

ZONING BOARD OF APPEALS
MEETING MINUTES OF JULY 12, 2023

The Zoning Board of Appeals held a meeting on Wednesday, July 12, 2023 at 2:00 pm. Executive Session started at approximately 1:45 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/meetingrecordings>

MEMBERS PRESENT: Kevin Coyne, Chairman, Terry Keegan, Vice Chairman, Jane G. Nishball, Secretary, Brian Avallone

MEMBERS ABSENT: Katie O'Grady

ALTERNATE MEMBERS PRESENT: Elise McKay, Alternate, sat in place of Katie O'Grady

EXECUTIVE SESSION

1. Approval of Minutes of Wednesday, July 12, 2023: Brian Avallone *moved* and Jane G. Nishball *seconded* to approve the minutes as presented. *Motion passed unanimously.*
2. Approval of Secretary's Fees: Terry Keegan *moved* and Elise McKay *seconded* to approve the secretary's fees as presented. *Motion passed unanimously.*

CONTINUED DOCKET:

9. 785 Riverside Drive, Map 139, Parcel 269. Petition of Pierre Menozzi for a variance of the Zoning Regulations Section 5.2.4 to reduce the sum of two side lines and the street line setbacks from 25 feet and 30 feet, currently 19.8 feet and 29.7 feet, proposing 19.8 feet and 29.7 feet; and Section 5.2.5 to increase lot coverage and the total floor area from 20% and 40%, currently 23.2% and 21.7%, proposing 22.1% and 46.3%. Permission to make the dwelling FEMA compliant and construct a new 2nd floor with attic above, over the existing footprint. Premises: A Zone

Pierre and Carrie Menozzi presented on their behalf.

They wish to construct a 2nd floor addition with an attic above the existing floor. They are in a Residential A Zone that requires a minimum lot size and square of 9,375 sq. ft. and a 75' square. The lot only has a lot size of 5,841 sq. ft. and a square of 44.8 feet. They are reducing their lot coverage from 23.2% to 22.1% and are making their non-FEMA compliant home FEMA compliant which is why they are exceeding their total floor area, to have additional space above the base flood elevation for mechanicals.

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

13. 309 Hunyadi Avenue, Map 77, Parcel 307. Petition of Sandra Rivera and Juan Fernando Cortes Herrera for a variance of the Zoning Regulations Section 5.1.1 to reduce the lot size for a two-family dwelling from 9,000 sq. ft., proposing 7,500 sq. ft. Permission to construct a 2-family dwelling. Premises: B Zone

The proposed application was Withdrawn

GENERAL DOCKET:

1. 87 Oldfield Road, Map 182, Parcel 197. Petition of Mark & Suzanne Potter for a variance of the Zoning Regulations Section 5.2.4.3 to reduce the side and rear setbacks for an accessory structure from 10 feet, currently 4.3 feet & 5.5 feet, proposing 4.3 feet and 5.5 feet; and Section 5.2.5 to increase lot coverage from 20%, currently 21.82%, proposing 22.01%; and Section 6.2 to allow an accessory apartment be located in a detached structure. Permission to construct a 2nd floor addition to a detached garage and connect to an accessory apartment. Premises: A Zone

Attorney Chris Russo presented on behalf of the petitioner. Mark Andrea, architect, also spoke.

They would like to build a detached ADU on the footprint of the existing garage. The current single-story, detached building would be converted to a two-story, carriage house type structure. The first floor would have an entryway mudroom as well as a fully functioning two-bay garage. The second floor would be a self-contained, one-bedroom apartment measuring 592 sq. ft.

The zoning code in the town of Fairfield currently does not allow for the construction of a detached ADU in zone "A". However, many homes throughout the zone have detached garages which may be suitable for the conversion to a detached ADU. Offering variance consideration on a case-by-case basis in these situations would not only support the town's long-term goals in the area of affordable housing but will also result in enhanced property values and tax revenues. We believe strongly that the construction of a detached, carriage house type structure, as our plans call for, would be consistent with our efforts over the years to beautify and improve this property. Conversely, we believe just as strongly that an attached ADU on this property would not only be inconsistent with the original design of the main house but also with our values as caretakers of the property for the past 27 years.

With respect to the variance relating to building height and property-line setbacks, it's important to note that the immediately adjacent neighbors located at 71 Oldfield Road and 33 Smith Street support the project based on a plan to build on the footprint of the existing garage. Our garage is located in a position that doesn't interfere with these neighbors' sightlines or create any sense of "enclosure". Relocating the proposed ADU to comply with the 10-foot minimum setback would change this dynamic considerably. In addition, moving the building to the West would reduce the overall area of our driveway and negatively impact space for off-street parking.

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

2. 81 Highlawn Road, Map 77, Parcel 616. Petition of David Masliah for a variance of the Zoning Regulations Section 5.2.5 to increase the total lot coverage from 20%, currently 22.34%, proposing 22.32%. Permission to construct a detached 12' x 18' shed. Premises: A Zone

David Masliah, owner, presented on his own behalf.

He would like to construct a 12'x18' storage shed on a concrete slab in the backyard. There was a pool and deck that had been removed from the property which unfortunately had not been permitted. This prompted the need for a variance for the addition of the shed as it exceeded the maximum square footage of lot coverage allowed.

GRANTED: Brian Avallone moved and Elise McKay seconded to approve the proposed application. Motion passed 4 to 1 (Jane G. Nishball opposed).

3. 50 Exchange Place, Map 40, Parcel 427. Petition of Herbert M. & Lilian C. Veliz for a variance of the Zoning Regulations Section 5.2.4 to reduce the rear setback from 20 feet, currently 14.6 feet, proposing 14.6 feet. Permission to create a separate building lot and allow the existing home to remain. Premises: B Zone

Attorney Bill Fitzpatrick presented on behalf of the owners.

The intent of the applicants, given the oversized nature of the property, is to divide the property into two conforming single-family building lots. Proposed Lot 1 will include the existing dwelling and will contain 6,732 square feet, in excess of the Residence B minimum lot area of 6000 square feet. Proposed Lot B will contain 7,032 square feet, again in excess of the Residence B minimum lot area of 6,000 square feet. The current home's location and construction preceded the enactment of the current Zoning Regulations and its location is legally nonconforming.

The side yard setback of the existing house, to the north, is 14.6 feet and satisfies the Residence B side yard setback of 5 feet. Since the property is located on a corner, the owner is permitted to designate one property line as a side setback and another property line as a rear setback. This property utilizes, at present, the northerly property line as the side yard setback because both the side and rear setbacks would then conform to zoning. To accomplish the proposed division of the property, the present side yard must become the rear setback and the present rear setback will become the side setback. The proposed side setback will be 9.9 feet which conforms to the Residence B requirement of 5 feet. The present side yard setback of 14.6 feet, to the north, becomes the rear setback, which requires the variance request before the Board because the rear setback requirement is 20 feet. This variance request is essentially a technical variance. There is no change in the location or the footprint of the existing home. The existing home is 14.6 feet from the neighbor to the north and will continue to be 14.6 feet from the neighbor to the north. The only thing that is changing is the technical designation of the existing northerly setback from a side setback to a rear setback.

It should be noted that there is no overbuilding on proposed Lot A. The lot coverage ratio proposed is 8.9% when a lot coverage of 30% is permitted in the Residence B zone. Similarly, the proposed floor area ratio is 26% when a floor area ratio of 50% is permitted in the Residence B zone. The approval of this variance request changing the designation for a zoning setback from a side property line setback to a rear property line setback, without any change in the location or configuration of the existing single-family home, permits the division of this oversized property into two conforming lots and provides the opportunity for an additional housing unit in the Residence B zone.

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

4. 157 Fern Street, Map 139, Parcel 164. Petition of Matthew S. Grande for a variance of the Zoning Regulations Section 5.2.5 to increase the lot coverage and total floor area from 20% & 40%, currently 19.98% & 39.98%, proposing 22.9% & 42.5%. Permission to construct a one-story addition with landing and stairs. Premises: A Zone

Attorney John Fallon presented on behalf of the owner. Edmond Clemente, architect, was also present.

As shown on the plans submitted herewith the two-story addition will allow for an expansion of the kitchen and living area on the first floor. On the second floor a balcony with a roof is proposed. Including the balcony ensures that the proposed addition will be aesthetically pleasing and in harmony with the neighborhood's character.

157 Fern Street (continued)

The property is located in the Residence District A. It is a pre-existing and legally protected non-conforming lot as to both lot area and shape. Present provisions of the Regulations establish the minimum lot area in the zone as 9,375 sq. ft.; the Grande lot contains only 8,348 sq. ft.

The granting of the variance will not change the use of the property which will remain a single-family residence as explicitly permitted in the zone. Other than the modest variances requested for coverage and total floor area no other variances are sought and the proposed addition will comply with all other technical requirements of the Regulations.

Regarding hardship, the controlling legal fact is that the lot in question is a valid and legally protected non-conforming lot as it relates to the lot area requirements. Pursuant to the provisions of Connecticut General States 8-2, the lot is a valid and legally protected preexisting nonconforming lot. Nonetheless, the 20% coverage requirement and 40% FAR requirement applicable in the zone must be calculated based upon a lot area 1,027 sq. ft. less in size than the minimum required in the zone. It has been previously held by our Supreme Court that where a property is a valid nonconforming lot with regard to lot area, sufficient hardship to support the granting of a variance with regard to coverage and total floor area is established because the application of those regulations effects the property and its protected nonconforming status in an adverse manner. Indeed, notwithstanding the significant nonconformity of the lot the variance request pertaining to coverage is only 2.9%, and 42.5% regarding total floor area. Our case law establishes that strict application of the Zoning Regulations regarding coverage and total floor area to this nonconforming lot does result in unusual hardship sufficient to support the granting of the variances requested.

GRANTED: Brian Avallone moved and Terry Keegan seconded to approve the proposed application. Motion passed 4 to 1 (Jane G. Nishball opposed).

5. 729 Reef Road, Map 183, Parcel 115. Petition of Moe Rental, LLC. for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback on a corner lot from 17 feet, currently 16.3 feet, proposing 16.3 feet. Permission to construct a 2nd floor addition with attic over existing 1st floor. Premises: B Zone.

Dean Kardamis, owner, presented on his behalf.

He would like to construct a second-floor addition with attic space above, over the existing first-floor footprint. The dwelling is currently a legal non-conforming structure that sits inside the secondary street line setback of 17'. The existing setback is 16.3 feet and they would like to construct only over the first floor, which will maintain the existing non-conforming street line setback. It complies with all other setbacks, FAR and lot coverage. The one issue the house was built 7" too close to Sandy Lane back in 1958 when constructed. This is a 7" setback issue on one street line setback. There are no other variances requested as the rest of the project is in compliance with all other regulations.

Neighbors he spoke with had concerns not related to this variance. Other neighbors sent emails in opposition.

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

6. 399 South Benson Road, Map 139, Parcel 218. Petition of Lauren and John Aber for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback on a corner lot from 30 feet, currently 11.1 feet, proposing 24.4 feet. Permission to construct a dormer in the attic. Premises: A Zone.

Lauren Aber, owner, presented on her behalf.

They wish to construct an attic dormer consisting of a primary bedroom and bathroom. Their house was built in 1904, before setback and zoning laws were put into place.

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

There being no further business to come before the Commission, at 3:30 p.m. Chairman Coyne adjourned the meeting.


Jane Gitlin Nishball, Secretary


Jodi Karagianes, Clerk

KEVIN COYNE, CHAIRMAN

JANE GITLIN NISHBALL, SECRETARY

JODI KARAGIANES, CLERK