

ZONING BOARD OF APPEALS OF RIDGEFIELD
MINUTES OF MEETING

April 17, 2023

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on April 17, 2023. Copies of recordings of the meeting may be obtained from the Administrator.

The Chair called meeting to order at approximately 7:00 p.m. Sitting on the Board for the evening were: Terry Bearden-Rettger, Mark Seavy, Alexander Lycoyannis, Joseph Pastore, and Robert Byrnes.

ROTATION OF ALTERNATES

The rotation for the meeting was first, Mr. Lockwood; second, Mr. Stenko; third Mr. Byrnes. Mr. Byrnes will be sitting for Mr. Cole at Mr. Cole's request. Thus, the rotation for the next meeting will be: first, Mr. Lockwood; second, Mr. Stenko; third Mr. Brynes.

CONTINUED APPLICATION

Application 23-005

Kyle Stupi

16 Midrocks Road

Kyle appeared again for the application. He submitted new plans for the deck based on the feedback he received from the Board at the last hearing. The new plans locate the deck 20' from the property line, previously the plan was for 16' from the setback. The proposed shape was reconfigured and moved towards the rear of the property with the overall size of the deck smaller. Hardships were again listed as the undersized lot, .49 acres in the RA zone. The position of the house on the odd shaped lot was also listed. The newly proposed setback conforms to the R20 setback of 20'. The proposed deck stairs would go towards the backyard, not towards the neighbor's property line. When asked if any screening was planned for the neighboring property, Mr. Stupi replied that a privacy plan was proposed but nothing was yet agreed upon with the neighbors.

Diane DeBiase appeared again for her mother who was the property owner of 22 Midrocks Road. She stated they still have concerns about the noise and activity the deck addition will have on their property. Board members asked if a proposed screening plan could be discussed and agreed to by the neighbors. Mr. Stupi was asked to show that he attempted to work out a compromise with the DeBiase's for screening the deck.

No one else appeared to speak for or against the application. A continuance was granted to the May 8 ZBA meeting to allow the applicants to submit a screening plan.

NEW APPLICATION:

Application 23-009

Charles Moschos, lessee

346 Ethan Allen Highway

Mr. Moschos appeared for his application. He explained to the Board that he planned to add a coffee area with pre-made food sales to be sold in the existing vintage men's clothing store within the main house on the property. Coffee would be made onsite, but no food would be baked or cooked. The property was in the RAA zone but used commercially since at least 1969. A variance was granted in 1969 to allow a nonconforming use, antique sales. Mr. Moschos described the coffee shop as a draw to

attract more shoppers to the men's shop and the other vintage shops currently on the property. Hardships were listed as the location of the property in a residential zone. A 1991 variance granted for a garden center on the lot was reviewed by the Board along with the stated hardships. Mr. Moschos added that the proposed use would still need health department approval.

No one appeared to speak for or against the application. A decision can be found at the end of these minutes.

LEGAL SESSION

This hearing was a continuation of the settlement discussions with the Board and the other parties in the litigations filed against the Town. ZBA attorney Patricia Sullivan appeared, along with attorneys representing the other two parties in two actions filed against the ZBA, *Jaber v ZBA of the Town of Ridgefield* and *Pierandri Realty LLC and the Giardini Limited Partnership v the ZBA of the Town of Ridgefield*. An additional litigation is pending against the Planning and Zoning Commission from the Jaber's. Attorney Meghan Miles representing Pierandri Realty LLC and the Giardini Limited Partnership was also present along with Tom Pierandri. Peter Olson, attorney for Paul and Suzanne Jaber, was also present. Ms. Miles went over the timeline of the project thru various versions of the site plans since 2007 and the most recent site plan with approved landscape plan by the Planning and Zoning Commission in February 2023. This timeline was submitted to the Board for their review prior to the hearing. Ms. Miles also previously submitted a letter from the Ridgefield Fire Department which stated they had no concerns or jurisdiction over the proposed project.

Ms. Bearden-Rettger asked to confirm the 39 parking spots on the site plan, Mr. Pierandri confirmed the spots and stated all spots would be designated for each unit. Renters would have to pay for any additional spots that may be available. Ms. Bearden-Rettger also asked that the final settlement agreement state that the lower level could not be a bedroom and the units with garages cannot be living space. This was to ensure the garage would be used for parking and a parking spot shortage would not occur. The approved landscape plan was also reviewed. A line of green giant trees would be planted on the property line with the neighboring Wisteria Gardens. Trees will be maintained by the property owners for 5 years under the agreement. Mr. Byrnes asked why the units were moved 7 ft. closer to the property line than what was approved in 2007. Ms. Miles stated that some units eliminated a planned story, from 3 stories to 2 stories under the settlement agreement. The units needed to be shifted for those losing the garage level, to make room for parking. It was noted two other buildings on the lot with closer setbacks than the proposed 23' would be removed during construction. Mr. Byrnes was worried about the neighbors' concerns that it would be 7' closer. Ms. Miles replied that no other options were given by the neighbors after seven public hearings. She further stated that the Superior Court hearing for final settlement approval would be public and if the neighbors wanted to further object, they could do so at that hearing.

The Board and the parties discussed timelines to commence construction and to complete the project. Ms. Miles suggested the language state that construction commencement must begin in 36 months. Under the current statutes, 5 years to complete the project. Further extensions could be granted after the 5-year deadline. It was agreed upon that the 5 years to complete the project would include the 36 months to commence. Extensions up to 5 years could be issued after the first 5 years, so a total of up to 15 years to complete. The timeframe for the plantings of the property screening was also discussed. It was agreed upon that the screen plantings would occur when the landscape architect believed it was appropriate based on the construction status. Maintenance on the trees would end 5 years after the last certificate of occupancy was issued for the last unit on the project. It was noted in the settlement agreement that the final site plan agreement would be entered into the land record and any new or future buyers of the property would be subject to approved site plan and agreement.

Ms. Sullivan stated to the Board that they could now vote to accept or reject the settlement agreement. The Board agreed that they would like to review the final agreement with the discussed changes and edits and then vote. The Board will meet again at the May 8 ZBA meeting to vote of approving the settlement agreement.

DECISION:

Application 23-009
Charles Moschos, lessee
346 Ethan Allen Highway

REQUESTED: a variance of Section 3, residential zones, to allow a change of use previously granted to the property to now allow the sale of coffee and premade food items; for property in the RAA zone located at 346 Ethan Allen Highway.

DATES OF HEARING: April 17, 2023
DATE OF DECISION: April 17, 2023

VOTED: To Grant, a variance of Section 3, residential zones, to allow a change of use previously granted to the property to now allow the sale of coffee and premade food items; for property in the RAA zone located at 346 Ethan Allen Highway.

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Deny</u>
Bearden-Rettger, Byrnes, Pastore, Lycoyannis, Seavy	

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. This request, to sell coffee and premade food items, will remain incidental to the main business of selling vintage clothing on the property.

The Board voted this action for the following reasons:

1. The hardships listed in variance #91-073 continue to apply to this application. Property has been a pre-existing nonconforming use in a residential zone since a 1969 variance.
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 10:00 pm.

Respectfully submitted,
Kelly Ryan
Administrator