

**CITY OF NORWALK
ZONING BOARD OF APPEALS
FEBRUARY 5, 2009, approved April 2, 2009**

I. CALL TO ORDER

Mr. Strubinger called the meeting to order at 7:30 pm.

II. ROLL CALL

PRESENT: Taylor Strubinger, Chair; Dawn DelGreco; Tony Lopez; Gordon Tully, Sec.; Joseph Santo

STAFF: Aline Rochefort, Zoning Inspector

OTHERS: Andrew Glazer; Burton Shatz

III. PUBLIC HEARINGS

A. 09-0205-01 Andrew Glazer—Variance to allow driveway access within zoning front setback in A Residence Zone. Property located at 189 Rowayton Avenue.

Mr. Strubinger opened the public hearing.

Mr. Tully explained that the northerly driveway on the property had hazardous site lines. He said that a variance had been granted in 1984 to reduce the rear yard setback. He clarified that the property had no wetlands or watercourse.

Mr. Tully read a memo from Ms. Rochefort, recommending denial of the variance.

Mr. Glazer turned in the return receipts and read a letter from the neighbor, William J. Nightingale, who owns the north entrance to the property, for which he had a variance. The letter expressed Mr. Nightingale's support for this application.

Mr. Glazer read a second letter from Frederick Clark, stating that valuation indicated that the south driveway is safe and that the north driveway is unsafe for exiting the property.

Mr. Glazer indicated the property on a map, emphasizing that no regulation prohibited the driveway from being in a front setback. He gave background regarding his own willingness to get rid of part of the entrance. He said that the DOT had also declared the northern driveway to be unsafe.

There was a discussion of the grade of the property with regard to the presence of a retaining wall.

Mr. Tully asked about the bump-out indicated on the map. Mr. Glazer said that it was a parking space in the setback and that it could be removed.

Ms. Rochefort read the regulation regarding driveways and setbacks.

Mr. Strubinger asked if the property would be legal if the northern access were eliminated. Mr. Glazer said that he had offered to eliminate the northern access.

Ms. Rochefort reminded the Board that it had once before denied a variance for a property on which the driveway cut across the front of the property.

Mr. Tully clarified that the regulation did not state that a driveway must be as short as possible. Ms. Rochefort agreed, but stated that in practice, it had always been done that way.

Mr. Glazer said that he was attempting to get a variance for a regulation that did not exist.

Mr. Tully commented that the application raised a "scofflaw" issue and asked Mr. Glazer why he built the driveway this way. Mr. Glazer explained that he saw no regulation prohibiting it and that DOT inspectors had said the southern entrance was permissible. He reiterated that he simply wanted to connect the driveway to his house.

Mr. Tully commented that it seemed to be merely an aesthetic concern.

Mr. Glazer stated that there was no regulation regarding the length of a driveway.

Mr. Santo asked what Mr. Glazer would have been told, had he examined the issue during the building period. Ms. Rochefort stated that a straight-in driveway would have been required.

Mr. Lopez asked for clarification of the phrase "creating parking in the driveway." Ms. Rochefort explained. Mr. Lopez asked if there were other driveways that meandered like this one. Ms. Rochefort said that those driveways are in violation unless there is a permit.

Mr. Lopez asked if there were any distinction between commercial and residential properties, as far as driveway access. Ms. Rochefort said no.

Mr. Strubinger closed the public hearing.

B. 09-0205-02 Burton Shatz—Variance to allow construction of a

garage within zoning front setback in B Residence Zone. Property located at 8 Harstrom Place.

Mr. Strubinger opened the public hearing.

Mr. Tully explained that the property was a legal non-conforming residence. He said that a large Norway Spruce tree blocked the access to the rear of the property. He said that the tree's root system would be compromised by traffic and construction.

Mr. Tully read a letter from an arborist describing the nature of the 100-year old tree.

He read another letter from a landscape contractor indicating that the tree would need to be removed for construction to occur.

Mr. Tully read a letter from Ms. Rochefort, suggesting that the variance be denied because the applicant had other alternatives. The letter recommended installing a gravel driveway, which would have minimal impact on the tree.

Ms. Rochefort also provided photographs of other area properties with Norway Spruce trees whose root systems were in good condition despite being located on well-traveled driveways.

Mr. Shatz turned in the green cards. He stated that the house had been built in 1867 and that he had purchased it in 1968. He described his own adjustment to the original porch, explaining that he would like to build a garage.

Ms. DelGreco asked how large the space was above the garage. Mr. Shatz described the area.

Mr. Shatz explained that Harstrom Place was a short dead-end street with parking prohibited on one side.

Mr. Tully asked if the deck were a concern. Ms. Rochefort said that it was legally non-conforming.

There was a discussion of the side-yard setback and the possibility of putting the garage further back from the side setback. Mr. Strubinger said that neither setback was conforming, but that the front one was more of a concern.

Mr. Strubinger closed the public hearing.

IV. BOARD ACTION ON ITEMS A AND B PLUS

B.09-0205-02 Burton Shatz

Mr. Tully stated that he had researched the root systems of both Norway Spruces and sugar maple trees and learned that the Norway Spruces have sturdy root systems.

Mr. Strubinger said that the tree did not look that old and that the gravel driveway idea was a good solution.

Mr. Tully said that a gravel driveway would not need to be dug deeply and that the grade could be built up as well.

Mr. Strubinger said that building too close to the road could contribute to a claustrophobic feel to the street.

**** MR. STRUBINGER MADE A MOTION TO DENY THE VARIANCE BECAUSE THE HARDSHIP COULD BE REMEDIED BY OTHER ALTERNATIVES.**

**** MR. TULLY SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

A. 09-0205-01 Andrew Glazer

Mr. Strubinger said that there was a gray area as far as driveway regulations. He said that the aesthetics of the property were very nice and that the idea of putting in a straight driveway was not as pleasing as the current arrangement. He added, however, that it was possible to put in a straight driveway.

Mr. Tully stated that the applicant's hardship was self-created, reiterating that it would have been simple to consult staff before building.

Ms. DelGreco added that the garage could have been put on the opposite side of the house, as well.

Mr. Santo added that the applicant was a well-known developer in Rowayton and was aware of how the system worked. He said that the applicant consulted with the DOT, because he knew that it might not be aware of local regulations.

Mr. Tully asked if a diagonal driveway was safer than the northern driveway. Mr. Strubinger said yes.

**** MR. STRUBINGER MADE A MOTION TO DENY THE VARIANCE, BECAUSE THE HARDSHIP WAS SELF-CREATED, THE APPLICANT DID NOT FOLLOW PLANS PRESENTED TO STAFF, AND THE APPLICANT HAS AN ALTERNATIVE THAT COMPLIES WITH THE REGULATIONS.**

**** MR. TULLY SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

V. ACTION ON HEARING MINUTES December 4, 2008 & January 8, 2009

**** MR. STRUBINGER MADE A MOTION TO APPROVE THE MINUTES OF DECEMBER 4, 2008.**

**** MR. LOPEZ SECONDED.**

**** MOTION CARRIED, 4-1 (DELGRECO ABSTAINING).**

**** MR. STRUBINGER MADE A MOTION TO APPROVE THE MINUTES OF JANUARY 8, 2009.**

**** MR. LOPEZ SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

VI. ADJOURNMENT

**** MR. STRUBINGER MADE A MOTION TO ADJOURN.**

**** MR. LOPEZ SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 8:46 pm.

Respectfully submitted by Charlene Smith.