

**CITY OF NORWALK
REGULAR MEETING
ZONING BOARD OF APPEALS
MINUTES - OCTOBER 21, 2021**

ATTENDANCE: Lee Levey, Chairman; Keith Lyon; Andrew Conroy; Chris Gavrielidis; Tad Diesel

STAFF: Tammy Maldonado; Michelle Andrzejewski

OTHER: Jocelyn Smith; Atty. Liz Suchy; Atty. Nicholas Vitti Jr.; Andrew Carrs; William Beausoleil;

CALL TO ORDER

Chairman Levey called the meeting to order at 7:30 P.M. There was a quorum present.

ROLL CALL

Chairman Levey performed the roll call. He reviewed the meeting protocol for those present. He stated that item number 21-1021-02 had been pulled from the agenda by the applicant and the applicant would not be presenting this meeting.

PUBLIC HEARINGS

21-1021-01

MARY KEBBON – VARIANCE OF SETBACK REQUIREMENTS FOR DETACHED ACCESSORY STRUCTURE (PROPANE TANK) ON A CORNER LOT IN A RESIDENCE ZONE. PROPERTY LOCATED AT 34 GLEN AVE.

There is an existing non-conformity for this item but a hardship has not been identified.

Mr. William Beausoleil came forward to discuss this item. He is a general contractor who has installed multiple auxiliary generators. Due to the size of the lot, and the way the house in the shed is built, it would be virtually impossible to have the tank behind the house. A survey and site plan has been by the engineering firm. He provided photos for the Board.

If placed on the back side of the house it would be very close to both the side and the back line. From a zoning standpoint, the front of the house is on Glen Avenue. They are working with the engineer and have tried to take all things into consideration. This includes a number of separating distances required from the tank to any source of ignition, the generator itself is considered a source of ignition, and needs to have to have a separating distance. The generator needs to have separated distances from the house.

There are windows surrounding the house which causes problems for this. They felt the best location was on the east side of the house. The reason being there is a large stand of very large and older evergreens there. The tank would be mostly hidden by the trees and go be substantially lower than them meaning it would be fundamentally hidden from Glen Avenue. He provided a map with elevation lines for the Board.

The tank is located on an area that's approximately six feet below the elevation of the ground at the side of the house. The planning of trees for further viewing obstruction could be performed at the pleasure of the Board. It will not be a vertical tank and there will not be a series of standing tanks. Putting it above ground and then digging from east to west, they will not be cutting across any of the roots from the large evergreens. They do not want to damage the evergreens. They have dealt with two gas companies for this project and both made the same point. Their preference would be to not have to park on Glen Avenue. For hardship they have relatives who are going to be visiting from out of state and there is a life safety issue as a result.

Chairman Levey asked why they were not considering burying the tank.

Mr. Beausoleil said they were concerned about cutting the tree roots. There were also concerns about the overhead line and proximity to the neighbors who are also close to the line. The current location will make it as far away from any neighbors possible.

Chairman Levey asked if they would plant screening to cover the tank at request.

Mr. Beausoleil said the tank would not be that visible but they would be willing to do so. They welcomed input and were willing to submit a planting plan for approval.

Chairman Levey pointed out that it would not be the Zoning Officials who needed to approve but the Zoning Board of Appeals.

Mr. Beausoleil said he would request the Board approve the installation subject to an approved planting plan.

Mr. Diesel asked why they could not use a solution that would not require approval by the Board. As such he did not understand the hardship presented.

Mr. Beausoleil said that they couldn't do it without physically removing multiple structures on the property. While it could legally be done it good solution and tears up what little backyard they have and the only privacy they've got. As such it would not be possible to do it in a reasonable manner and end up with something that's a credit to the value of the house or the neighborhood. The other option is a smaller tank and then the truck would be coming in more often to refuel.

It was noted that there is already a working system of heating and distribution now that did not require a variance.

Mr. Beausoleil said that they needed the auxiliary generator because of the older parents' family issues. He noted that other options that would be doable would be unsightly. This would cover the need for the backup generator. The hardship is that they can't get the tank into the rear quarter. This would not be the best use of land.

The question of if the tank would kill the trees was raised.

Mr. Beausoleil said that they would need to dig a trench for an underground tank and that would go right through the trees.

Mr. Lyon asked if they had discussed alternatives with the client.

Mr. Beausoleil said that he had a personal relationship with the clients and they had asked him and he had discussed alternatives with them. No other options were deemed viable.

Mr. Lyon said that the 1,000-gallon tank was enormous and could be moved into a shed or buried. As such other options existed and he did not see a hardship. While it may be inconvenient there were other alternatives that did not constitute a hardship.

Mr. Beausoleil said they were willing to downsize to 500 but that would mean it would need to be refilled twice as often.

No one wished to speak in favor of this application.

No one wished to speak in opposition to this application.

Mr. Beausoleil said that they had done their best to come up with a solution relative to the neighbors, lot, and location. They had done their best to hide it and were willing to do landscaping around it to better hide it.

Ms. Andrzejewski said they had not received any communication but had received confirmation of proof of mailing.

21-1021-02

LEONARDO FINO – VARIANCE OF NUMBER OF STORIES; 2 ½ ALLOWED, 3 ½ EXISTING AND PROPOSED AND VARIANCE TO ALLOW PARKING WITHIN THE FRONT SETBACK FOR EXISTING SINGLE-FAMILY RESIDENCE IN B RESIDENCE ZONE. PROPERTY LOCATED AT 34 BURRITT AVE.

This item was pulled.

21-1021-03

JOCELYN SMITH – VARIANCE TO ALLOW PARKING WITHIN THE FRONT SETBACK AND VARIANCE OF FRONT SETBACK REQUIREMENT; 40' REQUIRED, 22.2' PROPOSED FOR ADDITION TO EXISTING SINGLE-FAMILY HOME IN A RESIDENCE ZONE. PROPERTY LOCATED AT 22 HILLANDALE MNR.

Ms. Jocelyn Smith came forward to discuss this item. She provided pictures for the Board.

Atty. Nicholas Vitti Jr. came forward to discuss this item. All neighbors adjacent to the property and the two across the street have been notified. All three neighbors have confirmed in email to the zoning staff of this and are in support of the application. There is a fence that shields the residential nature of this neighborhood slightly. He provided an overview of the history of the property. The property was damaged in August 2020 and he offered a video of that damage. It rendered a portion of the house unusable and in need of a rebuild.

A contractor has been hired to rebuild a portion of the house that was damaged. They wish to eliminate the crawl space and replace it with that of a two-car garage. The crawl space was knocked down in the storm. They wish to replace it with a structure of larger size which has gone up vertically providing more livable space to the family. Underneath is a two-car garage. This will lessen one of the non-conformities with the property. Right now, parking is right here in front of the house completely in the front yard setback. Parking will now be to the side, underneath the home further back in the front setback line.

The Smiths were unaware of the zoning regulations and their contractor began construction. The City issued a cease-and-desist order and notified the Smiths that, for what they thought sought to do, variants would be needed. Construction has been at a standstill.

The application is one for two variances; one of which is under Section 118-330 and the schedule of limiting height and bulk of buildings in a residential zone to vary the 40-foot front yard setback. The second variance request is of Section 118-1220-J which calls for parking to be located behind the front yard setback.

The requisite hardship is that this lot is an undersized lot in a residence-A zone by nearly 2000 square feet. The second the lot and structure were preexisting and legally non-conforming. When the house was constructed, it was compliant with a 30-foot setback. Currently there is a 40-foot setback. Third, there is that there is a city property adjacent to the property.

Atty. Vitti reviewed the property lines and their history for the Board. They complicate the setback because of the City property. The Smiths are not looking to further encroach into the front yard setback. There is a legal argument to be made that that second variance sought, in which the parking can't be set in the front yard setback, is not even needed, but it will decrease the nonconformity.

If this was property owned by the Smiths there would be over a 40-foot setback to the curb cut to the house. There is the possibility of an alternate plan that creates an issue. The sketch was presented without any analysis, or feasibility statement as to the buildability of the sketch. It has been confirmed with the contractor that the functionality of that alternative is not viable. It would be awkward and non-aesthetically pleasing and the setup and construction would be extremely difficult.

Atty. Vitti provided letters to the Board from Mr. Philip Grabowski on Hillandale Manor, Ms. Gail Stone on 19 Tanglewood lane, and Mr. Jose Ortiz and Ms. Peola Ortiz at 17 Hillandale Manor.

Chairman Levey asked if they had discussed with D.P.W. the second drive which is, essentially, a second curb cut.

Atty. Vitti said they had shown the plans and they had not had an issue with them.

Chairman Levey asked if D.P.W. could require the removal of the driveway.

Atty. Vitti said he was not aware of if they could do so.

Chairman Levey asked if the question had been raised during the meeting.

Atty. Vitti said he hadn't raised it.

Ms. Maldonado said there was the possibility of an alternative plan being used but they had not been reviewed.

Mr. Lyon noted that the garage, in of itself, was reducing the non-conformity.

Chairman Levey noted that the elevations indicated two garage doors but the floor plan only showed one car parking.

Atty. Vitti noted that that wasn't the intent the door needs to conform to fire code, the 5/8 fire sheetrock between the stairwell in the house, and the stairwell leaves the 19-foot clearance that is needed for the second parking on the right side. These were not indicated and he would resubmit the drawings.

No one wished to speak in favor of this application.

No one wished to speak in objection to this application.

**BOARD ACTION ON: A - C AND REQUEST FOR EXTENSION OF TIME ON 4 BUTTONBALL TRAIL
VARIANCE # 20-0716-03**

There is a request for an additional six months extension of time to obtain the building permits referenced in the variance. The Zoning Board of Appeals approved the project on October 15, 2020 with an effective date of October 23, 2020. Building permits were to be secured by April 13, 2021. The first six months extension was granted with the new permit deadline of October 13, 2021. If an additional six months extension granted building permits must then be obtained by April 13, 2022.

Atty. Liz Suchy came forward to discuss this item. The delays have been COVID related. In addition, there has been problems creating a supply chain, having difficulties creating documents for the project, and financing the project. They will be reconstructing a dwelling in need of repair. If denied they would need to return with an application for the same project. The City code does not limit the number of times an applicant can come to the Zoning Board of Approvals for this request.

Chairman Levey said he did not like giving continual extensions and he hoped that, should it be granted, they do everything to move forward.

**** CHAIRMAN LEVEY MOVED THAT THEY GRANT A SIX-MONTH EXTENSION AND ONLY A SIX-MONTH EXTENSION. UNLESS THE APPLICANT PROVES A TRUE HARDSHIP IN GAINING FINANCING.**

**** MR. LYON SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

21-1021-03

JOCELYN SMITH – VARIANCE TO ALLOW PARKING WITHIN THE FRONT SETBACK AND VARIANCE OF FRONT SETBACK REQUIREMENT; 40' REQUIRED, 22.2' PROPOSED FOR ADDITION TO EXISTING SINGLE-FAMILY HOME IN A RESIDENCE ZONE. PROPERTY LOCATED AT 22 HILLANDALE MNR.

It was suggested that they wait on this item until corrected drawings were submitted. The plan was noted to be acceptable otherwise. They desire to have the drawing resubmitted for the board members to review. This item will remain open until the next hearing.

21-1021-01

MARY KEBBON – VARIANCE OF SETBACK REQUIREMENTS FOR DETACHED ACCESSORY STRUCTURE (PROPANE TANK) ON A CORNER LOT IN A RESIDENCE ZONE. PROPERTY LOCATED AT 34 GLEN AVE.

Chairman Levey noted that there was a lack of hardship. He thought the tank could be buried and the topography allowed for it. The Board was not comfortable with a 1000-gallon tank being in a dense neighborhood. The illegal shed had not been discussed either which would be held in abeyance. The tank would likely last for a year and a half and a smaller one would likely last six months. It would not be a major inconvenience to fill. The aesthetics would also be best handled by putting the tank underground.

Chairman Levey also noted that they have not provided any real alternatives.

- ** MR. LYON MOVED TO DISAPPROVE ITEM 21-2021-01 DUE TO A LACK OF HARDSHIP.**
- ** MR. CONROY SECONDED THE MOTION.**
- ** THE MOTION PASSED UNANIMOUSLY.**

ACTION ON HEARING MINUTES – SEPTEMBER 30, 2021

- ** CHAIRMAN LEVEY MOVED TO APPROVE THE MINUTES AS SUBMITTED.**
- ** THE MOTION PASSED UNANIMOUSLY.**

The following item was discussed:

In the past the relationship with the Corporation Counsel's Office, the City, where there was an attorney assigned to the Zoning Board of Appeals and when attorney was unavailable, another attorney with filling. The attorney's name was Atty. Brian McCann. Atty. McCann was given additional duties during the COVID era.

When an attorney or a non-attorney would attempt to tell the Zoning Board of Approvals, they would pass it to Atty. McCann and associates. They provided advice for the Board. When they recently attempted to contact him for advice it was discovered that he had resigned two weeks prior. A new attorney will be helping the Zoning Board of Appeals. Further discussion followed regarding the new appointment. It was noted that Atty. McCann had been invaluable when dealing with the half-way house in South Norwalk.

The State of Connecticut has passed a bill that revises the land use law. The attorneys have reviewed the new law for the Zoning Board of Approvals and how it will impact them. Further discussion and review of the law was commenced. There will now be mandatory training every two years. If the Zoning Board of Appeals is not properly informed as to the new regulations, they run the risk of running afoul of them. An example was provided where the Zoning Board of Appeals had, unknowingly, acted off of the old building code. If an application was denied due to following the old codes the applicant could, potentially, sue the Zoning Board of Appeals as a result.

ADJOURNMENT

**** MR. LYON MOVED TO ADJOURN.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 9:01 P.M.