

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

July 9, 2018

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on July 9, 2018 in the Public Meeting Room, Town Hall Annex, 66 Prospect Street, Ridgefield. Copies of recordings of the meeting may be obtained from the Administrator at cost.

The Chairman called the special meeting to order at approximately 7:00 p.m. Sitting on the Board for the evening were: Glenn Smith (Chairman), Carson Fincham (Vice Chairman), Terry Bearden-Rettger, Sky Cole, and Mark Seavy.

ROTATION OF ALTERNATES

The rotation for the meeting was: first, Mr. McNicholas; second Mr. Stenko; third Mr. Byrnes. No alternate was needed for this meeting so, the rotation for the next meeting will be: first, Mr. McNicholas; second Mr. Stenko; third Mr. Byrnes.

NEW PETITIONS

Appeal No. 18-010
St. Mary's Corporation
Catoonah Street

Attorney Robert Jewell and architect Vincent Falotico represented the applicants St. Mary's Corporation. Mr. Jewell explained to the Board that St. Mary's was a 3000-member church, founded in 1881 and has been at its current location on Catoonah and the corner of High Rise Avenue since 1896. The church building has no street address and was located in the R 7.5 zone with a 25 ft. front setback. Mr. Jewell further explained that the Church was not ADA compliant and wanted to update the structure by adding a 1-story addition near the front entrance of the Church to be a gathering area after masses and other services like weddings and funerals. Also, an adoration chapel was proposed in the rear of the building, with ADA compliant bathrooms, closet and small meeting area. Mr. Jewell stated three variances were being requested for floor area ratio, lot coverage and setbacks. He further stated if the variances were granted, a revision to the special permits would include a site plan to address several issues like parking and landscaping, which have not yet been decided even though parking spots were placed at the proposed site plan to the ZBA application. Mr. Falotico presented additional plans and showed the proposed gathering area to be 1.3 ft. into the front setback.

Mr. Jewell stated the hardships for the three variance requests, as the Church pre-dates zoning as it was constructed at its current location in 1896. Also, FAR and lot coverage regulations were created primarily for residential properties and was not intended for churches. The setback increase of 1.3 ft. was minimal and the property line was to the front retaining wall not the road or sidewalk. He also stated that special consideration was given to religious organizations under religion land use regulations. Currently, parishioners park at the school located across the street on High Rise Avenue. The state DOT was working on widening the crosswalk for safety reasons. Mr. Jewell stated that these proposed plans to the ZBA do not include any increase in seats within the church.

Mr. Cole asked why the 1.3 ft. addition into the setback could not be eliminated and therefore a setback variance would not be needed. Mr. Jewell and Mr. Falotico replied

that St. Mary's was an old, antique church and the aesthetics of the proposed plans was very important. Mr. Smith agreed that the church could be dragged backwards to the rear of the property. Ms. Bearden-Rettger asked about increasing lot coverage and concerns about water management. Mr. Jewell replied that FAR and lot coverage regulations apply to single-family homes and not public gathering spaces. He also stated that water and run-off issues will be dealt with during the special permit phase.

No one appeared to speak in favor of the petition. Bob Fox of 35 Catoonah Street, appeared to speak against the granting of the variances. Mr. Fox stated he wished the Church reached out to the neighborhood with the proposed plans. Also, the parking shown on the proposed plan was a concern. He further expressed concerns about future plans for church expansion and did not trust the FAR and lot coverage numbers listed on the variance application. David Staples of 49 Catoonah Street, read a statement and submitted it to the file. Mr. Staples read that the Catoonah currently had lots of activity and traffic and safety should be a concern. He also stated concerns about a construction entrance across the street from his home into church parking lot and the character of the neighborhood changing with the church expanding. He cited articles in the Ridgefield Press about church expansion. Mr. Jewell replied that this hearing was only for what was submitted. Any additional growth and plans would have to be submitted under a new application. Also, he stated a traffic study was not required and doubted church membership would increase with the proposed additions. Mr. Cole asked if a larger gathering space was constructed would not more people want to come to the church and have their weddings and events at the church. Mr. Jewell replied no, since services like weddings are only for Catholics. Mr. Smith asked if the church was expanding the total number of seats. Mr. Falotico replied that the current design allowed for that possibility but seat expansion was not part of this application. Mr. Smith also asked for details on the construction entrance shown on plot plan. Mr. Falotico stated that the entrance was currently one-way, enter only and was not changing.

Peter Lutz of 46 Catoonah Street, appeared to speak out against the granting of the variances. He stated that the 25% increase in lot coverage should not be approved. Maureen Lutz stated that she wished the church had been more transparent with their plans. Mr. Smith replied that was why public hearings are held for each variance application. Jane Tullo of 45-47 Catoonah Street, asked if the church would consider removing some of the additional buildings to decrease lot coverage. She also asked if these other buildings could be used instead of building the addition. A resident of 50 Catoonah Street stated she was not given enough notice of the hearings and not enough time to review. Dwayne Escola of 52 Catoonah Street also appeared to speak against the granting. Mr. Escola stated that the parking spots on the plot plan were placed against his lot line. He also stated a concern about water run-off onto his property. He said the church should not be able to de-value his property. Matthew Madearis of 48 Catoonah Street appeared. Though, he was unable to speak out against the application on the record, Mr. Madearis stated he had an easement agreement with the church and wanted those easement details to be considered into any plans. He also stated that neighbors should have been notified earlier of the proposed plans due to the 4th of July holiday.

Mr. Smith explained to all that the ZBA has limited jurisdiction and for this hearing the ZBA was only dealing with the three variance requests. Mr. Smith further stated that Mr. Jewell was correct that zoning regulations were primarily written for residential uses and religious organizations have more latitude. Mr. Jewell stated that the church did not plan to have the hearing around the holiday and the proposed plans have been public knowledge through the press for two years. He further stated that any additional expansion could not be approved without the ZBA or Special Permit process again.

Mr. Smith stated he did not believe the church acted in bad faith and suggested the residents and applicants discuss before the next meeting. Mr. Jewell asked for a continuance to review the front setback encroachment and will confirm the FAR and lot coverage numbers.

No one else appeared to speak and the hearing was continued to a yet to be determined date.

Appeal No. 18-009
Matthew and Stephanie Donovan
41 Harding Drive

Matthew and Stephanie Donovan represented themselves for the petition. Mr. Donovan explained to the Board that their neighbor gave them an in-ground pool and they wanted to place it in their back yard. Because of a stream bisecting the property and the location of the septic and leaching fields, they could only place the pool at 21.9 ft. from the side setback. The house was 1 acre in the RAAA zone. Mr. Donovan further explained that they proposed the pool at 21.9 ft. so it would line up with the attached garage as the closest point to the setback. Mr. Smith suggested confirming with the surveyor that the pool would be placed at the 21.9 ft. setback, so they would not have to return to the ZBA for another variance. Mr. Fincham stated he approved of the plans because it was not increasing the setback and nonconformity.

No one appeared to speak for or against the petition and the hearing was concluded. A decision can be found at the end of these minutes.

Appeal No. 18-011
Menashe and Wendy Murad
253 West Mountain Road

Attorney Robert Jewell represented the applicants Menashe and Wendy Murad who were also present. Mr. Jewell explained the Board that they were requesting variances to prove their home was a legal, nonconforming 2-family home plus a cottage. Mr. Jewell outlined some history of the property. Records show the house was built in 1906 with two dwelling units one of which was referred to as servant's quarters plus a cottage and detached garage. In 1953 the property was purchased and a first division occurred. Twelve acres was left of the existing lot and in 1961 the zone was changed to RAAA which also stated that 2-family homes were no longer permitted in the zone. In 1984, the Murad's bought the property that was advertised as a 2-family with cottage. Tenants were living in the former servant's quarters and cottage when they bought it and continued to do so for many years. In preparation of selling the property, the Murad's wanted to confirm the 2-family home as legally nonconforming. By letter dated May 21, 2018 from the Zoning Enforcement Officer Richard Baldelli, the Murad's were told they needed to prove that residents of the servant's quarters were not employed on the property back to 1961. The Murad's were unable to prove what the tenants did from 1961-1965 as the Town records like tax accessor cards and licenses have been destroyed or are no longer available. Mr. Jewell submitted photos of the two dwelling units to the file. Mr. Jewell also stated when asked about the cottage on the property, that Mr. Baldelli agreed the cottage was legally nonconforming. The variance requested were only for the dwelling unit formerly the servant's quarters.

Mr. Jewell listed hardships as the home being built over 100 years ago before zoning regulations and it's clearly a 2-family home. Mr. Fincham asked when servant's quarters were removed from the zoning regulations. Mr. Jewell believes it was eliminated in 1979. Mr. Jewell also stated he cannot prove the occupant's jobs, as required from Mr. Baldelli, from 1961 because that information would be from official Town documents that has been destroyed or are no longer available.

No one appeared to speak for or against the petition and the hearing was concluded. A decision can be found at the end of these minutes.

DECISIONS

The Board voted the following actions:

Appeal No. 18-009
Matthew and Stephanie Donovan
41 Harding Drive

REQUESTED: A variance of Section 3.5.H., setbacks, to allow an above-ground swimming pool to be located within the minimum yard setback; for property in the RAAA zone located at 41 Harding Drive.

DATES OF HEARING: July 9, 2018

DATE OF DECISION: July 9, 2018

VOTED: To Grant, a variance of Section 3.5.H., setbacks, to allow an above-ground swimming pool to be located within the minimum yard setback; for property in the RAAA zone located at 41 Harding Drive.

VOTE: To Grant: 5 To Deny: 0

In favor Opposed
Bearden-Rettger,
Cole, Fincham, Seavy and Smith

CONDITION:

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

1. The pool shall be located exactly as shown on plans and drawings presented to the Board during the hearing and made part of this decision, and the plans submitted for the building application shall be the same as those submitted and approved with the variance application.

The Board voted this action for the following reasons:

1. The lot was made nonconforming when upzoned from RA to RAAA. That, along with a stream bisecting the property, has created an unusual hardship that justifies the granting of a variance in this case. It is noted that the proposed location of the pool will come no closer to the property line than the existing house.
2. The proposal is in harmony with the general scheme of development in the area and will have no negative impact on surrounding properties or on the Town's Plan of Conservation and Development.

Appeal No. 18-011
Menashe and Wendy Murad
253 West Mountain Road

REQUESTED: A variances of Section 3.2.B.1., permitted with zoning permit, 8.1.A.2., nonconforming uses, to allow a nonconforming dwelling unit designed and built as domestic service quarters to be used as an unrestricted dwelling unit on a premises; for property in the RAAA zone located at 253 West Mountain Road.

DATES OF HEARING: July 9, 2018
DATE OF DECISION: July 9, 2018

VOTED: To Grant, variances of Section 3.2.B.1., permitted with zoning permit, 8.1.A.2., nonconforming uses, to allow a nonconforming dwelling unit designed and built as domestic service quarters to be used as an unrestricted dwelling unit on a premises; for property in the RAAA zone located at 253 West Mountain Road.

VOTE: To Grant: 5 To Deny: 0
In favor Opposed
Bearden-Rettger,
Cole, Fincham, Seavy and Smith

The Board voted this action for the following reasons:

1. A change in zoning regulations removed the distinction between servant's quarters and multifamily use as defined in the zoning regulations. This has created an unusual hardship that justifies the granting of a variance in this case.
2. The proposal is in harmony with the general scheme of development in the area and will have no negative impact on surrounding properties or on the Town's Plan of Conservation and Development.

As there was no further business before the Board, the Chairman adjourned the hearing at approximately 9:20 pm.

Respectfully submitted,

Kelly Ryan
Administrator