

ZONING BOARD OF APPEALS
MEETING MINUTES OF DECEMBER 7, 2023

The Zoning Board of Appeals held a meeting on Thursday, December 7, 2023 at 3:00 pm. Executive Session started at approximately 2:45 pm. This meeting was held both in person as well as a hybrid manner.

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

MEMBERS PRESENT: Brian Avallone, Chairman; Katie O'Grady, Vice Chairperson; Jane G. Nishball, Secretary; Christine Hogan

MEMBERS ABSENT: Joseph Schwartz

ALTERNATE MEMBERS PRESENT: Harold Zawadski sat in place of Joseph Schwartz

EXECUTIVE SESSION

Christine Hogan abstained from voting on items 1 & 2

1. Approval of Minutes of Thursday, November 2, 2023: Brian Avallone *moved* and Katie O'Grady *seconded* to approve the minutes as presented. *Motion passed unanimously.*
2. Approval of Secretary's Fees: Brian Avallone *moved* and Harold Zawadski *seconded* to approve the secretary's fees as presented. *Motion passed unanimously.*
3. 2024 Meeting Schedule: Brian Avallone *moved* and Christine Hogan *seconded* to approve the schedule of meetings for 2024.
4. Election of Officers:

Harold Zawadski *moved* and Christine Hogan *seconded* to elect Brian Avallone as Chairman.

Jane G. Nishball *moved* and Christine Hogan *seconded* to elect Katie O'Grady as Vice Chairman.

Katie O'Grady *moved* and Harold Zawadski *seconded* to elect Jane G. Nishball as Secretary.

CONTINUED DOCKET:

14. 4185 Black Rock Turnpike, Map 118, Parcel 41. Petition of Fairfield Medical LLC for a variance of the Zoning Regulations Section 29.8.2 to permit a sign that will abut a right of way to the Merritt Parkway, Section 29.10.1 to increase the size of two wall signs from 3 feet in height and overall size of 72 sq. ft., proposing 4'4 3/4 " in height and overall size of 174 sq. ft. and to allow two wall signs above the ground floor; and Section 29.11 to permit a side wall sign that is greater than 3.5 feet long and wider than a foot within 300 feet of a residential district. Permission to approve a new sign plan for a new medical building. Premises: DCD Zone

The proposed application is Continued to 1/4/24

4. 53 Rhoda Avenue, Map 138, Parcel 81. Petition of Margaret and Josh Cohen for a variance of the Zoning Regulations Section 5.2.5 to increase the total lot coverage from 20%, currently 21.9%, proposing 23.9%. Permission to construct a rear elevated deck to a FEMA compliant home. Premises: A Zone.

The proposed application was Withdrawn

GENERAL DOCKET:

1. 92 Shoreham Village Drive, Map 130, Parcel 217. Petition of Prime Time Properties, LLC for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback from 30 feet, currently 21.6 feet, proposing 28.6 feet. Permission to construct a 2nd floor dormer. Premises: A Zone.

Shana Caymour, contractor, presented on behalf of the petitioner.

More space is needed to accommodate a growing family; a new bedroom and bathroom is essential to get this accomplished. This property is a pre-existing, non-conforming, undersized lot.

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

2. 1220 Fairfield Beach Road, Map 184, Parcel 222. Petition of Colin and Karen Hagen for a variance of the Zoning Regulations Section 11.10 to increase the lot coverage from 20%, currently 18.3%, proposing 22.5%. Permission to construct a rear deck with stairs. Premises: BD Zone.

Colin Healy of Colin Healy Design presented on behalf of the petitioner.

They are seeking to replace a deck measuring 16' x 14' +/- with a new deck measuring 27' x 20' +/- . The new deck would have the same materials and appearance as the existing deck to be in harmony with the design of the home. We are seeking a variance on Total Lot Coverage from 1643 SF to 1851 SF for the replacement and expansion of the existing deck.

We have designed a new deck at the rear of the house to replace and expand the existing deck based on a survey by the Huntington Company dated June 10, 1998, which showed the Total Lot Area at 9400 SF +/- . The 20% allowable coverage for a lot of that size equals 1880 SF. The proposed deck on plans dated August 20, 2023, by Colin Healy Design LLC would bring the proposed coverage to 1851 SF as shown on the new Data Accumulation Plan by the Huntington Company dated September 18, 2023.

There are 2 factors that are unique to this lot that have reduced the allowable lot coverage substantially since the earlier survey, the Coastal Jurisdiction Line has reduced the total lot area to 9,238 SF +/- and the pedestrian easement has further reduced the total lot area to 8,215 SF +/- . Since the minimum lot size is 9,375 SF, this lot is slightly oversized at 9,400 +/- SF. The proposed total lot coverage would be 29 SF less than the allowable coverage for a lot without these encroachments.

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

3. 1376 Pequot Avenue, Map 281, Parcel 35. Petition of Donald C. Burton for a variance of the Zoning Regulations Section 5.2.4.3 to reduce the side setback for an accessory structure over 15 feet in height, from 15 feet, proposing 5.3 feet. Permission to construct a one story detached gazebo. Premises: R-3 Zone

The proposed application is Continued to 1/4/24

4. 510 Mill Hill Road, Map 228, Parcel 10. Petition of Matthew Juriga for a variance of the Zoning Regulations Section 5.2.5 to increase the lot coverage from 10%, currently 9.81%, proposing 11.18%. Permission to construct a two story addition to attach the existing detached garage to the primary dwelling. Premises: AA Zone.

The homeowner, Matt Juriga presented on his own behalf.

He wishes to connect the existing, detached garage to the house and thereby create additional space for a bathroom renovation, and finish the space above the garage into a master bedroom/suite thereby adding a bedroom. Additionally, I wish to place a 12x16 shed on the property. Two separate storm water detention systems have already been approved and installed by engineering.

His lot is a pre-existing, non-conforming lot being only half of what it should be.

GRANTED: Katie O'Grady moved and Harold Zawadski seconded to approve the proposed application. Motion passed unanimously.

5. 301 Catherine Terrace, Map 182, Parcel 344. Petition of Gerald Soltis and Lee Ann Sterling for a variance of the Zoning Regulations Section 5.2.4 to reduce the sum of two side line setbacks from 20 feet, currently 31.1 feet, proposing 17.0 feet. Permission to construct a two story and 2nd floor additions. Premises: B Zone.

Homeowner, Gerald Soltis presented on his own behalf.

They are seeking a variance necessary to construct an attached, single-car garage with a second story living area. The project will involve demolition of the current detached garage, which is nonconforming. They need the variance to reduce the "sum of sides" setback for a 2-story structure from 20-feet to 17-feet. The minimum individual side setback of 5-feet will be maintained with 10.5-feet on the existing southern side of the lot and 6.5-feet proposed for the northern side of the lot.

The existing home was constructed in 1954 with a significant expansion circa 2008. This expansion included filling of the finished basement to comply with town requirements. The existing detached garage is nonconforming due to its proximity (3-feet) to both the northern side and rear property lines. Although there are no wetlands located on the site, the property is located within a FEMA AE flood zone with a base flood elevation of 11-feet.

GRANTED: Katie O'Grady moved and Christine Hogan seconded to approve the proposed application. Motion passed unanimously.

6. 26 Edward Street, Map 138, Parcel 35. Petition of Sarah and Suresh Rajan for a variance of the Zoning Regulations Section 5.2.5 to increase the lot coverage from 20%, currently 20.1%, proposing 22.4%. Permission to remove the rear landing and stairs and construct a new rear deck. Premises: A Zone

General Contractor, Michael Becker presented on behalf of the petitioner.

They would like to demo the existing landing and stairs and construct a new deck and stairs and expand it to the full width of house. They would like to create an additional outdoor living space above flood elevation. The existing deck is small and not functional; the property is in a very low flood prone area.

GRANTED: Katie O'Grady moved and Harold Zawadski seconded to approve the proposed application. Motion passed 4 to 1 (Christine Hogan opposed).

7. 76 King Street, Map 40, Parcel 200. Petition of Rogerio Mendes for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback from 30 feet, currently 18.5 feet, proposing 21 feet. Permission to construct a 2nd floor front dormer. Premises: A Zone.

Mariana Lage presented on her own behalf.

They are building a shed dormer at the front of the house and renovating the front porch. The porch is too close to the street. This is a pre-existing, non-conforming lot in today's regulations.

GRANTED: Jane G. Nishball moved and Christine Hogan seconded to approve the proposed application. Motion passed unanimously.

8. 403 Nonopoge Road, Map 72, Parcel 165. Petition of Donna M. DeBartolomeo for a variance of the Zoning Regulations Section 5.2.4 to reduce the side line setback from 15 feet, currently 7.7 feet, proposing 13.1 feet. Permission to construct a one story screen porch. Premises: R3 Zone.

Attorney Bill Fitzpatrick presented on behalf of the petitioner.

The DeBartolomeos wish to add a screened porch to the rear of their home. The existing deck would be reconfigured in a manner which would provide access to the existing above-ground pool. The Town of Fairfield issued a building permit for the proposed construction. During the course of construction, the applicants decided to convert the screened porch to a three-season room. The issue of the side yard setback arose during the review of the construction plans for the three-season room. At this point, it became clear that a portion of the construction was within the 15-foot side yard setback and that a variance was required. As a result, the applicant is requesting a variance of Section 5.2.4 of the Zoning Regulations to permit a reduction in the side property line set back from 15 feet, approved by prior variance to 7.03 feet, presently 7.7 feet, to 13.1 feet in conjunction with the construction of a three-season room.

There are several factors for the Zoning Board of Appeals to evaluate in reviewing this variance request. The first factor is the lot configuration. The lot is narrow at the street and widens at the rear of the lot. As a result, the lot conforms to the total lot area (21,932 square feet compared to a lot area minimum of 20,000 square feet) but is legally nonconforming as to lot frontage (frontage of 62.2 feet compared to a frontage requirement of 100 feet) and minimum square (square of 91 feet compared to minimum square required of 100 feet). This lot configuration and the placement of the existing home at the time of its construction in 1958 restricts the ability to improve this home given its location. The Zoning Board of Appeals, in apparent recognition of the practical difficulty this lot configuration entails, approved a variance for the applicants in 2003 reducing the side yard setback from 15 feet

403 Nonopoge Road (continued)

to 7.03 feet. This variance permitted the construction of a second-floor as well as a first-floor wrap-around porch and the enlargement of the existing rear deck.

The applicants did not understand that the new construction would be required to conform to the 15-foot side yard setback despite the fact that the property had received a side yard setback variance from the ZBA to 7.03 feet in 2003. When this fact became known, construction within the side yard encroachment was stopped. The Board should note that the encroachment in question is minimal, approximately 12 square feet. Also, the proposed side yard distance of 13.1 feet for the three-season room is significantly greater than the prior side yard variance approved by the Board of 7.03 feet. Further, the construction of the three-season room did not extend beyond the existing home side wall but rather followed the existing home side wall. This is not a case of overbuilding on this property because the lot coverage will actually be reduced under this proposal and is 13.2% when 15% lot coverage is permitted under the Zoning Regulations. In addition, the floor area ratio for the property, with the construction in place, is 17.1% when the zoning regulations permit a floor area ratio of 30% in the R-3 zone.

Approval of this variance request will permit the applicants to complete the construction of a three-season room which is farther from the side property line than the existing home and does not materially affect any neighbor or the neighborhood as a whole.

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

9. 40 Robin Lane, Map 125, Parcel 245. Petition of Kevin and Sue Dethomas for a variance of the Zoning Regulations Section 5.2.4 to reduce the rear setback from 30 feet, currently 14.6 feet, proposing 14.1 feet. Permission to construct a one story addition with deck and chimney. Premises: A Zone.

Homeowner, Sue DeThomas presented on her behalf.

They would like to construct a 1-story addition approximately 6'x24' with a 6'x13' bump out towards the side yard. They are aligning the new addition with the existing rear of the house to create a family room and eat-in nook.

The house that received a variance in November of 1982 for a 1-story rear addition that consisted of a small kitchen and living room. Due to a drainage easement on the south-east side of the property and to the non-conforming configuration they wish to bring the construction up to code and add additional living space for their family. They are not seeking a waiver to expand upon the existing lot coverage or the total floor area over the allowed district regulations.

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

10. 380 Pine Creek Avenue, Map 234, Parcel 238A. Petition of 380 Pine Creek Associates, LLC for a variance of the Zoning Regulations Section 11.14.1 to reduce the setback from Pine Creek from 141 feet, proposing 87 feet to dwelling and 75 feet to the deck. Permission to construct a new 2-story FEMA compliant single-family dwelling with a CAM. Premises: BD Zone.

The proposed application is Continued to 1/4/24

11. 127 Rowland Road, Map 182, Parcel 18. Petition of Joseph McBride for a variance of the Zoning Regulations Section 5.2.5 to increase lot coverage from 20%, currently 20.6%, proposing 22.5%. Permission to extend existing garage and add landings and stairs to rear of house. Premises: A Zone.

Attorney Ray Rizzio presented on behalf of the petitioner.

The Applicant proposes to construct stairways to the rear of the existing single family dwelling as well as an addition to an existing detached accessory garage at the Site with associated improvements. Attorney Rizzio noted that they would be willing to agree to a condition of approval, that the extended area count not ever be converted into habitable area.

The Site currently contains a principal single-family dwelling with an existing nonconforming detached garage. The garage is compliant with the rear property line setback, but it is pre-existing nonconforming by 0.3' along the northern side property line. The principal dwelling is completely conforming as to setback. The Site is also significantly under the permitted floor area under the Regulations at a little over half of the requirement.

The Applicant recently constructed additions to the principal dwelling to "square off" the rear of the dwelling. The additions matched the existing farthest rear wall of the building. The additions did not protrude any further into the side setbacks than the original dwelling. The Site is located in the FEMA Flood Zone AE. The Applicant proposes to build two stairwells off the rear of the existing dwelling in compliance with FEMA Regulations. However, the addition of the stairwells as well as the proposed addition to the detached accessory garage necessitate a minor lot coverage variance. It should be noted that under the Application, the Site will still be significantly under the permitted floor area at only 30.5%, where 40% is permitted.

The existing detached two-car garage at the rear of the Site, is currently conforming as to the rear line setback. The height is under 15' in accordance with the Regulations. It is currently nonconforming as to its setback from one side property line along the northern property line, but the Applicant does not propose an addition to that side. The Applicant proposes a small 6' widening of the existing garage. The Applicant proposes a small 6' wide addition to widen the garage and allow two (2) vehicles to fit comfortably inside.


Granting the Applicant said variance will not substantially affect the comprehensive zoning plan of the Town of Fairfield and adherence to the strict letter of the Fairfield Zoning Regulations will cause an unusual hardship to the Applicant as the Applicant is merely adding stairways to an existing single-family dwelling on a Site located in the FEMA flood zone. Said condition frequently causes lot coverage variances in the Fairfield Beach area as property owners are required to construct FEMA-compliant structures. While the Application requires a maximum lot coverage variance, the proposed floor area is still well below what is permitted in the R-A District. In addition, the expansion of the existing two-car garage is in complete conformity with the neighborhood, which has multiple "narrow" two-bay detached garages with the inability to contain two (2) vehicles. Multiple applications have been submitted to the Zoning Board of Appeals to widen these nonfunctioning garages. The proposed expansion is a limited expansion to allow the garage to actually function and hold two (2) vehicles and it does not violate any setbacks. Therefore, it will not have any negative impact on adjoining properties. It will maintain its height under 15' in accordance with the Regulations.

The Board discussed whether to call it as written, without the condition offered by Attorney Rizzio. The vote was unanimous to entertain the motion without a condition.

127 Rowland Road (continued)

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

There being no further business to come before the Commission, at 4:45 p.m. Chairman Avallone adjourned the meeting.



Jane Gitlin Nishball, Secretary



Jodi Karagianes, Clerk

BRIAN AVALLONE, CHAIRMAN

JANE GITLIN NISHBALL, SECRETARY

JODI KARAGIANES, CLERK