

Wallingford Zoning Board of Appeals

Monday, October 17, 2022

7:00 p.m.

Room 315

Town Hall – 45 South Main Street

Minutes

Present: Vice-Chair Ray Rys; Board Members: Thomas Wolfer; Robert Gross; Karen Harris; Robert Parisi; and Amy Torre, Zoning Enforcement Officer.

Vice Chair Rys called the meeting to order at approximately 7:00 p.m. The Pledge of Allegiance was recited.

Voting members tonight are Gross, Wolfer, Harris, Parisi, and Vice Chair Rys.

Vice Chair Rys noted that tonight's decisions will be published in the Record-Journal on Friday, October 21, 2022. The effective date of your variance will be Friday, October 21, 2022; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, November 6, 2022. If you commence operations and/or construction during the appeal period, you do so at your own risk.

Vice Chair Rys announced that application #22-043 will not be heard tonight. It has been continued to the November meeting.

PUBLIC HEARINGS

1. #22-039 – Variance Request/Knight/37 Ridgetop Road

Ms. Harris read the staff comments into the record. The applicant seeks a side yard of 4.8 ft. where 20 ft. is required to construct a single-story addition including enclosing and expanding an existing attached carport at 37 Ridgetop Road in an RU-18 District. The 4.8 ft. requested side yard pertains to the Northwest point of the addition. The proposed addition narrows from 5 ft. to 4.8 ft. in the rear of the dwelling. The existing carport is 9 ft. from the side boundary. The existing dwelling is non-conforming with respect to the side setback. The Applicant is proposing further reducing the side yard as well as expanding it horizontally 26 ft. parallel to the boundary. The Board should consider the hardship in lessening the side yard to less than 5 ft. or if an option to expand to the rear without lessening the existing 9 ft. side yard would suffice. Expanding the existing non-conformity would still require a variance approval, however, it would not increase the existing non-conformity. Correspondence included a letter from Mark and Denise Fournier dated October 15, 2022, and a drawing submitted this evening.

Paul & Kim Knight, 37 Ridgetop Road explained their application. Mr. Knight stated that the reason they need the setback variance is that in the left corner, in the back of the proposed garage, (which is now a car port) would be the access to the proposed room. That room will be behind the proposed garage. He stated that they would have to steal 4 ft. to make a hallway to access that room. In addition, they need handicapped access for a relative that visits. They would also like to add a ramp on the left side.

Ms. Harris referred to the drawing and asked where the exterior access would be. Mr. Knight explained that it will be in line on the left, coming forward toward the front of the house. Ms. Harris asked what the addition will be used for. Mr. Knight replied it will be a family room.

Mr. Parisi asked if the handicapped individual is wheelchair bound. Mr. Knight replied yes.

Mr. Wolfer asked if a vehicle can get in with the ramp. Mr. Knight replied that that is why they need to expand to the right.

Mr. Gross asked why they don't put the ramp in front and if the ramp would be permanent. Mr. Knight replied that the individual only visits and the ramp will be permanent. He noted that it also gives access to the garage. Now the access door is in the front left corner.

Ms. Harris asked for clarification of the ramp access on the drawing. Mr. Knight indicated on the drawing it would be through the garage. She asked if the handicapped individual would be likely to live with them at some future point. Mr. Knight replied no.

Ms. Torre noted that accommodations and ramps don't need variance if they are in front or on the side. She asked if it is level from the carport to the home and if they could just do a door. Mr. Knight explained that they need the ramp to get to the level of the kitchen.

Mr. Gross asked if the waiving of the variance for the ramp applies if the handicapped individual doesn't live there. Ms. Torre replied that she would need to ask legal counsel.

Hearing no public comment, Vice Chair Rys closed the public hearing and asked for discussion or possible action.

Mr. Wolfer: Motion to approve application #22-039/Knight/37 Ridgetop Road for a Variance Request for a side yard of 4.8 ft. to construct a single story addition at 37 Ridgetop road as shown on Limited Property/Boundary Survey, Zoning Location Survey, Land of Kimberly Knight, dated 6/17/22 and submitted plans received 9/13/22.

Mr. Parisi: Second

Vote: Gross – no to approve; Wolfer – yes to approve; Harris – yes to approve; Parisi - yes to approve, and Vice Chair Rys – yes to approve.

The application is approved.

2. **#22-040 – Special Exception Request/Oakes/335 Pond Hill Road**
3. **#22-041 – Variance Request/Oakes/335 Pond Hill Road**

Ms. Harris read the staff notes into the record. The applicant seeks a Special Exception for a total garage area of 1099 sq. ft. in order to construct a 365.7 sq. ft. addition to a 733.3 sq. ft. detached garage at 335 Pond Hill Road in an RU-40 District. The application is a companion to Variance Request #22-041, requesting a height of 18.79 ft. where a maximum of 15 ft. is permitted to construct the same addition to the detached garage. The applicant is allowed 936 sq. ft. of garage area without the need for a Special Exception. The request is for the additional 163 sq. ft. of garage area proposed. The 733.3 sq. ft. detached garage, including 18.79 ft. height existed before the current property owner purchased the

property in 2012. The Building Department received a blight complaint for brush and dirt piles and as a result of inspection noted that the addition to the detached garage was being constructed and appeared too tall. The Property owner came to the Building Department to resolve all issues and then to the Planning Office to right any existing or potential violations. Research into the existing detached garage could not yield any building permits or ZBA Variance approvals for the excess height. By expanding the detached garage both horizontally and vertically (through a second dormer), the height request requires a Variance. The Property Owner/applicant is seeking the height variance for the entire original structure to right the violation created by the previous owners as well as the expansion he is proposing. The garage must not be used as a dwelling unit and the Board should condition any approval on the same.

Dennis Ceneviva, of the Ceneviva Law Firm at 721 Broad Street in Meriden, introduced property owner Vinal Oakes of 335 Pond Hill Road. Mr. Ceneviva explained that the single-family house in a rear lot was built in 1956, the garage in 1985, and Mr. Oakes purchased it in 2012. He stated that the application is to remedy a violation that occurred before Mr. Oakes owned it. In addition, they are asking for the ability to build a matching dormer at the front, at the same height. He shared the assessor cards that show that the town was aware of the garage since 1985. Atty. Ceneviva explained that the special exception for the garage area is for a carport to be built between the garage and the house. He quoted the objectives for a special exception in Article 9J of the Zoning Regulations. The second application is to construct the second dormer. He noted that the grade in the front is lower so they need a variance in the overall height to make the front dormer the same height as the back one. He shared photos of the garage and carport location. Atty. Ceneviva stated that the hardship is due to the grade in the front is lower. He added that the house and garage sit far back from the road and these changes will have no impact on the neighborhood. He noted that a car is already parked there. Atty. Ceneviva stated that the neighbors Mr. Zajack and Mr. & Mrs. Cameron provided letters of support for both applications.

Ms. Harris asked if the rear dormer height is under the maximum 15 ft. Atty. Ceneviva replied that it is over the maximum. He added that the special exception will remedy the non-conformity as well as allow the front dormer to be at the same height. Ms. Harris asked what the second floor will be used for. Mr. Oakes replied storage. Atty. Ceneviva stated that the applicant accepts that he is limited to storage and not living space even though the Assessor Card identifies it as an apartment/ garage.

Mr. Gross asked when construction started and who is doing the work. Mr. Oakes stated that he is doing the work and started back in August. Mr. Gross asked if he is licensed. Mr. Oakes replied no. Mr. Gross asked if the size of the garage fits in the regulations without the addition. Ms. Torre said yes. She noted that the assessor cards just show that the garage was recognized as existing in 1985. It doesn't indicate when it was built.

Ms. Torre stated that the applicant is very responsive and reminded the Board that though linked, the two applications will be voted on separately.

Hearing no public comment, Vice Chair Rys closed the public hearing and asked for discussion or possible action.

Mr. Wolfer: Motion to approve application #22-040/Oakes/335 Pond Hill Road for a Special Exception for a total garage area of 1099 sq. ft. To construct a 365.7 sq. ft. addition to an existing detached garage at 335 Pond Hill Road as shown on the Existing Conditions Plan for Lot #21 Tax Map #217, prepared for Vinal D. Oakes, 335 Pond Hill Road, dated August 17, 2022, subject to:

1. Removal of the dwelling unit on the second floor of the existing detached garage; and
2. The detached garage is not to be converted or used, in whole or in part as a dwelling unit.

Mr. Parisi: Second

Vote: Gross – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Parisi - yes to approve, and Vice Chair Rys – yes to approve.

The Special Exception is approved.

Mr. Wolfer: Motion to approve application #22-041/Oakes/335 Pond Hill Road for a Variance Request for a detached garage height of 18.8 ft. to construct an addition to an existing detached garage at 335 Pond Hill Road as shown on Existing Conditions Plan for Lot #21 Tax Map #217, prepared for Vinal D. Oakes, 335 Pond Hill Road, dated August 17, 2022, subject to:

1. Removal of the dwelling unit on the second floor of the existing detached garage; and
2. The detached garage is not to be converted or used, in whole or in part as a dwelling unit.

Mr. Parisi: Second

Vote: Gross – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Parisi - yes to approve, and Vice Chair Rys – yes to approve.

The application is approved.

4. #22-042 – Variance Requests/Aceto/12 Cheryl Avenue

Ms. Harris read the staff notes into the record. The application is for a front yard of 24.81 ft., a side yard of 6.46 ft., and building coverage of 16.8% to construct a second-floor addition at 12 Cheryl Avenue in an R-18 District. Though the site is undersized, the building coverage request could be reduced and/or eliminated with the removal of sheds on the property. The building coverage request is not relative to the addition of a second floor but rather existing buildings added post-inception of zoning. As is the normal course of determination, the Board should discern the presence of hardship when granting multiple variances.

Marc Aceto of 12 Cheryl Avenue explained that they need to add two bedrooms upstairs for their growing family. There is no change to the length, height, or width of the structure. They are adding two front dormers which will affect the pitch of the roof. This will enable them to stay in the house. He shared two letters of support from the abutting neighbors and photos of houses in the neighborhood.

Mr. Parisi asked about the other buildings on the property. Mr. Aceto explained that the house has no basement or attic. There are two storage sheds and a garage and were there when they purchased the house. Mrs. Aceto added that most other houses in the neighborhood have had additions.

Ms. Harris asked if they would be able to incorporate an attic for storage in the addition. Joe Gamdella, with Bardella Builders of East Haven, responded that they would have to go higher than the existing structure, and then it wouldn't conform. They are trying to keep everything at the same level. The walls will be 7'6" with a shallow roof to meet the existing roof pitch. The walls will come within the gable ends.

Ms. Torre stated that they can't compare themselves to other houses in the neighborhood as each situation is unique. She also noted that there are no other two-story houses, so this will stand out. She noted that they are already over the maximum coverage and if the sheds were gone they would not need the building coverage variance. The maximum is 15% and they are already at 16.8%. She added that granting a variance means that the applicant can't comply with regulations due to the land.

Ms. Harris asked if the sheds were there when they bought the house in 2018. Mr. Aceto said yes. Mrs. Aceto added that the house was in poor condition when they bought it. They basically had to rebuild it.

Mr. Gross asked if we are approving the existing outbuildings because the second floor doesn't affect the coverage. He asked if they replaced a shed would they need another variance. Ms. Torre replied that they can't put anything else on the property as they are over the max. The variance is only pertinent to this project, but the variance for coverage follows the land. She explained that the building coverage as it is now is what would need to be approved.

Vice Chair Rys noted that a replacement in kind would be okay. Ms. Torre agreed.

Mr. Wolfer stated that this is a tough area and the Board has seen many applications for additions and changes.

PUBLIC COMMENT

Mr. Robert Aceto of 8 Cooper Avenue, stated that he is Marc Aceto's father and it is a great comfort to have the grandkids nearby. Without this variance, the family may have to move.

Hearing no further public comment, Vice Chair Rys closed the public hearing and asked for discussion or possible action.

Ms. Harris: Motion to approve application #22-042/Aceto/12 Cheryl Avenue for a Variance Request for a front yard of 24.81 ft. to construct a vertical addition at 12 Cheryl Avenue as shown on Proposed Plot Plan, Land of Marc Aceto, 12 Cheryl Avenue, dated 9/14/22 and submitted plans received 9/16/22.

Mr. Parisi: Second

Vote: Gross – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Parisi - yes to approve, and Vice Chair Rys – yes to approve.

Ms. Harris: Motion to approve application #22-042/Aceto/12 Cheryl Avenue for a Variance Request for a side yard of 6.48 ft. to construct a vertical addition at 12 Cheryl Avenue as shown on Proposed Plot Plan, Land of Marc Aceto, 12 Cheryl Avenue, dated 9/14/22 and submitted plans received 9/16/22.

Mr. Parisi: Second

Vote: Gross – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Parisi - yes to approve, and Vice Chair Rys – yes to approve.

Ms. Harris: Motion to approve application #22-042/Aceto/12 Cheryl Avenue for a Variance Request for building coverage of 16.8% to construct a vertical addition at 12 Cheryl Avenue as shown on Proposed Plot Plan, Land of Marc Aceto, 12 Cheryl Avenue, dated 9/14/22 and submitted plans received 9/16/22.

Mr. Parisi: Second

Vote: Gross – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Parisi - yes to approve, and Vice Chair Rys – yes to approve.

The applications have been approved.

6. #22-044 - Variance Request/Perretta/228 South Colony Street

Ms. Harris read the staff notes into the record. The applicant requests front yards of 14.2 ft. and 17.1 ft. where 40 ft. is required to construct a +/- 2,144 sq. ft. commercial building at 228 North Colony Street in a CA-12 District. The Applicant was granted a Variance Approval in August of 2018 for front yards of 13 ft. and 16.6 ft. for essentially the same proposal. The applicant will proceed to Planning and Zoning Commission for Site Plan approval following the ZBA determination. As the applicant revisited the construction plan and the PZC Site Plan Approval some slight adjustments were made to the building dimensions necessitating a return to the ZBA. The adjustments were +/- 1 ft. to each front, South Colony front yard Variance request granted 13 ft. to 14.2 ft. in the new request. The Ward Street front yard was granted 16.6 ft. and is now proposing 17.1 ft. Though lessening the original Variances granted, the applicant is requesting this modification before proceeding to Site Plan Approval as the Variances are granted for a precise proposal to be constructed.

Dennis Ceneviva, of the Ceneviva Law Firm at 721 Broad Street in Meriden, introduced Vincent Perretta, who is representing the property owner Lisa Perretta, 228 South Colony Street. Atty. Ceneviva explained that the property is 16,389 sq. ft. on the northeast corner of South Colony Street and Ward Street. The proposed three-story building will have access and parking off Ward Street and they plan for 20 parking spaces. He noted that this is a modification of a prior approval with a modestly different layout of the building. The building is now further back from both roads. When granted in 2018, the variance was for that specific building. The request tonight is to modify that approval. The hardship in 2018 was the corner lot and the 40 ft. required front yard setbacks. That left a small building area. This proposal has no impact on the prior approval which is still in effect.

Vice Chair Rys asked what the building was to be used for in 2018. Atty. Ceneviva replied commercial on the ground floor and residential above.

Ms. Harris asked what the plans are for the use of the proposed building. Atty. Ceneviva replied that now it will primarily be residential since there is little need for commercial space. The Perrettas will need to think about what the use will be on the first floor. Ms. Harris asked if this was part of the transportation district. Ms. Torre replied no.

Ms. Torre stated that there was a question of whether they needed to come back but it was decided to make the variance application pertinent to the proposal.

Hearing no public comment, Vice Chair Rys closed the public hearing and asked for discussion or possible action.

Ms. Harris: Motion to approve application #22-044/Perretta/228 South Colony Street a Variance Request for front yards of 14.2 ft. and 17.1 ft. where 40 ft is required to construct a commercial building at 228 South Colony Street as shown on Site Plan-Zoning Variance, Land of Lisa Perretta, 228 South Colony Street, Town of Wallingford, dated 9/15/22.

Mr. Wolfer: Second

Vote: Gross – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Parisi - yes to approve, and Vice Chair Rys – yes to approve.

The application is approved.

CONSIDERATION OF MINUTES

7. September 19, 2022

Ms. Harris: Motion to approve September 19, 2022, Zoning Board of Appeals Minutes as written.

Mr. Parisi: Second

Vote: Gross – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Parisi - yes to approve, and Vice Chair Rys – yes to approve.

ADJOURNMENT

Ms. Harris: Motion to adjourn at 8:03 pm.

Mr. Parisi: Second

Vote: Unanimous to approve

Respectfully submitted,
Cheryl-Ann Tubby
Recording Secretary