

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

APRIL 3, 2006

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on **April 3, 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, Edward Odachowski, Henry Seemann and Glenn Smith. Also present for some petitions were alternates Andrew Pisanelli and Michael Stenko.

Rotation of alternates: The rotation from the last meeting was: first, Mr. Pisanelli; second, Mr. Stenko. An alternate was needed to sit on new petitions for Dr. Seemann. Mr. Pisanelli was available and thus the rotation for the next meeting will be: first, Mr. Stenko; second, Mr. Pisanelli. No new alternate had yet been appointed following the resignation of Michael Collins effective March 20, 2006.

Interview for Alternate Position

The board had notified the Democratic Town Committee of the vacancy and had advertised in the Ridgefield Press for two weeks for interviews to be held at this meeting. As the Democratic Town Committee requested additional time to make a recommendation, additional legal notices had been submitted to the Ridgefield Press indicating that interviews would also be held on April 17, 2006.

The board interviewed Elizabeth Stewart Ziemann, an architect. However, the board delayed any appointment pending the April 17 meeting.

The following petitions were continued from the March 6, 2006 meeting, and were heard by Mr. Creamer, Dr. Seemann, Mr. Smith, Mr. Pisanelli and Mr. Stenko.

Appeal No. 06-011 - Petition of John Silvestri

The applicant continued to be represented by Attorney Robert Jewell. All board members had visited the property at **30 Dowling Drive**.

Dr. Seemann asked the applicant to confirm that if all four sheds on the property were removed, the coverage nonconformity would be reduced. Mr. Jewell stated that the coverage would be reduced from its current 6.2% to 6.1% with all four sheds removed. His client was asking, if possible, for two of the sheds to remain: one consisting of 320 sq. ft. close to the house; one consisting of 199 sq. ft. at 22.9 feet from the side lot line.

Mr. Creamer noted that if all three rear sheds were removed, the setback violations would be eliminated. Dr. Seemann asked if the 199 sq. ft. shed (marked #3 on the map and photographs presented to the board) could be moved out of the setback area. Mr. Jewell said it could be moved if necessary. He noted that all four sheds were legally nonconforming.

Mr. Creamer asked what the lot coverage would be if only the 199 sq. ft. shed (#3) were allowed to remain. Mr. Jewell said it would be approximately 6.5%.

In terms of the FAR variance request, Mr. Creamer noted that the violation arose from the fact that the house was a raised ranch and thus only one third of the basement/lower level was below ground. Mr. Jewell felt the P&ZC did not have raised ranches in mind when it wrote the FAR regulation. Dr. Seemann agreed and hoped the P&ZC would consider changing the regulation to address raised ranches.

John Morrisroe, the adjoining neighbor, spoke in favor of the addition and maintaining some sheds.

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

Appeal No. 06-013 – Petition of James and Mary Lott

All board members had visited the property at **69 St. John's Road** and had no additional questions of Mr. Lott. Mr. Creamer noted that the board had granted a variance for a similar front porch to the property directly across the street from the Lott property.

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.

The following new petitions were heard by Mr. Creamer, Mr. Campbell, Mr. Odachowski, Mr. Smith and Mr. Pisanelli:

Appeal No. 06-012 – Petition of Eppoliti Realty Inc.

The applicant was represented by architect Doug MacMillan. The property was located at **16 Roberts Lane** in the B-1 zone, and Eppoliti Realty was seeking a variance of the 25 ft. landscaped buffer required between any commercial vehicular/parking area and adjoining residential property. The administrator noted that the Zoning Enforcement Officer, in submitting his review to the board, had addressed only the parking buffer, as requested by the applicant. He had not reviewed or addressed any other variances that might be needed for the property.

Mr. MacMillan explained that his client owned the 14,576 sq. ft. property and wished to construct a mixed office and residential building that would have a footprint of approximately 3,805 sq. ft. The basement, first and second floor levels would consist of office space, and the third level would have apartments. The property abutted the R20 residential zone, and the adjoining property contained a single family home, and thus the 25 ft. landscaped buffer was required by the zoning regulations. The building would be at the front of the lot, close to Roberts Lane, with the parking behind it.

In terms of hardship, Mr. MacMillan felt this arose from the lot shape. He conceded that if the property remained at its current size, the applicant would need multiple variances. However, if the variance were granted, his client intended to merge this parcel with his adjoining property on Roberts Lane. In fact, the plot plan showed no access from Roberts Lane directly, but only through the adjoining Eppoliti property. Thus vehicular access would be from other commercial property.

Mr. MacMillan noted that there was an alternative of constructing a smaller building (with a 3,300 sq. ft. footprint), with parking underneath and access to Roberts Lane, that would not need a variance. However, he felt such a plan would impact the adjoining residential properties in a negative way. Mr. Pisanelli asked if putting the parking underneath would raise the height of the building. Mr. MacMillan stated it would.

Mr. Campbell stated that he had a problem looking at a plan that showed only the 16 Roberts Lane property before it was merged. Without seeing a complete plan of the merged properties, he could not judge what other problems might arise. He also felt that he could not make a decision on hardship relating to the size of this particular parcel

knowing that the hardship would only exist for a few weeks before the property was merged. Mr. MacMillan responded that even if the properties were merged, the applicant would need a variance of the landscape buffer. Mr. Campbell noted, however, that he would need to see the merged properties in order to determine if that larger parcel had a hardship.

Mr. Creamer noted that in the zoning regulations governing parking, the P&ZC had the power to determine the final number of parking spaces required for any project. The commission could decide that no spaces were needed on this particular parcel, thus there was no need for a buffer. So the applicant should approach the P&ZC in the first instance to determine its needs. Without that determination, the board would find it impossible to consider hardship.

Mr. MacMillan advised that there was no traffic light at the end of Roberts Lane. By using the current plan with access through the other Eppoliti property on Roberts Lane, vehicles from this property would have the benefit of a traffic light.

Mr. MacMillan asked that the hearing be continued indefinitely so that he could appear before the Planning and Zoning Commission on the parking issue.

John Scala, the adjoining residential property owner, advised the board he had only just learned of the plans and the variance hearing. He felt the proposal would negatively impact his property and asked for additional time to prepare a presentation. Mr. Creamer noted that the applicant would be approaching the Planning and Zoning Commission first, and there would probably be a public hearing with P&Z as well. Thus he would have enough time to prepare comments for either the commission or the board.

No-one else appeared to speak for or against the petition, and the hearing was continued to an undecided date.

Appeal No. 06-015 – Petition of Dave and Stephanie Cowin

Attorney Robert Jewell represented the applicants on their property at **74 Norrans Ridge Drive**, and noted that his clients wished to construct a two-car, one-storey garage at 15.9 ft. from the lot line.

In terms of history, Mr. Jewell explained that this was part of a PRD subdivision approved in 1987 when there were no interior setback requirements. In 1991 the house was constructed and in 1992 a shed was constructed at 5 ft. from the property line. In 2001, the P&ZC enacted an interior setback requirement of 25 ft. which left the shed legally nonconforming. The proposed garage was much farther from the line than the shed, and in addition, if the variance were granted, the applicants were willing to move the shed to a conforming location.

In terms of hardship, Mr. Jewell noted this arose from the enactment of the PRD setback regulations subsequent to the creation of the lot and construction of the house. Had there been setback regulations at the time of the subdivision approval, the lot would probably have been arranged differently.

Mr. Jewell further explained that the house already had a 3-car garage, but the applicants had 9 cars. So the new garage would help clean up the number of cars parked outside on the property. If it were placed closer to the house in conformity with the regulations, it would interrupt the flow of the property and make it difficult to remove snow. The applicant would be eliminating a nonconformity by moving the shed.

This was one of only three lots in the subdivision to be served by an accessway, resulting in the strange shape of the lot.

Mr. Pisanelli asked if this fell within the holdings of Kulak and Sydoriak. Mr. Jewell stated that it did. Both cases did not require the board to grant a variance, but they allowed the board to grant one.

Mr. Creamer asked about an alternative site in front of the house. Stephanie Cowin informed the board that the septic system was located in that area. Mr. Campbell asked if he could see any as-built septic plan that might be on file with the Health Department.

Mr. Campbell asked why the garage could not remain in the same general location yet be rotated enough to avoid the need for a variance. Mr. Jewell said his clients would look at that possibility before the next hearing.

A letter in support of the proposal was received from Geraldine Hotard, the neighbor most impacted. No-one appeared to speak for or against the petition, and the hearing was continued to April 17, 2006 to allow board members to visit the site.

Appeal No. 06-016 – Petition of Walter Richter

Architect Doug MacMillan stated that he was the agent both for Mr. Richter and for Susan Richter who was the owner of the property at **16 Harrison Court**. The property was part of a 1997 PRD subdivision, and had a two-car garage below the house. His client was asking to add a bay to the garage and construct a two-storey addition above. The addition required both a lot coverage and FAR variance.

Mr. MacMillan felt hardship arose from the 2000 change in the zoning regulations which enacted the FAR requirement and made the lot coverage requirements more restrictive. This change left his client's property nonconforming. The lot was 1.4 acres in the three-acre zone. The addition actually met both the one-acre and two-acre zone requirements for FAR and coverage, as well as the three-acre requirements for setbacks. There was also a slope on one side of the property, so there was no other place for the addition to go.

No-one appeared to speak for or against the petition, and the hearing was continued to April 17, 2006 to allow board members to visit the site.

Appeal No. 06-017 – Petition of Mary Ciarcia

Ms. Ciarcia was represented by architect Doug MacMillan who explained that his client wished to convert part of an existing deck on her property at **55 Mimosa Court** into a screened porch. The existing deck did not meet the current setbacks because of changes in the regulations, and thus the screened porch needed a setback variance. The only increase in the footprint would be for stairs to access the porch. The lot abutted town open space, so there would be no impact on any neighboring property.

Mr. MacMillan further explained that the porch could not be built off the back of the house away from the deck because of the location of the septic system. Mr. Pisanelli asked if the stairs could go to the rear of the deck away from the setback area. Mr. MacMillan noted that would also encroach into the septic area.

Board members did not feel they needed to visit the site. 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. 06-018 – Petition of Kenneth and Elizabeth Seel

Elizabeth Seel explained that she wanted to put an inground pool on her property at **81 Standish Drive** at 28 ft. from the side lot line instead of the required 35 ft. The 28 ft. would help preserve a large, 80-year old maple tree near the location of the pool, and provide wider access for repair trucks should her septic system ever fail in the future. If

she had to maintain the 35 ft. setback, the work would be within 2 ft. of the tree. The 28 ft. setback would allow 7 ft.

Mr. Smith felt the root system might still be negatively impacted regardless of the variance.

Mr. Pisanelli asked if she would still need a variance if there were no tree. Ms. Seel replied that she would still need better access to the septic system.

Mr. Creamer noted that the applicant could move the pool towards the rear of the property and avoid the tree. Ms. Seel felt the rear provided a natural buffer from the neighbors and would put the pool closer to her leaching fields.

No-one appeared to speak for or against the petition. The hearing was continued to April 17 to allow board members to visit the site.

The board voted the following actions:

PETITION OF JOHN SILVESTRI
PROPERTY LOCATED AT 30 DOWLING DRIVE
APPEAL NO. 06-011

REQUESTED: variances of Sections 402.0E(1), lot coverage, and 402.0F, FAR, to allow an addition that exceeds the permitted lot coverage and FAR; for property in the RAA zone located at **30 Dowling Drive.**

DATE OF HEARINGS: March 6 and April 3, 2006

DATE OF DECISION: April 3, 2006

VOTED: To Grant, with Conditions, variances of Sections 402.0E(1), lot coverage, and 402.0F, FAR, to allow an addition that exceeds the permitted lot coverage and FAR; for property in the RAA zone located at **30 Dowling Drive.**

VOTE: To Grant: 5 To Deny: 0

In favor Opposed
Creamer, Seemann, Smith, -0-
Pisanelli, Stenko

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 additions to the existing house shall be constructed exactly as shown on plans and drawings presented to the board, including but not limited to the height, FAR, coverage and setback calculations which are part of the application. The application, the plans and drawings are made part of this decision.
2. Three of the four sheds on the property, marked #1, #2 and #4 on a plot plan and photographs submitted to the board and made part of this record, shall be removed prior to the issuance of any zoning permit for the construction of the addition.
3. The fourth shed on the property, marked #3 on the same plot plan and photographs, may remain on the property but shall be moved, prior to the issuance of any zoning permit for the construction of the addition, to a location that

conforms to the current setbacks for the RAA zone. As further clarification, shed #3 consists of approximately 199 sq. ft., and is shown on the survey submitted with the application at 22.9 ft. from the lot line.

The board voted this action for the following reasons:

1. In terms of the request for a variance of the FAR, the design of the house, a raised ranch, represents an unusual hardship in this case that justifies the grant of the variance. The FAR regulation exempts basements, defined as the bottom floor of a house at least 50% below average grade. However, the basement level of a raised ranch is not exempt because only one-third is below average grade. Thus the FAR regulation does not take into account any existing raised ranch houses.
2. In terms of the request for a variance of the lot coverage, the applicant offered to remove several sheds on the property as per condition #2 above. As a result, there is little overall increase in the coverage.
3. Changes in the zoning designation of the area, combined with the enactment of FAR and more restrictive coverage regulations in 2001, long after the house was vested, also present an unusual hardship in this case.
4. With conditions #2 and #3 above, the property will become considerably more conforming as to setbacks.
5. The proposal is in harmony with the general scheme of development and, with the above conditions, is not contrary to the public health, safety and welfare.

PETITION OF JAMES AND MARY LOTT
PROPERTY LOCATED AT 69 ST. JOHN'S RD
APPEAL NO. 06-013

REQUESTED: variances of Sections 308.0G(4), lot coverage in a PRD, and 402.0E(1), lot coverage, to allow a covered front porch with greater lot coverage than permitted; for property in the RAA zone located at **69 Saint John's Road.**

DATE OF HEARINGS: March 6 and April 3, 2006
DATE OF DECISION: April 3, 2006

VOTED: To Grant, with Condition, variances of Sections 308.0G(4), lot coverage in a PRD, and 402.0E(1), lot coverage, to allow a covered front porch with greater lot coverage than permitted; for property in the RAA zone located at **69 Saint John's Road.**

VOTE:	To Grant:	5	To Deny:	0
	<u>In favor</u>		<u>Opposed</u>	
	Creamer, Seemann, Smith,		-0-	
	Pisanelli, Stenko			

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 front porch shall be constructed exactly as shown on plans and drawings presented to the board. The application, the plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. Changes in the lot coverage regulation long after this property was vested as a PRD lot present an unusual hardship that justifies the grant of the variance requested in this case. It was noted that the front porch meets both the setbacks and FAR requirements and represents a *de minimis* increase in the overall lot coverage.
2. The proposal 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 MARY CIARCIA
PROPERTY LOCATED AT 55 MIMOSA COURT
APPEAL NO. 06-017

REQUESTED: a variance of Section 402.0G, setbacks, to allow an addition closer than permitted to the lot line; for property in the RAA zone located at **55 Mimosa Court.**

DATE OF HEARING: April 3, 2006
DATE OF DECISION: April 3, 2006

VOTED: To Grant, with Condition, a variance of Section 402.0G, setbacks, to allow an addition closer than permitted to the lot line; for property in the RAA zone located at **55 Mimosa Court.**

VOTE:	To Grant:	5	To Deny:	0
	<u>In favor</u>		<u>Opposed</u>	
	Creamer, Campbell, Smith		-0-	
	Odachowski, Pisanelli			

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 to the existing house shall be constructed exactly as shown on plans and drawings presented to the board, including but not limited to the height, FAR, coverage and setback calculations which are part of the application. The application, the plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. The locations of the existing house and septic system present an unusual hardship that justifies the grant of the variance requested in this case. The proposed screened porch will be located entirely within the footprint of an existing deck, and the only additional encroachment into the setback area will be for steps necessary for safety reasons.
2. The proposal is in harmony with the general scheme of development in the area, and as the adjoining property consists of town open space, there will be no negative impact on the surrounding area.

As there was no further business before the board, the Chairman adjourned the hearing at approximately 9:35 pm.

Respectfully submitted,

Marjorie Tippet
Administrator

