½ bathrooms. There will be one bedroom over the garage, two bathrooms on the 2nd floor, and ½ bathroom on the first floor.

The home is too small and dilapidated to live in. The interior measurement is not adequate to live in as a family comfortably. The garage is needed for entry without going outside in the extreme weather. This house is also on a busy street and more suitable for a family, seniors or those with disabilities. The additional living space and remodel will be an improvement to the community, street and value of the other houses in the neighborhood.

552 Knapps Highway (continued)

One (1) neighbor, Scott Massey, who resides at 560 Knapps Highway, spoke in opposition.

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

9. 990 Mill Hill Terrace, Map 243, Parcel 227. Petition of Brian and Alison Flume for a variance of the zoning regulations section 5.2.4 to reduce both sideline setbacks from 15 ft., currently 8.9 ft. and 12.8 ft., proposing 6.7 ft. and 11 ft. Permission to construct a rear one (1) and two (2) story additions and relocate the Bilco door. Premises: R-3

Brian Flume presented on his own behalf. He wishes to construct a first floor family room/mudroom addition approximately 24 ft. x 15 ft. in the rear of the existing residence. They would also like to add a 2nd floor addition approximately 18 ft. x 7 ft. above the new family room for closet storage. The existing Bilco door will need to be relocated to the east side of the home due to the location of the proposed family room.

The long and narrow configuration of the existing lot makes it difficult to add on to this residence within the required setbacks. The existing lot frontage is close to half of the 100 ft. allowed in the R-3 zone at only 52 ft. One of the biggest factors in requiring a variance is the existing square of this lot. Although the minimum required square is 100 ft., the actual square on this lot is just 49 ft.

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

10. 44 Wakeman Road, Map 141, Parcel 121. Petition of Trinity Baptist Church for a variance of the zoning regulations section 5.2.4 to reduce the street line setback from 30 ft., currently, 18.8 ft., proposing 18.8 ft. Permission to construct a 3rd floor addition. Premises: A Zone

Skip Garafello spoke on behalf of the petitioner. This home was built in 1839 and is a pre-existing, non-conforming structure as it sits on the property, to the street line setback They would like to strip to the studs, remodel the first-floor full bath, remove the wall between the kitchen and living room, remodel the second floor, 2 bedrooms, footing and walls in the basement. This remodel is for the benefit of the church's pastor who has a family of five (5). We are trying to increase the size of the house to 1500 sq. ft.

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

11. 112 Lalley Boulevard, Map 182, Parcel 42. Petition of Wood End Development, LLC. for a variance of the zoning regulations section 5.2.5 to increase the total lot coverage from 20%, proposing 20.3%. Permission to legitimize a construction error. Premises: A Zone

Attorney William Fitzpatrick presented on behalf of the petitioner. As part of the application for a building permit for this new home, the applicant submitted a detailed site plan. This new home was required to be raised due to its location in FEMA Flood Zone AE. The existing average grade of the property is 8.7 ft. and the

112 Lalley Boulevard (continued)

first-floor elevation is 19.5 ft. The site plan included, among other things, the new home "box" as well as two decks and stairs as necessary to reach the first-floor elevation.

Upon completion of the new home, an as-built plot plan was prepared as required for the issuance of a Certificate of Occupancy. The as-built survey determined the coverage on site was 20.3%, when 20% is the maximum permitted coverage pursuant to Section 5.2.5 of the Zoning Regulation.

As a result, the applicant is requesting a variance of Section 5.2.5 of the Zoning Regulations to permit an increase in coverage from the permitted 20% to 20.3% in conjunction with the completed construction of a single-family home. When the coverage overage was discovered, the building plans submitted as part of this building permit process prior to the start of construction were compared to the as-built plot plan prepared at the completion of construction. The new home box was identical. The A-2 survey submitted as part of this application confirms that the proposed floor area ratio of 37.3% matches the as-built floor area ratio of 37.3%. No additional interior living space had been constructed on site. The issue is the square footage attributable to the stairs in the front and rear of the new home. The coverage overage is .3%, or approximately 33 square feet. The square footage area of the front and rear stairs to the elevated first floor was miscalculated. The new home conforms to the relevant zoning regulations in all other respects. The error was not discovered until the as-built plot plan was prepared as part of the submission for the issuance of a Certificate of Occupancy.

The variance request here is due to an honest mistake in the calculation of the square footage for the stairs for the new home. The error did not increase the habitable area of the home. Approval of this variance request permits the issuance of a Certificate of Occupancy for the new home at 112 Lalley Boulevard and its sale to the new owners. Given the size of the coverage variance request, .3% or approximately 33 square feet, and the unintentional nature of the error, this request is worthy of Board approval.

GRANTED: Terry Keegan *moved* and Katie O'Grady *seconded* to approve the proposed application.
Motion passed unanimously

12. 888 Oldfield Road, Map 232, Parcel 162. Petition of 888 Oldfield Road for a variance of the zoning regulations section 5.1.1 to increase the number of dwelling units from 2, proposing 6. Permission to construct three (3) two-family dwellings with a C.A.M. application. Premises: B Zone

The proposed application was Continued to June 2, 2022

There being no further business to come before the Commission, at 6:25 p.m., Chairman Coyne adjourned the meeting.


Jane G. Nishball, Secretary


Jodi Karagianes, Clerk