

**ZONING BOARD OF APPEALS OF RIDGEFIELD**

**MINUTES OF MEETING**

**FEBRUARY 6, 2012**

**NOTE:** These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on February 6, 2012, in the Public Meeting Room, Town Hall Annex, 66 Prospect Street, Ridgefield. Copies of tapes of the meeting 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), Glenn Smith (Vice Chairman), Duane Barney, David Choplinski and Dwayne Escola,

**ROTATION OF ALTERNATES**

The rotation for this meeting was: first, Mr. Stenko; second, Dr. Seemann; third, Mr. Cole. No new alternate was needed for this meeting, so the rotation will remain the same for the next meeting.

**CONTINUED PETITIONS**

The following petitions were continued from the January 23, 2012 meeting:

**Appeal No. 12-002 – Petition of Lyle Fishell, Agent for Patricia Linnon Singer Tod**

Board members had visited the property at **21 Dowling Drive** and had few additional comments or questions of Mr. Fishell and Ms. Tod.

Mr. Creamer commented on the steep drop off to the rear of the house.

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. 12-003 – Petition of John M. Grissmer, Trustee**

The applicant continued to be represented by Attorney Robert Jewell who was accompanied by Michael Grissmer. All board members had visited the property at **30 Eustis Lane**.

Mr. Jewell submitted a new plan for the sports court/skating rink which had no roof or gabled end over the area designated for a pitching machine. Mr. Choplinski asked if the highest point of the rink would be the top of the low fence. Mr. Jewell agreed. Mr. Choplinski also asked if there would be any lighting. Mr. Jewell said there would not.

Mr. Creamer asked if the Health Department had approved the location on top of the septic system. Mr. Jewell explained that the rink was actually on top of the reserve area for the septic which was permitted. For new construction, the reserve area was required only until the CO was issued; if this were an addition, it would have to be five feet from any part of the active septic system.

Mr. Jewell summarized the hardships he had presented at the last hearing: the shape of the lot, which he felt was on the outskirts of civilization, and the definition of a sports court provided in the zoning regulations. The intent of the regulation was to ensure there was no noise to disturb neighboring properties; in this case the only affected neighbor was some distance away and had sent a letter of support.

Mr. Barney requested that no lighting be made a condition of any variance granted. He also felt the fencing around the rink should be limited to 4.5 ft. Mr. Jewell noted that fencing was permitted anywhere on the property. He also noted that if some form of netting were installed for the pitching machine, this also could be installed on poles without any need for zoning approval.

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.

### NEW PETITIONS

The following new petition was heard:

#### Appeal No. 12-004 – Petition of Lars Sorensen

Architect Doug MacMillan represented the applicant and explained that he needed a setback variance to allow five different changes to the Sorensen property at **120 Mountain Road**. The house had been constructed in 1935, before zoning, and had a severe grade change. He had a building permit for an addition to the west of the house which met all the zoning regulations; however, no construction had started at that time.

The setback variances requested were for the following changes:

- (1) An existing deck on the easterly side of the house that had been constructed five years earlier by a former owner, not Mr. Sorensen. Mr. MacMillan had recently learned that it had been constructed without zoning or building permits and was 8 ft. from the side line. Mr. Creamer felt the deck might be saved by the Connecticut General Statutes, but the administrator advised that the ZEO required the variance because he believed the statues protected buildings that had been in place for three years or more but not structures.
- (2) There was an existing deck to the rear of the home that the applicant wished to square off with the side of the house. As the existing house and deck were nonconforming, the extension required the variance. Mr. MacMillan noted that the lot was severely undersized and the area had been subject to several upzones, so that there was no way to get anything to conform on the property.
- (3) The applicant was adding a one story addition to the west of the house that consisted of a master bedroom and bathroom. Because of the grade, there would be a laundry room underneath. The entire addition was lower than the existing house. The applicant also wished to have a deck off the addition that would need a setback variance. Mr. Smith asked if the decks were being squared off so that they would connect. Mr. MacMillan confirmed that was the intent.
- (4) The existing roof had structural problems and needed to be raised 18 inches to correct the problems. The roof was bowed and it would create problems for the walls of the house if the roof were removed completely. The variance would allow rafters to be constructed and a new roof added above the old one. Because the house was already in the setback area, the new roofline would also encroach.
- (5) The applicant was adding two dormers within the existing roof. One met all the setbacks but a portion of the second would encroach.

Mr. MacMillan asked the board to consider and vote on each of these five requests separately and not to turn the whole project down if it had a problem with only one of the requests.

In terms of hardship, he felt this arose from the undersized lot, the adoption of zoning regulations and subsequent upzonings, the locations of the house and septic system, and

the topography of the property. He noted that the project also needed wetlands approval which he had already obtained. The entire project also met the lot coverage and FAR requirements.

Mr. Creamer asked how much of the original 1935 house actually remained. Mr. MacMillan said there was some internal renovation over the years and decks were added, but otherwise there were no changes.

Harry Sewell of 112 Mountain Road, owner of the abutting property to the east, stated that he was not opposed to the overall project but had some concerns. He was opposed to the deck put on the house by the previous owners 5 years earlier and felt it should be removed. The previous owners had installed a path by the deck and made the deck the primary entrance to the house. Mr. Sewell felt that to remove that entrance and return to one facing the road would improve his privacy and that of the Sorensens. The path was also partially on the Sewell property at one point.

Mr. Smith asked if there were a door on the front of the house. Mr. Sewell said there never had been.

Mr. MacMillan stated that the location of the path would be corrected during the construction work. He noted that a 1977 survey showed a deck that had entrances into the kitchen from both sides. The previous owner put in a larger deck which then became the primary entrance into a different room.

Mr. Choplinski asked if any efforts had been made by the applicant to remove some of the neighbors' concerns. Mr. MacMillan explained he had met with the neighbors and all had been agreeable to trying to resolve the issues. He emphasized that the current owners had inherited all the problems and not created them. Mr. Smith asked if Mr. MacMillan could investigate the possibility of moving the main entrance to the front of the house.

Mr. Sewell noted that the previous owners had also caused drainage issues when they put in the path. Mr. MacMillan explained that they had raised the path so that water ran off onto the Sewell property. Mr. Sorensen had agreed to remove the path from the Sewell property and correct the problem.

Lynn Sewell of 112 Mountain Road noted that the house would be a lot nicer with the proposed changes, but the deck diminished the privacy of both properties. She felt an entrance into the front of the house would improve the situation.

Timothy Dunphy of 157 Mountain Road, owner of the abutting property to the west, also expressed some concerns but noted that following the meeting referred to by Mr. MacMillan, he had no objection to the proposed variance. He felt the dimensions of the deck shown on the survey were incorrect. Mr. MacMillan agreed to verify the sizes shown.

Mr. Dunphy's second concern related to tree removal. He noted that when he had installed a new septic system on his property, the trees had to be removed. He had planted new ones which were beginning to grow. He was concerned about the removal of the trees for the Sorensen system and asked that the variance be conditioned on the planting of six white pine trees.

Finally, Mr. Dunphy noted that he had his home office for his law and architecture practice in his home. Parking was extremely difficult on Mountain Road which was very narrow. When the Sewells had reconstructed their home, he had had great difficulty with construction workers taking the only two spots which Mr. Dunphy had – one for himself and one for his business. He asked that the applicant be aware of the problem and prevent the parking spaces from being used by workers.

Mr. MacMillan noted that the same builder who had constructed the Sewells' house would be doing the work on the Sorensen property and had been made aware of the problem.

Melissa Demaio, who lived directly opposite the Sorensen property, also expressed concerns about construction parking. Mr. Creamer asked how many cars the Sorensens had. Mr. MacMillan said their primary residence was in Europe so they were only in Ridgefield occasionally.

Board members wished to visit the property and the hearing was continued to March 5, 2012.

**DECISIONS**

The board voted the following actions:

**PETITION OF LYLE FISHELL,**  
**AGENT FOR PATRICIA LINNON SINGER TOD**  
**PROPERTY LOCATED AT 21 DOWLING DRIVE**  
**APPEAL NO. 12-002**

REQUESTED: a variance of Section 3.5.H, setbacks, to allow additions closer than permitted to the front lot line; for property in the RAA zone located at **21 Dowling Drive.**

DATES OF HEARINGS: January 23 and February 6, 2012  
DATE OF DECISION: February 6, 2012

VOTED: To Grant, with Condition, a variance of Section 3.5.H, setbacks, to allow additions closer than permitted to the front lot line; for property in the RAA zone located at **21 Dowling Drive.**

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Opposed</u>
Barney, Choplinski, Creamer	-0-
Escola. 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 addition shall be constructed exactly as shown on plans and drawings presented to the board during the hearing and made part of this decision.

The board voted this action for the following reasons:

1. The topography and shape of this property combine to represent an unusual hardship that justifies the grant of the variance requested in this case.
2. Hardship is also found in the unusually shaped front lot line, the result of a turning circle of what was formerly a cul-de-sac and is now essentially abandoned town property. The turning circle was never constructed and exists only on paper, as Dowling Drive was extended to Ridgecrest Drive.

3. As the encroachment into the front setback area is mitigated by the unused town property, there is no negative impact on adjoining properties or on the public health, safety and welfare as a result of this variance. The proposal is also in harmony with the general scheme of development in the area and with the town's Plan of Conservation and Development.

**PETITION OF JOHN M. GRISSMER, TRUSTEE**  
**PROPERTY LOCATED AT 30 EUSTIS LANE**  
**APPEAL NO. 12-003**

REQUESTED: a variance of Sections 4.1.D.6.a, conventional PRD setbacks, and 4.1.D.6.c, PRD perimeter setbacks, to allow a sports court closer than permitted to the lot lines; for property in the RAA zone located at **30 Eustis Lane.**

DATES OF HEARINGS: January 23 and February 6, 2012  
DATE OF DECISION: February 6, 2012

VOTED: To Grant, with Conditions, a variance of Sections 4.1.D.6.a, conventional PRD setbacks, and 4.1.D.6.c, PRD perimeter setbacks, to allow a sports court closer than permitted to the lot lines; for property in the RAA zone located at 30 Eustis Lane.

VOTE:	To Grant:	5	To Deny:	0
	<u>In favor</u>		<u>Opposed</u>	
	Barney, Choplinski, Creamer		-0-	
	Escola. 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 sports court shall be installed exactly as shown on plans and drawings presented to the board during the hearing and made part of this decision.
2. There shall be no lighting of the sports court.

The board voted this action for the following reasons:

1. The unusual shape of this lot, combined with the fact that both exterior and interior PRD setbacks apply to the sports courts, represents an unusual hardship that justifies the grant of the variance requested.
2. Hardship is also found in the fact that this non-permanent structure is not substantially different from similar sports areas that are not required to meet the setback or other zoning regulations.
3. Because of the isolated location of this property, there will be no negative impact on surrounding properties as a result of this variance. The proposal is in harmony with the general scheme of development in the area and with the town's Plan of Conservation and Development.

As there was no further business before the board, the Chairman adjourned the hearing at approximately 8:45 pm.

Respectfully submitted,

Marjorie Tippet  
Administrator

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Filed on the website: February 8, 2012 at 3:46 pm  
Filed with the Town Clerk: February 9, 2012