

**ZONING BOARD OF APPEALS OF RIDGEFIELD**

**MINUTES OF MEETING**

**JULY 31, 2006**

**NOTE:** These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on July 31, 2006, in the Public Meeting Room, Town Hall Annex, 66 Prospect Street, Ridgefield. They are not intended to replace verbatim transcripts of the meeting which may be obtained from the Administrator at cost.

The Chairman called the meeting to order at approximately 7:30 p.m. Sitting on the board for the evening were: Charles Creamer (Chairman), Charles Campbell (Vice President), Edward Odachowski, Henry Seemann and Glenn Smith. This was a special meeting, duly noticed with the Town Clerk and in the Ridgefield Press, for the sole purpose of hearing and deciding petitions continued from the July 24, 2006 regularly scheduled meeting.

The following petitions were continued from the July 24, 2006 meeting.

**Appeal No. 06-054 - Petition of David Llanos**

All board members had visited the property at **19 Mountain Road**, and had only one additional question of Mr. Llanos.

Mr. Creamer asked for clarification of the drawings submitted to the board regarding the stairs leading to the second floor. Mr. Llanos confirmed that they would be on the southwesterly side of the building, not off Mountain Road.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

**Appeal No. 06-062 - Petition of David Jones and Lisa Sharpe**

Architect Doug MacMillan continued to represent the applicants on their property at **29 Old Wagon Road**. The board had some additional questions.

Dr. Seemann was still concerned about the scope of the proposal, increasing the 3,600 sq. ft. size of the house to 4,500 sq. ft. He noted that there were other raised ranch style homes in the area that might also not have basements. Mr. MacMillan responded that other houses had garages beneath the houses that did not count towards FAR, whereas his client's garages did count because the topography of the land did not allow a basement. In discussion with Dr. Seemann, Mr. MacMillan noted that the lower floors of some raised ranches would count towards FAR under the zoning ordinance, but others were designed so that less than 50% was above grade and thus did not count. Mr. MacMillan also noted that he had worked on additions to other houses to the north of this that had similar square footage.

Mr. MacMillan told the board that the proposed addition would meet all the requirements of the two-acre zone, even though the lot was half that size, and thus would not have needed variances prior to the elimination of the drop-down provision in July 2004.

Mr. Creamer commented that all the houses in the area appeared to be one-acre in size and were all developed. The applicant would have to buy two additional lots in order to meet the zoning regulations.

Mr. MacMillan added that the addition would be tucked behind the house and thus the street appearance would not change. The neighbors most affected had supported the proposal.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

**Appeal No. 06-060 - Petition of Jay Montanari**

All board members had visited the property at **15 Mapleshade Road** and had some additional questions for Mr. Montanari.

Dr. Seemann asked if Mr. Montanari had lived in the original house on the property before it was demolished. Mr. Montanari confirmed that he had. Dr. Seemann questions why, with a clean slate, the applicant had chosen to construct the new house 66 ft. from the front line. Mr. Montanari responded that he did so because of the heavily traveled road and to save a maple tree in the center island of the driveway in front of the new house.

Mr. Odachowski commented that he had been surprised by the amount of traffic. He asked why Mr. Montanari could not change the corners of the deck so as not to need a variance. Mr. Montanari felt this would leave the deck only 8 ft. wide, and he wanted enough room to have a table.

Mr. Creamer felt the deck would not impact anyone. There were dense trees and both adjoining houses were some distance away.

Dr. Seemann noted that the house was a modular and had sliders off the back. Thus the applicant must have planned a deck when he purchased the house.

Mr. Creamer felt the odd shape of the lot and its topography would have created a problem even if the house had been moved elsewhere on the lot.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

**Appeal No. 06-050 - Petition of Gerald and Perrie Ridley**

Attorney Robert Jewell continued to represent the applicants on their property at **21 Nutmeg Ridge**. Also present were Mr. and Mrs. Ridley and their architect, Loren Meyer. Board members had visited the property since the last hearing.

In response to questions from Dr. Seemann, Mr. Ridley advised that there had been no changes to the house since it had been constructed in 1987. Dr. Seemann asked if there was any way to scale down the addition further.

Mr. Ridley reviewed the various options he had considered and noted that the goal had been to eliminate numerous roof lines. Mr. Jewell noted that other options would not improve the functionality of the kitchen. He gave board members photographs of the existing kitchen.

Mr. Jewell reviewed the hardships: the elimination of the drop-down provision in 2004 adversely impacted this property; changes in the zoning regulations were beyond the control of the applicant; the house had a grossly undersized kitchen; the addition matched the rest of the structure; aesthetics were important in this case because of the rooflines; the properties across the street from this one-acre parcel were three times the size.

In terms of the parcels on the opposite side of the street, Mr. Jewell further explained that although a large portion of the opposite lots might not be usable topographically, the full size of the lots allowed greater FAR and coverage. Thus the houses on the opposite side, although using approximately the same area as the Ridley house, could be three times larger. Those houses were not currently larger but were nearing the end of their life spans and could be replaced with larger houses in the future.

Mr. Campbell noted that the board was required to grant the minimum necessary to relieve the hardship and asked the applicant to summarize why the addition could not be scaled down. Mr. Ridley responded that the rooflines would be a mess, the addition would not match the rest of the house in terms of windows, etc., and the kitchen would not be functional with standard sized appliances. Loren Meyer, the architect, also stated that he had designed the minimal amount needed to make the kitchen fully functional.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

**Appeal No. 06-051 - Petition of JMF Realty, LLC**

Attorney Robert Jewell continued to represent the applicant on its property at **665 Danbury Road**. All board members had visited the site.

Mr. Creamer first noted that he was not concerned with any sign violations on the property. This was a request for a variance, not an appeal from the Zoning Enforcement Officer. He was concerned with hardship, and thus felt the application was premature; the new road construction in front of the property was not complete and thus he was unable to judge the impact it might have on the applicant's property. The applicant already had a variance that provided the property with identification.

Mr. Campbell stated that after a visit to the property he felt there was more than enough signage and identification..

Mr. Jewell reported that originally he had requested a modification of condition #2 of the variance granted in 1996. Mr. Creamer, based on a Supreme Court case recently handed down, did not believe the board had power to give relief from a condition on a variance. Mr. Jewell did not agree and he and Mr. Creamer debated the issue.

Mr. Odachowski had questions about the issue of abandoning variances and how this would impact the board's actions.

Mr. Creamer felt the applicant's hardship had been resolved in the 1996 variance. At that time the applicant had offered to have no freestanding sign in the front of the property because of the safety hazard. Now the road was changing to a 4-lane highway and until it was completed, he could have no idea how the property would change.

Mr. Creamer also felt that the board could not remove an earlier variance because it could not reverse a decision. In this case, even if signs were taken down, they could put them back later. Mr. Jewell felt this was no different from a situation in which someone received a variance for one design for a house, changed his mind, and got a new variance for a different design.

Mr. Creamer felt the applicants could either comply with the zoning regulations or comply with the earlier variance.

Referring to the zoning violations on the property, Mr. Jewell stated that he had found no case law that indicated the a variance might not issue if there were violations. Mr. Creamer noted that the board's counsel had given a similar opinion and that he was not considering any violations in his decision. However, a board could not remove a variance once granted, and any hardship on this property had already been relieved.

Mr. Jewell stated that his client had changed his mind since the 1996 variance. At that time he requested larger building signs because the signs could not be seen and no freestanding sign. Now he wanted to bring the building signs into compliance as a condition of a variance to allow a freestanding sign.

Dr. Seemann agreed with Mr. Creamer that the board could not go to the site and judge what was safe until the state’s roadwork had been completed.

Mr. Campbell did not believe there was a need for additional signage. Until he saw what the property looked like when it was conforming, how could he judge what was appropriate? Mr. Jewell responded that the applicant was not looking for a size variance but one for location.

Dr. Seemann questioned how anyone could miss the business with so many new cars parked so close to the highway.

Mr. Creamer agreed. He noted that the site of Ridgefield European Motors, close to the Pamby site on Route 7, had formerly been a diner with an extremely large sign. Over the years, REM had made the sign smaller and smaller without negative impact, and the state had also taken some of its land. As he could not assess what the road would look like when finished, he could not see a hardship at this time. Mr. Jewell responded that the taking itself was a hardship. Mr. Creamer noted that the state had not come before the board for a condemnation proceeding, which meant that the property had been left conforming.

Mr. Jewell requested that the hearing be continued to September 1, 2006, and asked for and granted any continuances that might legally be required to do so. The hearing was continued

The board voted the following actions:

**PETITION OF GERALD AND PERRIE RIDLEY**  
**PROPERTY LOCATED AT 21 NUTMEG RIDGE.**  
**APPEAL NO. 06-050**

REQUESTED: variances of Sections 402.0E(1), lot coverage, and 402.0F, FAR, to allow an addition that will exceed the permitted lot coverage and FAR; for property in the RAA zone located at 21 Nutmeg Ridge.

DATE OF HEARING: July 24 and 31, 2006  
DATE OF DECISION: July 31, 2006

VOTED: To Grant, with Condition, variances of Sections 402.0E(1), lot coverage, and 402.0F, FAR, to allow an addition that will exceed the permitted lot coverage and FAR; for property in the RAA zone located at 21 Nutmeg Ridge.

VOTE: To Grant: 5 To Deny: 0  
In favor Opposed  
Campbell, Creamer, Odachowski -0-  
Seemann, Smith

CONDITION:  
This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variances shall apply only to the existing house. The additions shall be constructed exactly as shown on plans and drawings presented to the board which are made part of this decision.

The board voted this action for the following reasons:

1. The undersized lot, combined with the shape and layout of the house, represents an unusual hardship that justifies the grant of the variances requested in this case.
2. The changes in the regulations since the property was created and the house constructed exacerbate the hardship.
3. The board was satisfied that the requested addition was the minimum necessary to relieve the hardship presented.
4. The addition is in harmony with the general scheme of development in the area and is not contrary to the public health, safety or welfare.

**PETITION OF DAVID LLANOS**  
**PROPERTY LOCATED AT 19 MOUNTAIN ROAD**  
**APPEAL NO. 06-054**

REQUESTED: a variance of Section 403.0G, setbacks, to allow the expansion of an existing garage that does not meet the required setbacks; for property in the RA zone located at 19 Mountain Road.

DATES OF HEARINGS: July 10 and 31, 2006

DATE OF DECISION: July 31, 2006

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Opposed</u>
Campbell, Creamer, Odachowski	-0-
Seemann, Smith	

CONDITIONS:

This action is subject to the following conditions which are an integral and essential part of the decision. Without these conditions, the variance would not have been granted:

1. The addition to the garage shall be constructed exactly as shown on plans and drawings presented to the board during the hearing and made part of this decision.
2. The stairs/pedestrian entrance to the second floor shall be on the southwesterly side of the garage, also as shown on the plans.

The board voted this action for the following reasons:

1. The undersized lot and the location of the existing garage structure on the lot represent an unusual hardship that justifies the grant of the variance requested in this case.
2. The addition will use the same footprint as the existing garage and thus not increase the legally nonconforming setbacks.
3. The proposal will have no negative impact on surrounding properties and will be in harmony with the general scheme of development in the area.

**PETITION OF JAY MONTANARI**  
**PROPERTY LOCATED AT 15 MAPLESHADE ROAD.**  
**APPEAL NO. 06-060**

REQUESTED: a variance of Section 403.0G, setbacks, to allow a deck closer than permitted to the lot line; for property in the RA zone located at 15 Mapleshade Road.

DATE OF HEARING: July 24 and 31, 2006  
DATE OF DECISION: July 31, 2006

VOTED: To Deny a variance of Section 403.0G, setbacks, to allow a deck closer than permitted to the lot line; for property in the RA zone located at 15 Mapleshade Road.

VOTE: To Grant: 2 To Deny: 3  
In favor Opposed  
Creamer, Smith Campbell, Odachowski,  
Seemann

The board voted this action for the following reasons:

1. The hardship presented to the board was self-created in that the applicant constructed the house on this property at 66 ft. from the front lot line.
2. Other alternatives exist that would allow a deck to be constructed without the need for a variance.

**PETITION OF DAVID JONES AND LISA SHARPE**  
**PROPERTY LOCATED AT 29 OLD WAGON ROAD.**  
**APPEAL NO. 06-062**

REQUESTED: variances of Sections 401.0E(1), lot coverage, 401.0F, FAR, and 401.0G, setbacks, to allow an addition closer to the lot lines and with greater lot coverage and FAR than permitted; for property in the RAAA zone located at 29 Old Wagon Road.

DATE OF HEARING: July 24 and 3, 2006  
DATE OF DECISION: July 31, 2006

VOTED: To Grant, with Conditions, variances of Sections 401.0E(1), lot coverage, 401.0F, FAR, and 401.0G, setbacks, to allow an addition closer to the lot lines and with greater lot coverage and FAR than permitted; for property in the RAAA zone located at 29 Old Wagon Road.

VOTE: To Grant: 5 To Deny: 0  
In favor Opposed  
Campbell, Creamer, Odachowski -0-  
Seemann, Smith

CONDITIONS:

This action is subject to the following conditions which are an integral and essential part of the decision. Without these conditions, the variance would not have been granted:

1. The variances shall apply only to the existing house. The addition shall be constructed exactly as shown on plans and drawings presented to the board and made part of this decision.
2. A shed located to the easterly side of the property shall be removed prior to the issuance of any zoning or building permits.

The board voted this action for the following reasons:

1. The severely undersized parcel (1.2 acres in the three-acre zone), combined with the location of the house on the lot and its lack of a basement, represents an unusual hardship that justifies the grant of the variances requested in this case. It was particularly noted that the addition would meet all the requirements of the two-acre zone.
2. The elimination of the shed on the property (see condition #2) will reduce an existing setback nonconformity
3. As the majority of the lots in this area are also approximately one-acre in size, the proposal is in harmony with the general scheme of development in the area and will not adversely affect the public health, safety or welfare.

As there was no further business before the board, the Chairman adjourned the hearing at approximately 8:55 pm.

Respectfully submitted,

Marjorie Tippet  
Administrator

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