

ZONING BOARD OF APPEALS
MEETING MINUTES OF JANUARY 4, 2024

The Zoning Board of Appeals held a meeting on Thursday, January 4, 2024 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, Chairperson, Jane G. Nishball, Secretary, Christine Hogan, Joseph Schwartz

ALTERNATE MEMBERS PRESENT: Elise McKay, Alternate, sat in place of Katie O'Grady for General Docket Item #3.

EXECUTIVE SESSION

Joseph Schwartz abstained from voting on items 1 & 2

1. Approval of Minutes of Thursday January 4, 2024: Jane G. Nishball *moved* and Christine Hogan *seconded* to approve the minutes as presented. *Motion passed unanimously.*
2. Approval of Secretary's Fees: Katie O'Grady *moved* and Joseph Schwartz *seconded* to approve the secretary's fees as presented. *Motion passed unanimously.*

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

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The proposed application was Withdrawn

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 was Continued To 2/1/24

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 was Continued To 2/1/24

GENERAL DOCKET:

1. 123 Buena Vista Road, Map 28, Parcel 158. Petition of Jeffrey A. Stuart and Nicole M. Roy for a variance of the Zoning Regulations Section 5.2.4 to reduce the rear setback from 30 feet, currently 22.9 feet, proposing 22.5 feet; and Section 5.2.5 to increase the lot coverage from 20%, currently 22.24%, proposing 24.78%. Permission to construct a rear deck addition. Premises: A Zone.

Owner Nicole Roy presented on her behalf; building contractor Jason Raymond also spoke.

They would like to square off their deck. It is a non-conforming, pre-existing lot since the house was built in 1929.

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

2. 6 Oxford Road, Map 283, Parcel 32A. Petition of Kimberly A. and Michael J. Perretta for a variance of the Zoning Regulations Section 5.2.4.3 to reduce the street line setback for an accessory structure from 30 feet, proposing 10 feet. Permission to install a hot tub. Premises: A Zone.

Owner, Michael Peretta presented.

They would like to install an above ground 8'x8' hot tub on an 8'x10' concrete slab in the back corner of the property. Because of the septic and leaching field the proposed location is the only one that will work. They have planted green giants to keep it private from the street and there will be another fence around it keeping it unseen from the street. The entrance to the basement makes it difficult to put closer to the home. There were no neighbors in opposition.

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

3. 879 Riverside Drive, Map 139, Parcel 260. Petition of MLW Design Build, LLC for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line, side line and sum of two side line setbacks from 30 feet, 7 feet and 25 feet, currently 24.1 feet to house and 15.8 feet to open porch, 4.2 feet and 16.9 feet, proposing 24.1 feet to house and 19 feet to porch, 4.2 feet and 16.9 feet; and Section 5.2.5 to increase the lot coverage and total floor area from 20% and 40%, currently 24% and 22.4%, proposing 27.6% and 49%. Permission to construct a 2nd floor with attic, a rear 2 ½ story and front porch additions, and make the home FEMA compliant and a detached one car garage. Premises: A Zone

879 Riverside Drive (continued)

Attorney Andrew Gale presented on behalf of the petitioner. Michael Puff, Bill Leavy, and Lorinda Gale also spoke.

This is a pre-existing, non-conforming lot in a FEMA Flood Zone; we are making the home FEMA compliant, filling in the basement. It is non-conforming on lot size, lot frontage and lot sf. It is just under 57% of the conforming lot size, current lot coverage is 24%, we are only asking for an additional 3.6%. We are using the existing footprint which reduces the current interior space based on the existing 2x4 walls which by code now have to be 2x6 walls.

The house was built in 1952 with work having been done without a permit. We are seeking variances that do not increase the side setback. With a conforming lot, a 3,750 square feet house could be built, but we are only asking for 2,608 which includes the garage; 295 sq. ft. coverage and floor area is used for the garage. We are reducing the front street setback based on the porch and steps. We have created a recess at the front of the house to create a better street setback; in the rear we created a recess at the side yard to help with the setback on the left side.

Michael Black, resident at 867 Riverside Drive asked for a condition of approval; Neighbor at 887 Riverside Drive spoke on the application.

GRANTED WITH CONDITIONS: Jane G. Nishball moved and Elise McKay seconded to approve the proposed application. Motioned passed 4 to 1; (Jane G. Nishball opposed) Chairperson, Katie O'Grady, recused herself, Elise McKay, Alternate, sat in.

CONDITIONS: 1) An evergreen barrier will be constructed the length of 60 feet starting from the front of the dwelling to the rear of the lot. 2) Cedar fending will be constructed between driveways.

4. 281 Eastlawn Street, Map 182, Parcel 383. Petition of Anne P. Hamlin for a variance of the Zoning Regulations Section 5.2.4.3 to reduce the side setback for an accessory structure greater than 15 feet in height from 10 feet, proposing 3.5 feet. Permission to construct a FEMA compliant one car garage with finished loft above. Premises: B Zone.

The proposed application was Continued To 2/1/24

5. 939 Redding Road, Map 223, Parcel 45. Petition of Amy Nistico for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback from 60 feet, proposing 39.1 feet. Permission to construct a detached garage with an accessory apartment. Premises: AAA Zone.

David Pramer, homeowner, presented.

They have a legal non-conforming lot as it relates to size and shape, along with a brook that runs through the middle of the property. They received prior variance approval in August of 2022 for a garage and accessory apartment. Since then, the mapping of the wet land soils has changed and they decided to relocate the structure to the front portion of the property, further away from the brook and wetland soils. They have an application in with the Conservation Department and they fully support the relocation of the structure.

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

6. 236 Sherwood Farm Road, Map 176, Parcel 26D. Petition of Jeannine Davanzo Thomas and Craig M. Thomas for a variance of the Zoning Regulations Section 5.2.4 to reduce the rear setback for an accessory structure from 40 feet, proposing 33.5 feet. Permission to construct an in-ground pool. Premises: AA Zone

Attorney John Fallon presented on behalf of the petitioner.

The Thomas' carefully considered an appropriate location for the pool which was challenging for reasons relating to unique topographical issues impacting the property. After careful consideration they determined to request a variance of Section 5.2.4 to allow the pool to be set back 33.5' rather than 40' from the rear property line. Moving the pool 6.5 ft. further away from the rear property line would put it directly into extensive rock ledge that exists on the property. In addition, moving the pool in that manner would require demolition of the existing deck stairs. In addition to the matter of ledge any other alternative to move the pool in order to avoid the need for the requested variance is not feasible due to the extreme topography of the property which drops significantly from the house to the lower area of the lot. The current plan does not require any demolition of existing structures or blasting of rock ledge. The Thomas' have already planted a number of arborvitae and intend to further enhance the landscaping. They have reached out to their abutting neighbors to the south (Goodrich) and east (Oaklawn Cemetery Association). They have no objection to the location of the pool as proposed in light of the fact that it will not due to distance and topography have any discernible impact on their properties.

Residential use of this property located in the Residence AA zone is a permitted use which includes accessory uses such as the proposed swimming pool.

The hardship which justifies a zoning board of appeals to grant a variance must be one that originates in the zoning ordinance and arises directly out of the application of the ordinance to unique circumstances pertaining to the property in question. In essence the applicant must show that because of some peculiar characteristics of the property, strict application of the Zoning Regulations results in such unusual hardship. It has long been held by our Connecticut Courts that topographical conditions involving significant changes in grade create a proper basis for a finding of hardship. Other cases have made specific reference to the presence of unusual soil conditions including ledge as a proper basis for a finding of hardship.

In the present case as referenced above the feasible options for locating of the pool were extremely limited and directly impacted by the presence of rock ledge and the severe topography of the property. These factors in accordance with the above referenced caselaw provide a proper factual and legal basis for a finding of hardship to support the granting of the variance requested in accordance with the standards of Connecticut General Statutes 8-6(a)(3).

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

7. 307 Eastlawn Street, Map 182, Parcel 381. Petition of Ann Barham for a variance of the Zoning Regulations Section 5.2.4.3 to reduce the street line setback for an accessory structure from 30 feet, proposing 12.1 feet. Permission to install a spa. Premises: B Zone.

Jeff Attolino, General Contractor, presented on behalf of the petitioner.

307 Eastlawn Street (continued)

His client would like to install a hot tub on the side of the house. The house is a corner lot thus making it subject to two front yard setbacks. The yard is fenced in so it will not be visible.

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

8. 96 Louvain Street, Map 47, Parcel 29. Petition of Ross Heller and Lauren Priefer for a variance of the Zoning Regulations Section 5.2.4 to reduce the two side line setbacks from 15 feet, currently 12.6 feet and 10.7 feet, proposing 12.6 feet and 10.7 feet; and Section 5.2.5 to increase the lot coverage from 15%, proposing 17.1%. Permission to construct a 2nd floor addition with attic and to legitimize an existing shed. Premises: R-3 Zone

Merri Rose Reilly, Architect presented on behalf of the petitioner.

After performing due diligence, it was determined that the shed on the property was not properly permitted. This parcel is an existing undersized, non-conforming lot. The proposed 2nd story addition encroaches no further than the existing house sits. Any work done on the home in the front or side will incur a ZBA application due to the location of the existing house.

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

9. 481 Riverside Drive, Map 130, Parcel 46. Petition of Kathleen O'Grady for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback from 30 feet, currently 37.5 feet, proposing 20.3 feet; and Section 5.2.5 to increase the lot coverage and total floor area from 20% and 40%, currently 17.8% and 16.2%, proposing 20.9% and 42.4%. Permission to construct a 2 ½ story FEMA compliant single-family dwelling. Premises: A Zone

The proposed application was Continued To 2/1/24

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


Jane Gitlin Nishball, Secretary


Jodi Karagianes, Clerk

BRIAN AVALLONE, CHAIRMAN

JANE GITLIN NISHBALL, SECRETARY

JODI KARAGIANES, CLERK