

**ZONING BOARD OF APPEALS OF RIDGEFIELD**

**MINUTES OF MEETING**

**April 4, 2016**

**NOTE:** These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on April 4, 2016 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 7:30 p.m. Sitting on the board for the evening were: Glenn Smith (Chairman), Duane Barney (Vice Chairman), David Choplinski, Sky Cole, Carson Fincham and Dwayne Escola. Mr. Creamer was unable to attend the meeting and asked Mr. Fincham to replace him. Mr. Escola sat to hear the continued petition as outlined below.

**ROTATION OF ALTERNATES**

The rotation for the meeting was: first, Mr. Stenko; second, Mr. Fincham; third, Mr. Escola. As Mr. Fincham sat for Mr. Creamer, the rotation for the next meeting will be: first, Mr. Stenko; second, Mr. Escola; third, Mr. Fincham.

**CONTINUED PETITION:**

The following petition was continued from the March 7, 2016 meeting and was heard by Mr. Smith, Mr. Barney, Mr. Cole, Mr. Escola and Mr. Fincham. Mr. Escola sat for Mr. Choplinski and Mr. Fincham sat for Mr. Creamer at the March 7, 2016 meeting.

**Appeal No. 16-002 – Petition of Omar Vargas**  
**46 Minute Man Road**

The applicant Omar Vargas again represented himself. Mr. Smith stated that all Board members had now visited the property. Mr. Vargas presented to the Board printed slides that summarized the proposed pool plans including staked septic fields, variance history and hardships. Mr. Smith asked if the pool equipment would be located in the setback. Mr. Vargas replied that it would not be in the setback. Mr. Escola asked how far the septic fields had to be from the pool. The Board responded it must be 25 ft. Mr. Smith stated he saw no point in installing the pool in the rear of the property near the pond. Mr. Barney stated that the plans for the in-ground pool are less obtrusive than an above-ground pool as granted in a 1972 variance. Mr. Vargas entered into the file a letter of support signed by several neighbors supporting the plans for the pool on the side of the property, not in the rear.

Mr. Cole stated that he felt the pool could be constructed behind the septic fields completely outside the setback and a variance would not be needed. Mr. Fincham and Mr. Escola stated they believe the pool could be moved closer to the house by at least 10 feet and not completely in the setback. Mr. Vargas stated that he could build the pool to line up with the patio but did not want to build it in the rear of the property. Mr. Smith proposed a new location of the pool with a drawing of the survey and asked Mr. Vargas if he would consider moving the pool closer to the patio. Mr. Vargas agreed to build the pool 35 feet from the side yard setback rather than the proposed 24.3 ft. The Board members agreed with this modification.

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 petitions were heard by Mr. Smith, Mr. Barney, Mr. Choplinski, Mr. Cole and Mr. Fincham, who was sitting for Mr. Creamer:

**Appeal No. 16-003 – Petition of Christopher Sullivan**  
**140 Bayberry Hill Road**

Attorney Robert Jewell represented the applicant Christopher Sullivan. Mr. Jewell informed the Board that the property was slightly over 1 acre and the applicant planned on converting an existing attached garage to living space and add an attached two-car garage. A setback variance was requested. Mr. Jewell stated that the house was built in approximately 1955 in the R1 zone now the RA zone. In 1966 it was upzoned to RAA. The house was built far into the side of the property, the other side of the property consisted of the septic system and the well. He further stated that there was also a stream on the property. Mr. Jewell stated that these topographical issues along with the zone change from R1 to RAA has created hardship for the applicant. Mr. Jewell entered into the record photos of the proposed building area on the property.

Mr. Smith asked Mr. Jewell if he represented the applicant on the 2013 application for this property (#13-020). Mr. Jewell replied no. Mr. Choplinski asked if the applicant considered adding 1 bay to the current garage to make it a 2-car garage. Mr. Jewell replied that a pre-fabricated garage was selected for the addition and the applicant wanted to convert the existing garage for living space. Mr. Jewell also stated that the neighborhood had many different styles of houses and the closest neighbor to the proposed addition submitted a letter in support and has no objections to the garage addition because the topography of the side property sweeps downward from a small hill so these neighbors wouldn't even be able to see the addition. Therefore, there was no need to enforce the setback regulation. He also stated a land swap with the neighbors was not possible.

Mr. Barney asked for conformation that the proposed 24 x 24 garage size included gutters. Mr. Jewell replied yes. Mr. Smith stated that the property already had a 1 bay garage so approving an additional 1-bay was more appropriate. Mr. Smith also stated the planned conversion of the current garage for living space was personal. Mr. Barney felt a 2-car garage request was reasonable and the house was on a odd part of the property. Mr. Fincham agreed with Mr. Smith and stated that the setback should be no closer than 25 ft. from the side. Mr. Choplinski stated that he appreciated the applicant changing the plans from the 2013 petition. Mr. Sullivan stated that he did move the plans for the garage more towards the front of the house and made it smaller than what was proposed in 2013. It was noted that the applicant withdrew the 2013 petition. Mr. Smith stated that after reviewing the 2013 application, that the plans are essentially the same.

Mr. Jewell asked the applicant if he wanted a continuance to possibly make changes to the proposed plans. Mr. Jewell then requested a continuance to the next ZBA meeting.

No-one appeared to speak for or against the petition, and the hearing was concluded. The applicant was granted a continuance to the next ZBA meeting.

**Appeal No. 16-004 – Petition of Paul N. Jaber, Trustee**  
**73 Prospect Street**

Attorney Robert Jewell represented the applicant. Mr. Jewell explained to the Board that the applicant purchased the split zone property in the last year. The lot was partially in the R20 zone and MFDD zone. The lot was only 21, 095 sq ft with its frontage actually on Sunset Lane. Mr. Jewell further stated that the current house was built in 1979 and had been under 6-7 different zones over the years. The new owners are requesting that the house be demolished and a new single family house be constructed using R20 setbacks, not the MFDD setback of 50 ft. Mr. Jewell explained that specific housing

plans were not submitted because the architect needed to confirm if they are allowed to design using R20 setbacks and other zoning regulations for a R20 property. Mr. Jewell listed the hardships for the property as the numerous zone changes since the lot was located in an ever-changing neighborhood with large single family homes, small homes and condominiums.

Mr. Smith asked if they planned on building within the shadow as shown on the survey since no house plans were submitted. Mr. Jaber explained that the lot was only 94 ft wide so they could not build on the MFDD setback of 50 ft. They only wanted a single-family house with likely 2200 sq ft on the main floor, 600 sq ft upstairs with a detached garage. Mr. Jaber further explained he did not yet hire an architect because they did not know if they would be approved for the variance and did not want to become emotionally and financially involved with proposed plans.

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.

### **DECISIONS**

The Board voted the following actions:

#### **Appeal No. 16-002 – Petition of Omar Vargas** **46 Minute Man Road**

REQUESTED: A variance of Section 3.5.H., setbacks to allow the construction of an in-ground pool within the minimum yard setback; for property in the RAAA zone located at 46 Minute Man Road.

DATES OF HEARING: March 7 and April 4, 2016

DATE OF DECISION: April 4, 2016

VOTED: To Grant, a variance of Section 3.5.H., setbacks to allow the construction of an in-ground pool within the minimum yard setback; for property in the RAAA zone located at 46 Minute Man Road.

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Opposed</u>
Barney, Cole, Escola, Fincham and 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 pool shall be constructed no closer than 35 feet from the property line.

The Board voted this action for the following reasons:

1. The topography of the property including numerous trees, a pond and wetlands, along with the location of the septic system on the property present an unusual hardship and justify the granting of a variance in this case. It is noted that by adding the condition that the pool be constructed 35 feet from the side property line, the non-conformity of the property will be reduced since variance #72-022 granted construction of an above-ground pool 23 feet from the side property line.
2. The proposal is in harmony with the general scheme of development in the area and with the Town's Plan of Conservation and Development. It will have no negative impact on surrounding properties.

**Appeal No. 16-004 – Petition of Paul N. Jaber, Trustee**  
**73 Prospect Street**

REQUESTED: A variance of Section 4.2.C.3, setbacks, for construction of a new single family house using R-20 setbacks; for a property in both the R-20 and MFDD zones located at 73 Prospect Street.

DATES OF HEARING: April 4, 2016

DATE OF DECISION: April 4, 2016

VOTED: To Grant, a variance of Section 4.2.C.3, setbacks, for construction of a new single family house using R-20 setbacks; for a property in both the R-20 and MFDD zones located at 73 Prospect Street.

VOTE: To Grant: 5 To Deny: 0

In favor

Barney, Choplinski, Cole,  
Fincham and Smith

Opposed

The Board voted this action for the following reasons:

1. The numerous changes to the zoning regulations and zoning maps since zoning was enacted resulted in this single lot existing in both the R-20 and the MFDD zones. This split-zone condition creates an unusual hardship that justifies the variance requested in this case. It is noted that this property is located in a neighborhood with many different types of lots including single family homes, multi-family homes and condominiums.
2. The proposal is in harmony with the general scheme of development in the area and with the Town's Plan of Conservation and Development. It will have no negative impact on surrounding properties.

As there was no further business before the board, the Chairman adjourned the hearing at approximately 8:50 pm pm.

Respectfully submitted,

Kelly Ryan  
Administrator

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Filed with the Town Clerk on April 8, 2016

Posted on Town's website April 8, 2016 at approximately 11:30 am