

ZONING BOARD OF APPEALS
MEETING MINUTES OF MAY 4, 2023

The Zoning Board of Appeals held a meeting at 3:00 p.m. on Thursday, May 4, 2023. 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/meetingrecordings>

MEMBERS PRESENT: Kevin Coyne, Chairman; Terry Keegan, Vice Chairman; Jane G. Nishball, Secretary; Katie O'Grady; Brian Avallone

ALTERNATE MEMBERS PRESENT: Harold Zawadski, Alternate, sat in place of Kevin Coyne on General Docket # 1.

EXECUTIVE SESSION

1. Approval of Minutes of Thursday, April 6, 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 Jane G. Nishball *seconded* to approve the secretary's fees as presented. *Motion passed unanimously.*

Executive Session started at approximately 3:00 p.m.

CONTINUED DOCKET:

5. 2268 Fairfield Beach Road, Map 234, Parcel 90. Petition of 2268 Fairfield Beach Road, LLC for a variance of the Zoning Regulations Section 11.13 to reduce the street line setback from the center line of Fairfield Beach Road from 25 feet, currently 7.9 feet, proposing 10.2 feet to roof overhang and 15.7 feet to dwelling. Permission to construct a 2-story, FEMA-compliant, single-family dwelling with a C.A.M. application. Premises: BD Zone

Attorney Chris Russo presented on behalf of the petitioner.

The Applicant requests a variance of the Regulations to demolish an existing non-FEMA compliant and nonconforming single-family dwelling and construct a new, more conforming and FEMA-compliant single-family dwelling with associated improvements on the Site in the Beach District ("BD"). The Site is located at the very end of Fairfield Beach Road on the portion of the road that is not a public street. The public portion of the street terminates at the cul-de-sac at the end of Fairfield Beach Road and the remaining dwellings beyond are accessed from a private street. The Site is located towards the end of the private street. The existing dwelling is located on the northern side of the private street and is pre-existing nonconforming as to street line setback at 7.9 feet. Almost all of the dwellings on this street are pre-existing nonconforming as to street line setback. These properties along the private street are unique in that both sides of the private street are considered a single lot. There is very little buildable area on the Long Island Sound side of these properties, but that area would not be buildable under the Regulations because Sec. 11.12 of the Regulations prohibits a dwelling from being located closer to Long Island Sound than the existing building. Along the private street, no dwelling is located on the Long Island Sound side of the private street. So, in reality, there is significantly less buildable area compared to the size of the lots. The Site is located in the VE flood zone and the existing dwelling is not compliant with the FEMA standards for the VE

Zone. It is well below the height requirement. This portion of Fairfield Beach Road has seen considerable damage during hurricanes with some dwellings being completely destroyed. Upgrading the Site to contain a FEMA-compliant dwelling would be a significant improvement to the Site.

The Applicant proposes to construct a two-story FEMA-compliant single-family dwelling. The new dwelling will significantly reduce the existing street line setback nonconformity. A second-story roof overhang will be 10.2' from the center line of the private street. The actual dwelling will be located almost double the distance of the existing nonconformity at 15.7'. The proposed dwelling will be compliant with the side setback and Pine Creek setback requirements as well as the height requirements. The Site is undersized for the BD Zone. Despite this, the Applicant is significantly decreasing the existing building lot coverage nonconformity on the Site from 39.6% to 28.0%. The Applicant is also removing a concrete patio of approximately 6-8" in thickness from the Long Island Sound side of the Site and restoring it to natural beachfront.

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 proposing a single-family dwelling which is more conforming as to street line setback than the existing dwelling, is FEMA-compliant (unlike the existing dwelling), and drastically reduces the existing building lot coverage nonconformity on the Site. It also removes a non-compliant concrete patio from the Long Island Sound side of the Site, which could have been a threat during hurricanes. The reduction of pre-existing nonconformities can serve as a separate basis for the granting of a variance. The Application simply makes the Site more conforming not less conforming.

The proposed dwelling is completely in character with the surrounding neighborhood, particularly those along this private portion of Fairfield Beach Road. The Site is unique in that it spans from the Long Island Sound all the way to Pine Creek. However, due to the Regulations, no dwelling can be located any closer to the Long Island Sound than the existing dwelling. The Regulations severely limit the buildable area of the Site. The neighboring dwellings to the Site will be closer to the center line of the street than the proposed dwelling. Therefore, the Application will not have a negative impact on the surrounding neighborhood. By designing a FEMA-compliant dwelling, the Application will make this area safer during dangerous storm events. In addition, the Applicant is removing a large concrete patio that would be considerably vulnerable during a storm, so its removal is a tremendous safety improvement to the surrounding neighborhood. Despite the reduction in street line setback lot coverage nonconformity, the Application is compliant with all other setback and height requirements.

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

9. 1001 South Pine Creek Road, Map 232, Parcel 101. Petition of 1001 South Pine Creek, LLC for a variance of the Zoning Regulations Section 2.7 to reduce the lot frontage from 60 feet, proposing 51.86 feet; and Section 5.1.1 to reduce the lot square from 60 feet, proposing 59.04 feet. Permission to establish a building lot for a single-family dwelling with CAM application. Premises: B Zone

The proposed application was withdrawn

10. 1003 South Pine Creek Road, Map 232, Parcel 101. Petition of 1001 South Pine Creek LLC for a variance of the Zoning Regulations Section 2.7 to reduce the lot frontage from 60 feet, proposing 40 feet. Permission to establish a building lot for a single-family dwelling with CAM application. Premises: B Zone

The proposed application was withdrawn

GENERAL DOCKET:

1. 920 Old Post Road, Map 182, Parcel 604A. Petition of David Montani for a variance of the Zoning Regulations Section 5.2.4 to reduce the rear setback from 30 feet, proposing 18 feet. Permission to construct a new 2 ½ story single-family dwelling. Premises: A Zone

The Applicant proposes to construct a single-family dwelling at the Site with associated improvements within the Residence A District ("R-A District"). The Site is currently vacant and is the result of a compliant subdivision. However, the Site is oddly shaped in an almost "L" shape with a very restricted building area. Much of the Site is very narrow. The Site is located in a historic district and the Applicant has received the necessary approvals from the Fairfield Historic District Commission to move forward with this design.

The Applicant proposes to construct the dwelling along the street line setback of the Site. This area is the one "pocket" of buildable area on the Site to be able to construct a dwelling. Even still, there are areas within this portion of the Site with a building area only fifteen feet (15') deep due to the Thirty foot (30') front and rear setbacks combined. The proposed two-story dwelling is completely in character with the neighborhood at only 2,786 SF. The Application is under building lot coverage at only Eighteen and 80/00 percent (18.8%) and significantly below the maximum F.A.R. at Twenty-nine and 70/00 percent (29.7%). The detached accessory garage is located towards the rear of the narrow portion of the Site and is fully compliant with setbacks. Due to the narrowness of the Site, the access driveway to the detached garage occupies a portion of the building envelope, which further reduces the building area.

The Applicant requests a variance for a small two-story portion of the proposed single-family dwelling. On the first floor, this area will be occupied by the living room and, on the second floor, this area will be occupied by a laundry room. The proposed footprint of this area is very limited at only 6.5' wide and 12' deep. It is completely hidden from view from the public street. It should also be noted this portion is not the portion of the building farthest from the street line. However, due to the odd shape of the Site, this portion of the building is the only portion that requires a rear setback variance. In fact, this exact same facade of the portion requiring variance is mostly conforming to the Regulations, but only this small portion of it is non-conforming.

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 (the "Regulations") will cause an unusual hardship to the Applicant as the Site is very oddly shaped and "pinches" the building area of the Site. The Applicant is proposing a dwelling that is well below the standards for F.A.R. and building coverage. The actual portion of the dwelling that requires a variance is neither the farthest rear portion of the dwelling nor the closest to the side property line. It is simply due to the unique "pinch" of the lot that drives the variance. The rear property line is not actually a property line to a lot that is to the rear of the Site. It is actually a side yard of the neighboring property on Old Post Road containing a dwelling, which is accessed from Old Post Road just as the proposed dwelling. The Applicant has achieved a design facing a considerable challenge, which is the extremely limited building envelope on the Site, and obtained approval from the Fairfield Historic District Commission for its design.

920 Old Post Road (continued)

The portion of the dwelling requiring a variance is not visible from Old Post Road. The Application will not have a negative impact on the surrounding neighborhood and is completely in character. The dwelling will be one of the more modest homes in the area.

GRANTED: Brian Avallone moved and Jane G. Nishball seconded to approve the proposed application. Motion passed 4 to 1 (Jane G. Nishball opposed). Chairman, Kevin Coyne recused himself, alternate Harold Zawadski sat in.

2. 155 Turney Road, Map 130, Parcel 85. Petition of Jessica Natorp for a variance of the Zoning Regulations Section 5.2.5 to increase lot coverage from 20%, currently 19.2%, proposing 23.61%. Permission to construct a rear one-story addition and deck. Premises: A Zone

Attorney John Fallon presented on behalf of the petitioner.

Jessica Natorp is the owner of the property located at 155 Turney Road. She has resided there for over fourteen years having purchased the property in November 2008. The property is located in the Residence A zoning district. Having been established as a legal building lot prior to the adoption of the current zoning regulations it is a significantly undersized parcel having only 5,997 sq. ft. while the required minimum lot area in the Residence A zone is 9375 sq. ft. Ms. Natorp's home is quite small comprising only 1,430 sq. ft. of floor area. In addition, Jessica's parents presently reside in Germany and are getting older and the addition will provide a small amount of additional space to accommodate them when they come to visit. This additional space will also provide necessary flexibility as they continue to grow older at which time Jessica would take on a caretaker role for her parents.

The application before the Board contemplates the construction of a small addition to Ms. Natorp's home comprising only 500 sq. ft. As shown on the floor plans submitted herewith this will allow for the conversion of an existing sunroom area and modest expansion in order to accommodate a new family room, mudroom and enlarged kitchen. There will be no changes to the current second story floor plan. In order to facilitate this proposed modest addition Ms. Natorp requests a variance of Section 5.2.5 of the Zoning Regulations to increase the permitted lot coverage from the current 19.2% to 23.61%. It should be pointed out and emphasized that the total floor area ratio (FAR) will increase only to 32.2%, well under the allowable 40% notwithstanding the significantly undersized nature of the lot which is 3,378 sq. ft. less than currently contemplated under the regulations.

Granting of the variance will not change the use of the property which will remain as a single-family residence as explicitly permitted in the zone. Other than the variance for coverage no other variances are sought and the proposed addition will comply with all other technical requirements of the Zoning Regulations, including that pertaining to total floor area (FAR).

With regard to the hardship requirement in this case the controlling legal fact is that the lot in question is a valid and legally protected pre-existing non-conforming lot as it relates to the lot area requirement. As previously indicated, the present requirements within the Residence A zone establish a minimum lot area of 9,375 sq. ft. This lot, established for residential purposes before the imposition of the current zoning regulations has only 5,997 sq. ft. Pursuant to the provisions of Connecticut General Statutes Section 8-2 the lot is a valid and legally protected pre-existing non-conforming lot. Nonetheless, the 20% coverage requirement presently applicable in the zone must be calculated based upon a lot area 3,378 sq. ft. less in size than the minimum required in the zone.

155 Turney Road (continued)

It has previously been held repeatedly by our Supreme Court that when a property is a valid non-conforming lot with regard to lot area sufficient hardship to support the granting of a variance with regard to coverage is established because the application of the coverage regulation affects the property and it's protected non-conforming status in such an adverse manner. The new construction that is proposed and will otherwise be compliant with the floor area ratio requirement of the zone could easily and legally be accommodated but for the pre-existing non-conforming status of this undersized lot. Indeed, notwithstanding the significant nonconformity of the lot area the variance request pertaining to coverage to accommodate the small addition is only 3.61%. Our caselaw establishes that strict application of the Zoning Regulations regarding coverage to this non-conforming lot does result in unusual hardship sufficient to support the granting of a variance for coverage as requested.

Attorney Joel Green, representing Johanne Minkley who resides at 118 Cambridge Drive, spoke in opposition.

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

3. 2600 Post Road, Map 229, Parcel 40. Petition of Southport Post Road LMT Partnership for a variance of the Zoning Regulations Section 28.6.12 to reduce the parking by (2) two spaces. Permission to establish outdoor dining. Premises: DCD Zone

Phil Cerrone, Architect, presented on behalf of the petitioner.

A previous 660 sq. ft. patio was approved by ZBA and remains in existence. They would like to create an additional 400 sq. ft. of outdoor dining. Due to the site being mostly paved and used for parking near the restaurant, two parking spaces need to be eliminated to create the patio area. During Covid, 5 parking spaces were eliminated when a tent was installed for outdoor dining, this took up a larger space than the proposed patio will and caused no parking issues.

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

4. 600 Jennings Road, Map 79, Parcel 732. Petition of Town of Fairfield for a variance of the Zoning Regulations Section 5.2.4.3 to reduce two (2) street line setbacks for an accessory structure from 30 feet, proposing 12 feet and 18 feet. Permission to construct an accessory structure for a 2,000-gallon fuel tank. Premises: B Zone

Raymond Smith, Town Engineer presented on behalf of the petitioner.

The town would like to install a 2,000 gallon fuel tank along with appropriate fixtures within the accessory structure setback area. This is a corner property bound by three streets. Due to the need for emergency vehicles to exit the property onto Jennings Road, the fuel tank needs to be located in the location shown to avoid blocking these vehicles.

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

5. 680 Old Academy Road, Map 171, Parcel 9A. Petition of Amity Whalley, LLC for a variance of the Zoning Regulations Section 2.7 and 5.2.1 to reduce the lot frontage from 200 feet, proposing 0 feet. Permission to re-establish a separate rear building lot. Premises: AAA Zone

The proposed application is continued to June 8, 2023

6. 249 Toll House Lane, Map 14, Parcel 53. Petition of Emily and Samuel Joseph for a variance of the Zoning Regulations Section 5.2.5 to increase lot coverage from 15%, currently 14%, proposing 16.4%. Permission to remove and rebuild a rear deck and screen porch. Premises: R-3 Zone

Emily Joseph presented on her own behalf.

They would like to renovate the existing back deck by leaving the existing footprint, and simply upgrading the finishes. They would like to renovate the main deck by extending it past the existing footprint, using updated materials.

Although the lot is compliant, the two decks are failing beyond repair, therefore they would like to renovate to bring them up to code.

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

7. 1817 Mill Plain Road, Map 147, Parcel 178J. Petition of Marissa and Brandon Shapiro for a variance of the Zoning Regulations Section 5.2.5 to increase lot coverage and total floor area from 10% and 20%, currently 12.4% and 22.4%, proposing 14.5% and 26.6%. Permission to construct a rear two-story addition. Premises: AA Zone

Brandon Shapiro, homeowner, presented on his own behalf. They wish to construct a modest two story addition on the rear of our home. The property was built in 2009 and is a preexisting legal non-conforming lot in a residential AA district.

Prior to closing on the home in 2019, two separate failed radon tests showed levels at 10 and 5 pCi/L. The third test passed after fixes were made to the current mitigation system. They were led to believe such fixes would be effective in consistent mitigation. Prior to the birth of our son, they purchased a daily radon monitor and learned that the radon levels in the finished basement were fluctuating greatly and at levels that weren't safe.

Multiple attempts to mitigate further, including installation of a whole second mitigation system have been unsuccessful in lowering these levels to child-safe exposure, rendering this much-needed space for their family unusable. They are proposing to expand the footprint by 195 sq feet. The two-story addition totaling 390 sq. ft. includes a second-floor playroom and increased family gathering space on the main floor. The proposed addition is discretely located at the rear of the home, consistent in size with the rear footprint of neighboring homes, and will not have any adverse impact on any surrounding properties.

The property is currently zoned in Residence District AA; it was approved as part of a subdivision in 2003. Subsequent to the subdivision approval, the zone was changed from Residence A to Residence AA. As a result, the lot is a legally protected preexisting, nonconforming lot.

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

8. 1073 North Benson Road, Map 143, Parcel 160. Petition of Fairfield University for a variance of the Zoning Regulations Section 31.2.16 to increase the height of rooftop equipment above the roof line from 5 feet, proposing 9.5 feet; and to reduce the setback from the edge of the building from 19 feet, proposing 15.2 feet. Permission to install rooftop HVAC equipment. Premises: AA Zone

Fairfield University makes this application for a variance of Section 31.2.16 to allow rooftop equipment to exceed 5' above the roofline to a height of 9' 5" and to allow the setback for such rooftop equipment to be reduced from 1073 North Benson Road (continued)

19' to 15' 2" from the edge of the building. This request is made in conjunction with the placement of HVAC equipment on the roof of Fairfield Prep's Berchman Hall.

The new items of rooftop equipment exceeding the 5-foot height limitation will be placed on the existing roof of the building. Similar equipment is already in place at the adjacent Xavier Hall, which directly abuts North Benson Road. The proposed equipment at Berchman Hall will be similar in appearance and scale to what has been located on the adjacent Xavier Hall for many years. Also as is the case with the equipment on the roof of Xavier Hall, the proposed unit as shown on the plan submitted will be located inside a Cityscapes enclosure that will screen any view of the equipment from ground level. As documented by the plans the proposed unit at Berchman Hall will actually be less than the height of the equipment already existing at Xavier Hall. As further documented in the application material the proposed unit will not be visible from North Benson Road or the properties of any adjacent neighbors.

As previously indicated the location of Berchman Hall and the proposed screening ensures that there will not be any adverse impact or effect on adjacent property owners as the unit as proposed will not be visible from ground level.

Berchman Hall was constructed and has been in operation since the 1940s. The University and Fairfield Prep are committed to maintaining and upgrading current facilities in order to ensure that they meet appropriate current standards for use and occupancy. The unit as proposed will improve the existing HVAC system at Berchman Hall. The variance is required due to changes to the zoning regulations well after Berchman Hall was constructed and occupied as it relates to current regulations concerning the placement of rooftop equipment.

Bob Brunetti, who resides at 756 North Benson Road, spoke in opposition.

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

9. 56 Fairfield Beach Road, Map 138, Parcel 49. Petition of Erin and Brendan Biggins for a variance of the Zoning Regulations Section 5.2.5 to increase the lot coverage and total floor area from 20% and 40%, currently 21.5% and 35.2%, proposing 23.3% and 41.1%. Permission to construct a deck and additions per plans. Premises: A Zone

Erin and Brendan Biggins presented on their own behalf.

They wish to expand a single-story bump out to a 2 ½ story addition to include a mudroom, 2nd floor closet, and 3rd level powder room. Construct a ground-level garage space atop an existing concrete pad and existing deck. The addition will not encroach closer to the existing setback.

56 Fairfield Beach Road (continued)

Jordan Thomas, residing at 40 Fairfield Beach Road and Mary Petro at 86 Fairfield Beach Road, spoke in favor of the application. Andy Piekarski resident at 67 Carlynn Drive spoke in opposition.

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

10. 85 Northfield Road, Map 231, Parcel 289. Petition of Pasquale and Janine Alianiello for a variance of the Zoning Regulations Section 5.2.4 to reduce the sum of two side line setbacks and the street line setback from 25 feet and 30 feet, currently 20.1 feet and 26 feet, proposing 20.1 feet and 26 feet; and Section 5.2.5 to increase the lot coverage and total floor area from 20% and 40%, currently 23.48% and 31%, proposing 22.79% and 41.96%. Permission to remove and rebuild one-story, one-car garage and sunroom and build a 2nd floor over both. Premises: A Zone

Pasquale and Janine Alianiello presented on their own behalf. They would like to remove the existing garage, build a new two-story addition over the existing family room, and a new garage.

They have a pre-existing, non-conforming lot where the minimum lot size and square are to be 9,375 sq. ft. and 75-foot square; their lot is only 5,500 sq. ft. and has a square of only 55 feet. The home is also non-compliant to the sum of two side line setbacks and the street line setback. They will not encroach any further into the setbacks then already exists and are not looking to reduce the setbacks further. They are reducing the nonconforming coverage on the lot as well.

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

11. 101 Hulls Highway, Map 243, Parcel 305. Petition of William and Stephanie Ragatz for a variance of the Zoning Regulations Section 5.2.5 to increase the total floor area from 50%, currently 20.5%, proposing 53.2%. Permission to build a detached one-car garage and rear shed dormer to existing house. Premises: B Zone

They would like to build a 1-story 19'x22' detached, 1-car garage with storage and a rear shed dormer. Due to the heavy volume of traffic on the road and safety concerns, they would like to have coverage and parking for a vehicle off street. This will be consistent with neighboring homes that also have 1-car garages.

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

12. 177 Nichols Street, Map 182, Parcel 706B. Petition of Christopher A. and Lindsey A. Trapp for a variance of the Zoning Regulations Section 5.2.5 to increase the lot coverage and total floor area from 30% and 50%, currently 29% and 49.9%, proposing 31.2% and 52.5%. Permission to construct a new 2 ½ story FEMA compliant single-family dwelling. Premises: B Zone

Attorney Chris Russo presented on behalf of the petitioner. He explained that after discovering that his proposal is completely conforming with regard to lot coverage, they are only requesting a variance for floor area, which is reduced from 50% to 51.2%.

The applicant is proposing a minor addition/modification to the existing dwelling. They would like to square off and enclose a rear corner of the existing building that currently contains a deck and exterior stairwell. They propose a one-story addition to enclose the area below the bounds of the existing deck and stairwell for a pantry. The

addition will not be visible from the street or property to the west. The exterior stairwell will be realigned off the new addition; this stairwell will be in the location of an existing patio which will shift slightly to the east.

Granting the Applicant this 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 simply squaring off the building in an area with an existing deck. The Applicant is not exceeding the lot coverage of the Site. The area where the proposed addition is being located is in the current location of a deck and stairwell, which count towards building coverage but not floor area. By simply enclosing this area with a slight expansion to square it off, this area becomes counted under the Regulations and slightly exceeds the standard for the R-B District necessitating the variance. The Applicant faces a unique hardship on the Site, because even though the Applicant is proposing an addition that is compliant with lot coverage, they are slightly over the maximum floor area for enclosing this portion, which is not visible from the public street or the western neighboring property.

GRANTED: Jane G. Nishball moved and Terry Keegan seconded to approve the variance of Section 5.2.5 to increase total floor area to 51.2%. Motion passed unanimously.

13. 117 Colonial Drive, Map 139, Parcel 97. Petition of Daniel and Cristina Kelly for a variance of the Zoning Regulations Section 5.2.5 to increase lot coverage from 20%, currently 19%, proposing 21.25%. Permission to construct a FEMA compliant pool house. Premises: A Zone

When constructed this home was designed and required to comply with all applicable provisions of FEMA regulations including significant elevation of the living area of the house above grade level. This required the installation of a significant staircase consisting of thirteen steps in the back of the house for ingress and egress.

Dan and Crissy seek a variance to construct a proposed deck and pool house. Having the deck will allow for their older relatives to enjoy the outside yard area including enjoying the backyard area with their grandchildren. It will also give them easier and safer access to a restroom during the course of their visit. The modest pool house that is proposed will also provide access for a restroom for the entire family without having to climb thirteen stairs to gain access to the main living level of the home.

There will not be any substantial effect on the Comprehensive Zoning Plan in that the deck and pool house as proposed will not change the use of the property, which will remain as a single-family residence. The granting of the modest variance with regard to coverage as requested will not change the use of the property which will remain as a single-family residence explicitly permitted in the zone. The pool house and deck design is attractive, harmonizes with the primary dwelling and the character of other homes in the neighborhood, and will represent a significant aesthetic enhancement to the property benefiting the surrounding area.

With regard to the hardship, the impact of FEMA regulations and compliance has long been recognized as establishing a factual basis for hardship. This is most certainly the case with regard to the present matter where compliance with FEMA regulations required the home to be constructed at a significantly high elevation thus requiring incorporation of the staircase as constructed in the rear of the property containing thirteen steps. This has caused significant inconvenience and safety concerns, especially with regard to Mr. and Mrs. Kelly's elderly relatives who regularly and often visit the home sometimes for prolonged periods. As previously referenced, the

117 Colonial Drive (continued)

deck and small pool house will provide convenient access to the outdoor backyard area without need of gaining ingress and egress to the yard area via the steep staircase.

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

14. 263 Katona Drive, Map 76, Parcel 277. Petition of Milford Fenway Realty, LLC for a variance of the Zoning Regulations Section 5.2.4 to reduce the sum of two sideline setbacks from 25 feet, currently 22.8 feet, proposing 19.7 feet. Permission to remove dwelling to the foundation and build a new 2 ½ story single-family dwelling. Premises: A Zone

Attorney Kevin Gumpper presented on behalf of the petitioner.

The applicant is seeking the variance that is necessary to rebuild the existing house, add an additional floor as well as a two-story addition to a rear corner of the house. They will also be installing a new patio and driveway. The rebuild will be on the existing foundation and garage slab with an overhang of the new upper floor. The two-story addition will be on a new foundation.


The variance is needed because the two-story addition will reduce the sum of the sideline setbacks from the required 25.0 feet to 19.7 feet. The existing sum of the sideline setbacks is 22.8 feet. The minimum sideline setback of 7 feet will be maintained.

The hardship lies in the unusual shape of the lot, and the location of the house on the lot; any updates or modernization of the house will require a variance. The variance will not affect the Comprehensive Zoning Plan in that what is proposed is a single-family dwelling in a single-family zone, complying in all respects with the requirements of the A zone other than the sum of the sideline setbacks.

This application was before the Board in December 2022 and approved. Attorney Gumpper stated that the zoning enforcement officer determined there was a defect in the application, requiring the applicant to come back in front of the Board for this variance. They are not in agreement with his determination, but rather than drag it out in court, they decided to come back with the variance request. It was noted that the house was currently half-built with a stop work order on it and they would like to move forward.

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

There being no further business to come before the Commission, at 6:07 p.m. Chairman Coyne adjourned the meeting.


Jane Gitlin Nishball, Secretary


Jodi Karagianes, Clerk

KEVIN COYNE, CHAIRMAN

JANE GITLIN NISHBALL, SECRETARY

JODI KARAGIANES, CLERK