

ZONING BOARD OF APPEALS  
MEETING MINUTES OF AUGUST 2, 2023

The Zoning Board of Appeals held a meeting on Wednesday August 2, 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 Chair, Jane G. Nishball, Secretary, Katie O'Grady, Brian Avallone

EXECUTIVE SESSION

1. Approval of Minutes of Wednesday, July 12, 2023: Jane G. Nishball *moved* and Katie O'Grady *seconded* to approve the minutes as presented. *Motion passed unanimously.*
2. Approval of Secretary's Fees: Katie O'Grady *moved* and Jane G. Nishball *seconded* to approve the secretary's fees as presented. *Motion passed unanimously.*

Executive Session started at approximately 1:45 p.m.

CONTINUED DOCKET:

**11. 750 Post Road, Map 141, Parcel 80. Petition of 750 Post Road Associates, LLC to reverse or modify the decision of the zoning administrator. Permission to reverse the decision to issue a zoning permit. Premises: DCD Zone**

*The proposed application is continued to 9/7/23*

GENERAL DOCKET:

**1. 46 Sleepy Hollow Road, Map 125, Parcel 271. Petition of Vincent and Lauren Defina for a variance of the Zoning Regulations Section 5.2.4 to reduce the sum of two side line setbacks from 25 feet, currently 45.4 feet, proposing 21 feet. Permission to construct a two story addition with attic. Premises: A Zone.**

Attorney John Fallon presented on behalf of the petitioner. Vinny & Lauren Defina, owner, and Ed Clemente, architect were also present.

The Defina's are requesting approval to reduce the total of the side property line setbacks from the required 25 ft. to 21 ft. pursuant to Section 5.2.4 of the Zoning Regulations. They have designed their new home with sensitivity to and respect for the substantive zoning regulations which will otherwise be in total compliance including those pertaining to lot coverage and maximum building floor area. It is their intention to utilize the existing foundation as part of their proposed new residence which will include the dwelling and an attached garage with room above. Taking into consideration the location of the existing foundation and their wish to accommodate an attached garage requires the modest variance that is requested pertaining to the total side property line setbacks. It is the location of the existing foundation and its utilization in the new construction that creates the need for the side yard setback variance requested.

46 Sleepy Hollow Road (continued)

The construction proposed will be attractive in design and harmonize with the character of the neighborhood, it will represent a significant architectural enhancement to the property benefitting the surrounding neighborhood. The design is respectful of the regulations pertaining to coverage and total building floor area which will be in compliance with the provisions of the Regulations.

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

**2. 51 Nichols Street, Map 182, Parcel 705. Petition of Rosemarie and Michael Strickland for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback on a corner lot from 20 feet, currently 16.7 feet, proposing 16.7 feet. Permission to construct a 2<sup>nd</sup> floor addition with attic and to make the home FEMA compliant. Premises: B Zone.**

Owner, Mike Strickland presented.

They would like to construct a 1573 sq. ft. addition, adding a second story to their current one story home. The addition would include 3 bedrooms, 2.5 baths, an office and laundry room on the second floor. The home will be updated to conform with current FEMA regulations. The dwelling is pre-existing, and non-conforming based on current setbacks. To maintain structural integrity, they would like to construct over the current footprint.

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

**3. 3 Sedan Terrace, Map 31, Parcel 54. Petition of Matthew and Angela Peccini for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback from 30 feet, currently 21.6 feet to open porch and 18.9 feet to stairs, proposing 21.6 feet to addition, and 18.9 feet to stairs. Permission to construct a one-story addition with open front porch and stairs. Premises: A Zone**

Owner Matt Peccini presented. Greg Keogh, builder spoke in favor of the application and explained further the hardship and why it was necessary. The three-season room that allowed main entry into the home was damaged by a fire. Without that structure, a ladder would be needed to get into the home. By not replacing that and staying within the same footprint, they would not have the access they need to get into the home. The stairs are what is triggering the variance.

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

**4. 284 Berkeley Road, Map 42, Parcel 150. Petition of Linda Chan for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback from 20 feet, currently 0.9 feet, proposing 15.09 feet; and Section 2.8.1.1 to expand a non-conforming second dwelling located on one lot. Permission to construct a dormer in the attic. Premises: B Zone.**

Jim Greenberg, contractor, presented on behalf of the petitioner.

The owner would like to construct a dormer on the right side of the house approximately 11 feet in width in order to create legal headroom to the 3<sup>rd</sup> floor for two bedrooms. The footprint nor the height of the roof line will change. The home was built in 1912 predating the current zoning regulations. The variance would be for the front yard setback of 15 feet where 20 feet is required.

284 Berkeley Road (continued)

Jim Salce, neighbor at 300 Berkeley Road spoke in favor of the application.

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

**5. 229 Adley Road, Map 49, Parcel 36. Petition of Michael and Rachael MacDonald for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback from 40 feet, currently 32.3 feet, proposing 32.3 feet to house and 28.1 feet to open front porch; and to reduce the side line setback from 15 feet, currently 52.3 feet, proposing 13.6 feet. Permission to construct a one story, and two story additions and open front porch. Premises: R-3 Zone.**

Attorney John Fallon presented on behalf of the petitioner. Ed Clemente, architect was also present.

The proposal consists of a first-floor addition on the southerly side of the property which will simply fill in an area on the first floor over which the second floor already projects. The existing house is nonconforming to the street setback at 32.3' and the first-floor addition will be "squared off" so that it will maintain the same street setback. On the northerly side of the property, a proposed two-car garage replacing an existing one-car garage is proposed with a family room above as shown on the plans.

The property is located in the Residence R-3 zone and is a legally protected preexisting nonconforming lot as to both lot area at 14,700 sq. ft. and minimum lot square at 98 ft. wherein the zone requires a minimum lot area of 20,000 sq. ft. and a square of 100 ft. The proposal will comply with the provisions of the Regulations regarding lot coverage at 13.5% (15% is allowed) and maximum building floor area at 26% (30% is allowed).

In order to facilitate the proposed additions, the MacDonald's request a variance of Section 5.2.4 to reduce the street line setback from 40 ft. to ft. As indicated above the first-floor addition will not extend further into the street setback than the existing structure. A proposed porch which will have a significant aesthetic benefit to the property is also proposed and a variance for the street setback to 28.1% is requested with regard to the porch. In addition, a variance to reduce the side property line setback from 15 ft. to 13.6 ft. to accommodate the new functional two-car garage structure with family room above is also requested. After the completion of the additions, the MacDonald residence will conform in all other respects with the applicable provisions of the Zoning Regulations including coverage and total floor area notwithstanding the significant nonconforming status of the lot as it relates to lot area.

The granting of the variances will not change the use of the lot which will remain as a single-family residence explicitly permitted in the zone. Other than the variances requested for setbacks no other variances are sought and the proposed additions will comply with all other technical requirements of the Regulations, including those pertaining to coverage and floor area ratio. The proposed additions as designed by Edmond Clemente harmonize with the character of the neighborhood and represent a significant aesthetic enhancement to the property benefiting the surrounding area.

The existing MacDonald house is presently a legally protected preexisting nonconforming structure with regard to the street setback from Adley Road as the home was constructed in 1950 and is located 32.3 ft. from the street line. The variances requested arise from circumstances relating to the location of the existing structure on the property. It has long been held by our Connecticut courts that the historic location of a legally protected preexisting nonconforming structure on a lot creates a proper basis for finding of hardship. It is in fact the historic location of the existing dwelling and its already non-conforming status that creates the need for the variances that are requested.

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

**6. 142 Moritz Place, Map 77, Parcel 592. Petition of Tanya Kaplan for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line and sum of two side line setbacks from 30 feet and 25 feet, currently 19.9 feet and 24.5 feet, proposing 19.9 feet and 24.5 feet. Permission to construct a two story and 2<sup>nd</sup> floor additions. Premises: A Zone.**

Owner, Tanya Kaplan presented the application.

They wish to construct a 10.9' x 35.3', two-story addition to the front of our home, replacing an open porch with roof. The first floor will consist of a family room and dining room. The second floor will consist of a master bedroom, bathroom, and additional bedroom.

This is a pre-existing, non-conforming lot. The proposed addition builds on top of the already existing property of the house.

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

**7. 75 Cider Mill Lane, Map 177, Parcel 182-F. Petition of Marisa and Robert Viola for a variance of the Zoning Regulations Section 5.2.4.3 to reduce the rear setback for an accessory structure that is greater than 100 sq. ft. from 40 feet, proposing 13.8 feet. Permission to construct a one story pool house. Premises: AA Zone.**

Owner, Robert Viola presented the application.

They wish to build a 20'x22' pool house behind an existing pool and adjacent to an existing detached garage. The structure will be a single story and serve as a general-purpose recreation room, changing space, eating and storage area. It is their intent to mirror the saltbox style of the existing detached garage.

The appeal is being requested as the placement of the proposed structure does not meet the rear yard setback requirement of 40 feet. Based on the placement of the structure, the rear yard setback would be 13.8 feet at the shortest point.

The existing primary dwelling, swimming pool and detached garage are all legal, non-conforming structures that, based on their existing placement and orientation on the lot, severely limit other suitable locations to construct the proposed structure without impacting its functionality, and/or creating additional non-conformities. In addition, the lot has slightly less area than the requirement for Zone AA lots (current lot size of 39,943 sq. ft. +/- vs. a required lot size of 43,560 sq. ft.), which, when combined with the triangular lot shape makes it difficult to simultaneously maintain the necessary rear and side yard setbacks as conforming with the side yard requirement.

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

**8. 111 Adley Road, Map 47, Parcel 322. Petition of FGB II, LLC for a variance of the Zoning Regulations Section 5.2.4 to reduce the street line setback from 40 feet, currently 30.2 feet, proposing 32 feet. Permission to construct a new 2 ½ story, single-family dwelling. Premises: R-3 Zone.**

Jennifer Tierney, architect, presented on behalf of the petitioner.

They would like to demolish the existing dwelling and build a new 2 ½ story home. The R-3 zone has a minimum lot size requirement and lot square of 20,000 sq. ft. and 100-foot square. This lot consists of 13,468 sq. ft. and square of 90 feet. This property butts up to Lake Mohegan and the rear of the property has a 14 ft. drop off; to push the house back on the lot would compromise the structure as well as limit the use of the rear of the property.

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

**9. 60 Katona Drive, Map 76, Parcel 250. Petition of Katfield, LLC for a variance of the Zoning Regulations Section 12.4.18 to allow residential use to be located on the 1<sup>st</sup> floor and to exceed 50% of the building's total floor area; and Section 12.7.6.4 to reduce the setback from an adjacent residence district from 30 feet, currently 24.99 feet, proposing 24.99 feet. Permission to modify the existing commercial building and convert to 100% residential use. Premises: DCD Zone.**

Attorney John Fallon presented on behalf of the petitioner. Alex Esposito, architect was present; landscape architect Eric Rains was also present via Webex.

Market conditions over the last few years, including the challenges of the pandemic, have had a significant impact on the commercial real estate market most especially as it relates to demand for office space. These impacts have required Katfield LLC to explore alternative uses for the building located on the property. It has been determined after significant investigation and consideration that residential use is highly preferable in that it will provide an appropriate transition between the commercial district of Black Rock Turnpike and nearby residential neighborhoods.

Initially it was suggested by many that an Affordable Housing Development pursuant to Connecticut General Statutes 8-30g would be the most advantageous way to proceed. In this regard, options were presented to the owner that included a four-and-a-half-story structure containing 32 units and a five-and-a-half-story structure with 40 units. After consideration, however, and in light of the property owner's long term relationship with this neighborhood community it was determined that it did not wish to pursue such an intense development of the property even though state law would permit it. Thus, as an alternative Katfield has worked diligently over the last year with our professional development team on a proposal whereby utilizing the existing structure and doing significant architectural enhancement to its exterior we will modify the building to accommodate 18 luxury residential units as shown on the plans submitted herewith. The development will consist of four (4) two-bedroom units, two (2) studio units, and twelve (12) one-bedroom units. As shown on the site plan submitted herewith 44 parking spaces are provided. Contingent upon the approval of the variances requested the proposal will require approval by the Town Plan and Zoning Commission of a Special Permit and Site Plan. In accordance with the authorization provided in Section 28.6.1 of the Zoning Regulations the applicant will seek approval of the 44 spaces as proposed based upon the fact that the regulation provides that with regard to residential use in the commercial district the residential parking requirement may be reduced by up to 50%. The Applicant's proposal substantially exceeds this 50% allowance and the Applicant is confident that based upon the unit mix as proposed 44 spaces will be more than sufficient to accommodate the needs of residents and their guests. In fact, the utilization of the property exclusively for residential use will have far less impact with regard to traffic and parking demands than the previous office use. Katfield is very excited about this plan and believes it will address the need to adopt the use of the building due to changing market conditions while also being reasonable and sensitive to considerations of our neighbors.

The property is located in the Designed Commercial District. In order to facilitate this redevelopment plan the Applicant requests a variance of Section 12.4.16 to increase the percentage of residential use of the structure from 50% to 100% and to allow residential use on the ground floor of the building. A variance of Section 12.7.6.2 is also requested in order to allow the side property line adjacent to the residential district to remain at 24.99 ft. It

60 Katona Drive (continued)

should be pointed out that this is an existing condition and that the footprint of the building will not be enlarged and the setback from the residential zone boundary will not be decreased. It should be noted that all other provisions of the Zoning Regulations will be complied with including those pertaining to lot coverage which will increase minimally from 24.26% to 24.87% (a net increase of 236 s.f.) when the zone allows coverage of up to 75% and maximum floor area which will be 63% although the Zone allows FAR of 150%. The building will be two and a half stories at a height of 37', very much in keeping with the character of other structures in the District and also well under the allowance in the District of four stories and 40 feet. In the present case, residential use is permitted in the zone pursuant to Section 12.4.18. In addition, residential uses abut the subject property and the proposed residential redevelopment of this parcel is consistent with adjacent residential uses and will provide an appropriate transition between the commercial district and the residential properties that abut. The exterior facade improvements as designed by Alex Esposito, A.I.A are aesthetically attractive and will enhance the appearance of the property thereby having a beneficial impact on surrounding property values, both residential and commercial. The hardship that 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 particular- regulations in question to circumstances or conditions existing. Strict enforcement of the zoning regulations with regard to the percentage of residential use and ground floor occupancy for residential use clearly creates a hardship not only to the applicant/property owner but also to the neighborhood in that residential use and repurposing of the existing structure to allow for total residential occupancy will be consistent with the characteristics of the adjacent residential district while providing a sensitive transitional use between the existing commercial uses on Black Rock Turnpike and the adjacent residential district.

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


**10. 53 Unquowa Place, Map 180, Parcel 235. Petition of Jocko Enterprises, LLC for a variance of the Zoning Regulations Section 12.7.6.1 and 12.7.6.2 to reduce the street line and side line setbacks from 10 feet and 10 feet, currently 5.3 feet and 3.8 feet, proposing 5.1 feet and 5.8 feet. Permission to construct an open front porch and 3<sup>rd</sup> floor dormers with rear fire escape. Premises: CDD Zone**

Camille Giacomazza, owner, presented.

The building was constructed in 1904 and is non-conforming as to setbacks and parking requirements. The conversion to an upper-level apartment will reduce the parking demand by 5 spaces. They wish to construct a porch on the front of the building as well as two attic dormers. The stairs will be built into the porch as opposed to into the walkway. The purpose is to soften the look of the front of the building and make it more inviting to commercial foot traffic. They wish to create a pleasant arrival to the building from the street and give some protection from the weather.

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

There being no further business to come before the Commission, at 3:45 p.m. Chairman Coyne adjourned the meeting.

  
Jane Gitlin Nishball, Secretary

  
Jodi Karagianes, Clerk

**KEVIN COYNE, CHAIRMAN**

**JANE GITLIN NISHBALL, SECRETARY**

**JODI KARAGIANES, CLERK**