

ZONING BOARD OF APPEALS OF RIDGEFIELD
MINUTES OF MEETING

May 8, 2023

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on May 8, 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, Sky Cole 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

Prior to the hearing the applicants asked for a continuance to the June 5 ZBA Meeting.

NEW APPLICATIONS:

The following applications were heard by Ms. Bearden-Rettger, Mr. Seavy, Mr. Lycoyannis, Mr. Cole and Mr. Byrnes.

Application 23-010

Joseph and Donna Pastore

86 Peaceable Street

Landscape architect Brook Clark appeared for the applicants. She stated the property was 1 acre in the RAA zone. The plans were for a standard size pool and spa 26' from the side yard setback. A shed was planned at 21' but would be under 200 sq ft and therefore allowed within the setback. Hardships were listed as the undersized lot and the shape of the lot. Ms. Clark said the existing fence around the property would remain. An automatic cover for the pool would be added.

The neighbor to the rear of the lot, Sally Brunner of 27 Westmoreland Road appeared. She stated they had concerns about any noise the pool filter might generate. The Brunner's previously emailed the administrator regarding noise concerns. Ms. Clark replied that the filter would run from 8am until 8pm and was mostly silent. Landscape plantings were also planned around the shed for additional noise buffers. Only lights planned were within the actual pool. The Board discussed if the decision should be conditioned to include hours of the pool pump and landscape buffering, but it was decided that since the shed was allowed under the statutes, the Board could not place conditions on the shed.

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

Application 23-011
Katherine Zamecki
16 Kimberly Court

Builder Roger Provey appeared along with the applicant. Mr. Provey stated to the Board that the plans were for a 2-car detached garage within the side setback, 43.3' in the RAAA zone that requires 50' setback. Mr. Provey further stated that a portion of the proposed garage addition would only be 7% nonconforming and within the setback. A highlighted map showing the 7% was submitted into the file. Also, a neighbors' letter in support of the application was submitted. Mr. Provey listed topography as the hardship, as any other location on the lot would require extensive blasting and excavation. The proposed location would require ledge blasting as well. Mr. Cole asked if the plans could move the structure back and out of the setback so a variance would not be required. Mr. Provey stated that moving the structure back would disturb too much of the land and ledge resulting in water run-off. He further stated the structure could not be located towards the front of the property, as it would be too close to the septic system. Ms. Bearden-Rettger asked how much ledge would have to be moved for the planned structure. Mr. Provey said the current plans suggested 6-8', so up to 10' would need to be removed if the structure was pushed back further. Board members asked in the structure could be attached to the main house to gain additional feet away from the setback. Applicants stated that the roofs of the structures would not align and only 3.5' could be moved out of setback, so a variance would still be needed. Also, the Board questioned if blasting was already required with the submitted plans, what could be the hardship.

Patrick Vedder of 16 Kimberly Court, a resident of the property appeared. He stated to the Board that the lot was very rocky and the proposed location was the only available spot that would not seriously disturb the land.

The Board asked the applicants if they would revise their submitted plans based on the Boards suggestions or come back at a later date after reviewing additional options. The applicant stated that they wanted the Board to vote of the submitted application.

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

LEGAL SESSION

The following was heard by Ms. Bearden-Rettger, Mr. Seavy, Mr. Lycoyannis, Mr. Pastore and Mr. Byrnes.

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 Peter Nolan representing Pierandri Realty LLC and the Giardini Limited Partnership was also present. And Peter Olson, attorney for Paul and Suzanne Jaber, was also present. Mr. Nolan stated that a draft settlement was circulated on April 28 with the requested change from the last hearing, specifically on page 4 section 2 regarding the garage level not being used as an additional bedroom unit. Mr. Jaber through his attorney Mr. Olson, requested an additional change on the morning of the hearing to paragraph 5, Section F to add language regarding drainage from the site onto the Jaber's neighboring property. Stating "There shall be no stormwater drainage from the Property onto the Jaber's' Property". Ms. Sullivan asked how this provision would be enforced. Mr. Nolan replied since the agreement was a signed contract, any issues would be brought in front of the Court. Ms. Sullivan expressed concerns that the Town or Board or Commission could face litigation if there was a dispute. Or be forced to mediate any issues or violations between the Pierandri's and Jaber's. Mr. Olson agreed with Mr. Nolan but stated that the Town would still have an obligation to enforce the site plan as

approved and it would not be possible to define any future disagreements within the contract. Ms. Sullivan expressed concerns that the Court would not want to micromanage the site plan and the zoning enforcement officer might not enforce because of the contractual agreement. Any disagreements could come before the ZBA to again resolve. Mr. Nolan stated that the Court will enforce the plan if any issues came up, likely not the before the Town. It was agreed that the language would be changed to recognize that normal discharge would be expected but no storm water drainage specifically onto the Jaber’s property. Also requested on the site plan, the formally curved driveway onto Sunset Lane no become straight to avoid going onto the Jaber’s property. Ms. Sullivan stated the new draft did reflect the change made on the site plan map dated May 4, 2023.

The Board asked that a revised settlement agreement be drafted to reflect the changes including the straightened driveway, storm drainage and the garage not being converted to bedroom space. Board will review the final draft then vote to accept the settlement agreement at the May 22 ZBA meeting.

DECISIONS:

Application 23-010
Joseph and Donna Pastore
86 Peaceable Street

REQUESTED: a variance of Section 3.5.H., setbacks, to allow a pool and spa to be location within the minimum yard setback; for property in the RAA zone located at 86 Peaceable Street.

DATES OF HEARING: May 8, 2023
DATE OF DECISION: May 8, 2023

VOTED: To Grant, a variance of Section 3.5.H., setbacks, to allow a pool and spa to be location within the minimum yard setback; for property in the RAA zone located at 86 Peaceable Street.

VOTE: To Grant: 5 To Deny: 1

<u>In favor</u>	<u>Deny</u>
Byrnes, Cole	Bearden-Rettger,
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. The pool and spa 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 permit application shall be the same as those submitted and approved with the application for variance.

The Board voted this action for the following reasons:

1. The lot is undersized,1.04 acres in the RAA zone. This, along with the shape of the lot, creates 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.

Application 23-011
Katherine Zamecki
16 Kimberly Court

REQUESTED: a variance of Section 3.5.H., setbacks, to allow a two-car detached garage within the minimum yard setback; for property in the RAAA zone located at 16 Kimberly Court.

DATES OF HEARING: May 8, 2023
DATE OF DECISION: May 8, 2023

VOTED: To Deny, a variance of Section 3.5.H., setbacks, to allow a two-car detached garage within the minimum yard setback; for property in the RAAA zone located at 16 Kimberly Court.

VOTE:	To Grant:	0	To Deny:	5
	<u>In favor</u>		<u>Deny</u>	
			Bearden-Rettger, Byrnes	
			Cole, Lycopannis, Seavy	

The Board voted this action for the following reasons:

1. No hardship was presented to justify the grant of the variance sought in this application. The Board found that the submitted plans could likely be adjusted so a variance would not be required. The applicants chose not to revise their submitted plans.

As there was no further business before the Board, the Chairman adjourned the hearing at approximately 9:00 pm.

Respectfully submitted,
Kelly Ryan
Administrator