

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

May 21, 2018

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on May 21, 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 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 Robert Byrnes.

ROTATION OF ALTERNATES

The rotation for the meeting was: first, Mr. McNicholas; second Mr. Stenko; third Mr. Byrnes. Mr. Seavy was unable to attend the meeting. Mr. McNicholas and Mr. Stenko were also unable to attend, so Mr. Byrnes sat for Mr. Seavy. Thus, the rotation for the next meeting will be: first, Mr. McNicholas; second Mr. Stenko; third Mr. Byrnes.

NEW PETITION

Appeal No. 18-004

Petition of In 2 Blue Design

79 Bayberry Hill Road

In 2 Blue Design owner Nick Vitiello represented the applicants for the petition. Mr. Vitiello explained to the board that the owners wanted to build a 12x30 in-ground swimming pool on the side of their property close to the front yard and 11.24' from the side property line. The house was located in the RAA zone with 35 ft. setbacks. That location was proposed because it was the flattest part of the property. The rear of the lot was elevated and contained a greenhouse. Besides the elevated topography, the property had the septic system, septic fields and a well spread out over the lot. Mr. Vitiello also mentioned the odd shape of the lot as a hardship. It was noted by the administrator that two neighbors of 79 Bayberry Hill reviewed the proposed plans and had no objections.

Ms. Bearden-Rettger asked why the pool could not be built next to the detached garage in the rear of the lot. Mr. Vitiello replied that location was near the leaching fields and believed a septic pump was nearby and would need to be relocated. Mr. Smith stated that a 11' setback in a 35' zone was excessive and that the fields could be relocated. Mr. Vitiello replied that the owners did not want to move their septic systems. Mr. Cole agreed with Mr. Smith that 11' setback was too close and further stated that the septic pump could be moved without too much cost or disruption. Mr. Vitiello replied that there was also a wetlands buffer to work around and the owners did not want the pool located near the garage for wetlands and septic concerns. He further stated that building next to the garage would involve a possible 4' retaining wall around the pool which would be a significant cost. Mr. Fincham told Mr. Vitiello that the Board could not consider cost or other financial issues as a hardship. Mr. Byrnes asked if the proposed pool could be rotated to increase the setback. Mr. Smith further stated that the ZBA could only grant minimum relief and a 11' setback in a required 35' zone was excessive. Also, there appeared to be other locations, not requiring a variance of the property that the pool could be built. Mr. Smith informed Mr. Vitiello that he and the owners could revise the plans and appear again at future hearing. Mr. Vitiello asked for a continuance.

The continuance was granted to a special meeting to be held on June 6, 2018. No one appeared to speak for or against the petition and the hearing was concluded.

Appeal No. 18-005

Petition of Alan and Suzanne Kenyhercz
13 Seventh Lane

Mr. and Mrs. Kenyhercz represented themselves for the petition. Mrs. Kenyhercz explained to the Board that they built their addition after being granted variance #14-039 in 2014. The final as-built survey showed the overhang at 18.9' to the property line. The approved variance granted them a setback 20.3' to the property line, a difference of 1.6'. Mrs. Kenyhercz believed the surveyor did not take the gutter into consideration when the plans were first drafted. Mr. Smith reviewed the 2014 variance file that did not show the overhang and gutters that were added and now shown on the as-built survey.

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. 18-006

Petition of 36 Danbury Road LLC
36 Danbury Road

Attorney Robert Jewell and architect Peter Coffin appeared for the applicants. Mr. Jewell explained to the Board that the applicants wished to add an additional 20' of building space to the rear of the existing service station. The station was in the B-1 zone now and since the inception of zoning in 1946. The B-1 zone does not have setbacks; however, the zoning regulations were updated in 2007 increasing the setbacks for all service stations to 25'. The existing side setback on the west side was 0.8' so a variance was needed. A lot size variance was also requested. Mr. Jewell explained that in 2017, the owners were able to purchase the property after previously renting the property since 1954. The new owners are updating the property including the recent removal and replacement of underground gas storage tanks. Mr. Coffin detailed the proposed addition to the Board. He stated the plans showed brick to be added to the façade of the building including the 20' addition to the rear of the building. The addition would be used for car preparation or detailing. Mr. Smith asked if the retaining wall in the rear lot would be staying. Mr. Jewell replied yes and added that a revision to the special permit would be needed if the variance was granted. That revision would address many cosmetic changes.

James Hulbert, president of the Casagmo Condominium Association, which was located in the rear of the lot, appeared to speak against the granting of the petition. The association had previously submitted a letter to the board. He detailed past problems with the property and the neighboring property which have the same owners. The problems include garbage, dumpster noise, snowplowing against the fence, and down sprouts of water. He stated they opposed any expansion because these problems may increase. Mr. Smith explained that the ZBA had limited jurisdiction over such issues and the special permit phase would deal directly with these issues. He informed Mr. Hulbert that another type of business in the B-1 zone could be built to the property line. This proposal was 83 ft. from rear property line. Mr. Jewell stated that many of the allegations against the applicants in the letter were not true. Mr. Smith asked if the applicants would construct a new fence along the southeast property line as an act of good faith. Mr. Jewell wondered if the addition of new fencing would damage tress along the current fence line. The association members stated that building a fence would be an act of good conscience by the applicants. Mr. Smith proposed a stockade fence that would provide reasonable screening and be at least 6' tall. Mr. Cole asked how relevant the fence issue was to granting the setback variance. Mr. Smith stated it was a way of addressing the neighbors' concerns. The applicants agreed to a condition of the variance that a 6' tall fence shall be constructed. No one else appeared to speak and the hearing was concluded. A decision can be found at the end of these minutes.

Appeal No. 18-007
Petition of Doug MacMillan, agent for Tim Kelly
33 Tanglewood Court

Architect Doug MacMillan represented the applicants. Mr. MacMillan explained to the Board that applicants wanted to add a dormer to a detached garage or outbuilding to expand the upstairs to living space. Mr. MacMillan stated the footprint of the structure would not be expanding. The house and garage structure were built in 1997 in the RA zone and later upzoned to RAA, leading the house and garage to become nonconforming to the RAA setbacks. The garage was also located towards the rear of the lot. The proposed dormer would bring the setback to 25.5' from the rear property line. The garage structure was already at 32' on the side lot line. Mr. Cole noted that number was still within the RA setback. Mr. Smith asked if the proposed setback included eaves and gutters. Mr. MacMillan replied yes.

Neighbor Will Guest of 31 Tanglewood Court appeared to speak in favor of granting the petition. No one appeared 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. 18-005
Petition of Alan and Suzanne Kenyhercz
13 Seventh Lane

REQUESTED: A variance of Section 3.5.H., setbacks, to allow an addition, constructed closer to property line, to remain within the minimum yard setback; for property in the RA zone located at 13 Seventh Lane.

DATES OF HEARING: May 21, 2018
DATE OF DECISION: May 21, 2018

VOTED: To Grant, a variance of Section 3.5.H., setbacks, to allow an addition, constructed closer to property line, to remain within the minimum yard setback; for property in the RA zone located at 13 Seventh Lane.

VOTE: To Grant: 5 To Deny: 0

In favor
Bearden-Rettger, Byrnes
Cole, Fincham, and Smith

Opposed

The Board voted this action for the following reasons:

1. The same hardships that applied in ZBA variance #14-039 continue to apply in this petition. It should be noted that the portion of the addition constructed closer to the property line than allowed in #14-039 is 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. 18-006
Petition of 36 Danbury Road LLC
36 Danbury Road

REQUESTED: Variances of Section 5.2.D.5.A., lot size and 5.2.D.5.C., setbacks, to allow the expansion of a service station on an undersized lot that does not meet the minimum yard setback; for property in the B-1 zone located at 36 Danbury Road.

DATES OF HEARING: May 21, 2018

DATE OF DECISION: May 21, 2018

VOTED: To Grant, variances of Section 5.2.D.5.A., lot size and 5.2.D.5.C., setbacks, to allow the expansion of a service station on an undersized lot that does not meet the minimum yard setback; for property in the B-1 zone located at 36 Danbury Road.

VOTE: To Grant: 5 To Deny: 0

In favor
Bearden-Rettger, Byrnes
Cole, Fincham, and Smith

Opposed

CONDITIONS:

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

1. The applicant shall install and maintain a 6' tall privacy fence along the full length of the southeastern property line, the specific design of which shall be as approved by the Planning and Zoning Commissions during the special permit application phase.
2. 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, 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 nonconforming building and its use as a service station both pre-date zoning regulations, and the proposed addition is no closer to the property line than the existing building. These conditions create a hardship that justifies the granting of the 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.

Appeal No. 18-007
Petition of Doug MacMillan, agent for Tim Kelly
33 Tanglewood Court

REQUESTED: A variance of Section 3.5.H., setbacks, to allow construction of a 2nd floor addition to an accessory building that will not meet the minimum yard setback; for property in the RAA zone located at 33 Tanglewood Court.

DATES OF HEARING: May 21, 2018
DATE OF DECISION: May 21, 2018

VOTED: To Grant, a variance of Section 3.5.H., setbacks, to allow construction of a 2nd floor addition to an accessory building that will not meet the minimum yard setback; for property in the RAA zone located at 33 Tanglewood Court.

VOTE: To Grant: 5 To Deny: 0

In favor
Bearden-Rettger, Byrnes
Cole, Fincham, and Smith

Opposed

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 addition shall be constructed 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 existing outbuilding was made nonconforming by the upzoning of the lot from RA to RAA. That, along with the odd shape of the lot and the location of the building on the lot, has created an unusual hardship that justifies the granting of a variance in this case. It is noted that the proposed addition comes no closer to the property line than the existing building, that the addition is entirely within the existing building's footprint, and that the addition meets the RA setback of 25 ft.
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 8:15 pm.

Respectfully submitted,

Kelly Ryan
Administrator