

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

April 1, 2019

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on April 1, 2019 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 Michael Stenko.

ROTATION OF ALTERNATES

The rotation for the meeting was: first, Mr. McNicholas; second Mr. Byrnes; third Mr. Stenko. Mr. Carson had to recuse himself from one hearing as noted below and asked Mr. Stenko to sit of his behalf. Thus, the rotation for the next meeting will be: first, Mr. McNicholas; second Mr. Byrnes; third Mr. Stenko.

NEW PETITIONS

The following new petitions were heard by, Mr. Smith, Mr. Fincham. Mr. Cole, Ms. Bearden-Rettger and Mr. Seavy.

Appeal No. 19-004

James Schwatz

34 Walnut Hill Road

Architect Doug MacMillan represented the applicant. Mr. MacMillan stated his clients wanted to add an attached two-story garage addition with a bedroom suite upstairs, 22 ft from the side setback. He listed hardships as an undersized lot in the RAA zone and the narrow width of the lot. He further stated that the proposed plans met FAR and lot coverage regulations. The house was owned since 2001, the drop-down provision was passed in 2004 Mr. Cole asked if a stone retaining wall near the proposed location could be moved back to bring the addition only 25 ft from the side setback. Mr. Fincham stated that proposal would meet the drop-down provision since the house was likely upzoned from RA to RAA. Mr. MacMillan agreed with the Board suggestion to push back the retaining wall and build the addition 25 ft from setback. The submitted plans would be modified.

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

Appeal No. 19-005

Jill Ryan

152 West Mountain Road

Architect Bob Eberts represented the applicant. The proposed plans showed a 19x19 detached garage with overhangs 14 ft from the front setback. The house on the property was 14 ft from the front setback. Mr. Eberts explained the current garage was very old and needed to be demolished. Currently, the owners had to back out onto West Mountain Road out of their driveway from garage. Safety was considered when creating plans to move the garage back and facing the house for a turnaround. The house was located in

the RAAA zone with 50 ft setbacks. The proposed location for the garage was backed up to a stone wall and septic fields, so it could not be placed further back. Photos were introduced that showed the current garage. A gravel driveway was planned.

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

Appeal No. 19-006
Dylan & Brunetta Cathers
252 Bennetts Farm Road

Dylan and Brunetta Cathers represented themselves for their petition. They explained to the Board they wanted to add a detached garage with a car port 24.3 ft from the side setback. The lot was 1.2 acres with a 35 ft setback in the RAA zone. Mr. Cathers listed his hardships as wetlands in the front of the lot and a steep hill to the rear, also septic fields were located on the other side of the lot. Mr. Fincham asked why the garage could not be moved to 25 ft from the setback line to meet the RA setback. Mr. Cathers stated the pre-fab structure needed to be level and required 2 ft of flat land surrounding the area. Mr. Cathers said the area directly behind the proposed location sloped. Mr. Smith suggested cutting the overhand 8 inches to meet the 25 ft setback. Mr. & Mrs. Cathers agreed to the suggested cut and placement at 25 ft from the setback. The submitted plans would be modified.

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

Appeal No. 19-007
Nejame & Sons, agents for Pat Zeola
682 North Salem Road

James Kelly of Nejame & Sons represented the applicants. Laura Zeola was also present. Mr. Kelly stated the owners wanted to build an above-ground pool on the narrow lot. The proposed location placed the setback 23 ft on one side and 22 ft on the other side. Mr. Cole stated the shape of the pool was erratic looking. Mr. Kelly replied it was an 18 x 33 pool that was taking up most of the backyard. Mr. Smith asked the dimensions of a smaller sized pool. Mr. Kelly replied the next smallest was 16.5 x 27. Mr. Smith asked if the setbacks could be 25 ft to meet the RA regulation. Mr. Kelly agreed the pool could be refigured to meet the RA 25 ft setback on both sides. The submitted plans would be modified.

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

The following new petition was heard by, Mr. Smith, Mr. Cole, Ms. Bearden-Rettger Mr. Seavy and Mr. Stenko.

Appeal No 19-003
William & Patricia Garland & PTD Properties LLC
352 West Lane

Attorney Peter Olson represented the applicants. This petition was an appeal of the Zoning Enforcement Officer's issuance of a zoning permit to 352 West Lane. The zoning permit was for a storage container to be used for farming. The appellants were abutting neighbors to 352 West Lane. Mr. Olson distributed to the Board documents including various zoning regulations, maps of the property and photos. Based on the regulations for accessory structures, Mr. Olson stated the structure use of growing crops was not permitted under the regulations. Only growing of crops on the land was permitted under the regulations, containers were not for farming, only growing crops on

the land to be sold in a structure was permitted. Mr. Olson also said that the regulations did not set a limit on how many containers for farming could be put on a property and if they could be stacked on top of each other. Mr. Olson stated that the granting a permit for the storage container should not have been issued under zoning regulation 3.4.B.1., but under a site plan review and special permit. Mr. Olson also questioned if the required frontage under the regulation for the shared accessway was correct. Also, questioned was the parking on the lot, since parking was not shown or outlined on the permit. A site plan would have required parking plans. The potential use of farming in the wetlands as listed on the permit, was questioned, along with the legality of farming in the wetlands. Mr. Olson also stated the farming use and structure has created a burden of the easement, as there was no right of easement for a non-residential use.

Mr. Smith asked if some of these issues were actually civil matters between the parties. Mr. Olson replied that under a site plan review these issues would have been decided. Mr. Olson stated that a farm stand on the property would affect the abutting neighbors due a lack of parking and blockage of the easement by parked cars and trucks. He also claimed it negatively effected property values.

Appellant William Garland spoke. Mr. Garland stated that the container was difficult to look at as he drove to his home at the end of the accessway. He stated he believes the presence of the container has negatively affected the value of his home. Appellant Paul Demirijian spoke. He stated he was not against farming, but the presence of the storage container had affected the re-sale value of his home. Mr. Olson asked the Board to consider issuing a stay of the zoning permit which would stop any further work on the container. Mr. Smith asked Mr. Olson if he agreed farming was allowed under the regulations. Mr. Olson agreed it was allowed, but not farming within a structure.

The Zoning Enforcement Officer who issued the permit for the storage container, Richard Baldelli then spoke. Mr. Baldelli distributed for the record the definitions of farming related regulations from the zoning regulations. Mr. Baldelli stated that buildings or structures can be used in connection with farming like the many greenhouses located in Ridgefield. Mr. Baldelli said after his review of the permit application he had no doubt the container would be used for farming. He also submitted for the file the 1999 zoning regulations and a map regarding the accessway and frontage. The Inland Wetland agent for Ridgefield Beth Peyser spoke. Since wetlands was mentioned in the appeal application, she felt she should speak and be asked any questions if necessary. She stated that a wetlands review was not needed in this permit application as the container was to be 240 ft from the wetlands. Ms. Peyser confirmed that some farming was permitted in the wetlands. Mr. Smith asked Mr. Baldelli about Mr. Olson's parking concern. Mr. Baldelli replied that part of the lot was level and visitors or workers should be able to park on the lot as the container was 35 ft from the front property line. Mr. Smith asked Mr. Baldelli if farming was a permitted use under the regulations. Mr. Baldelli confirmed it was and stated the structure was an accessory use to the permitted use of farming. Mr. Olson stated that the Planning and Zoning Commission did not intend for these types of containers when they created the farming regulations since they do not meet the character of the neighborhood. Mr. Smith stated that a horse farm neighbors the properties and many properties in Ridgefield have greenhouses.

The owner of 352 West Lane, John Papa spoke. Mr. Papa stated to the Board that he spoke with Town officials about the wetlands and other issues on the property before applying for a permit. He also stated Ridgefield has an agricultural history as many homes where once barns, especially in the West Lane area. Mr. Papa stated that the container was in an early stage of development and the exterior will be aesthetically improved in the future. He further stated that its improvement would be a benefit to the neighborhood and improve property values. When asked by Board members, Mr. Papa could not provide details or a timeline as to how the container will be altered but would be in character with the neighborhood. Mr. Seavy asked if a farm stand was planned. Mr. Papa replied not at this time.

Mr. Smith stated tonight's hearing was now closed and continued the hearing until May 13 at Mr. Olson's request as he was unable for the next ZBA meeting on April 29.

The Board voted the following actions:

DECISIONS

Appeal No. 19-004
James Schwartz
34 Walnut Hill Road

REQUESTED: a variance of Section 3.5.H., setbacks, to allow the construction of two-story, garage that does meet the minimum yard setback; for property in the RAA zone located at 34 Walnut Hill Road.

DATE OF HEARING: April 1, 2019
DATE OF DECISION: April 1, 2019

VOTED: To Grant, a variance of Section 3.5.H., setbacks, to allow the construction of two-story, garage that does meet the minimum yard setback; for property in the RAA zone located at 34 Walnut Hill Road.

VOTE: To Grant: 5 To Deny: 0

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

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 addition shall be located exactly as shown on modified 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 modified and approved with the variance application.
2. The site plan as modified during the hearing, now places the garage addition 25 ft. from the side property line.

The Board voted this action for the following reasons:

1. The upzoning of this lot from RA to RAA has created an undersized lot. This, along with the loss of the drop-down provision and the presence of wetlands on the neighboring property, has created an unusual hardship that justifies granting a variance in this case. It is noted that the modified plans meet the RA setback.
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. 19-005
Jill Ryan
152 West Mountain Road

REQUESTED: a variance of Section 3.5.H., setbacks, to allow the construction of a garage within the minimum yard setback; for property in the RAAA zone located at 152 West Mountain Road.

DATE OF HEARING: April 1, 2019
DATE OF DECISION: April 1, 2019

VOTED: To Grant, a variance of Section 3.5.H., setbacks, to allow the construction of a garage within the minimum yard setback; for property in the RAAA zone located at 152 West Mountain Road.

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 addition 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 shape of the lot and the location of the house of the undersized lot, along with the topography on the property, has created an unusual hardship that justifies the granting of a variance in this case. It is noted that the location of the new garage will increase the safety of cars entering and exiting the property and the addition will not increase the nonconformity as it will not be any closer to the property line than the 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. 19-006
Dylan & Brunetta Cathers
252 Bennetts Farm Road

REQUESTED: a variance of Section 3.5.H., setbacks, to allow the construction of a garage within the minimum yard setback; for property in the RAA zone located at 252 Bennetts Farm Road.

DATE OF HEARING: April 1, 2019
DATE OF DECISION: April 1, 2019

VOTED: To Grant, a variance of Section 3.5.H., setbacks, to allow the construction of a garage within the minimum yard setback; for property in the RAA zone located at 252 Bennetts Farm Road.

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

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 garage shall be located exactly as shown on modified 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 modified and approved with the variance application.
2. The site plan as modified during the hearing, now places the garage 25 ft. from the side property line.

The Board voted this action for the following reasons:

1. The shape of the undersized lot, along with the loss of the drop-down provision and the presence of wetlands on the property, has created an unusual hardship that justifies granting a variance in this case. It is noted that the modified plans meet the RA setback.
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. 19-007
Nejame & Sons, agents for Pat Zeola
682 North Salem Road

REQUESTED: a variance of Section 3.5.H., setbacks, to allow the construction of an above-ground swimming pool within the minimum yard setback; for property in the RAA zone located at 682 North Salem Road.

DATE OF HEARING: April 1, 2019
DATE OF DECISION: April 1, 2019

VOTED: To Grant, a variance of Section 3.5.H., setbacks, to allow the construction of an above-ground swimming pool within the minimum yard setback; for property in the RAA zone located at 682 North Salem Road.

VOTE:	To Grant:	5	To Deny:	0
	<u>In favor</u>		<u>Opposed</u>	
	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 at 25 ft. from the side setback line. The modified plans submitted for the building application shall show the 25 ft. setback.

The Board voted this action for the following reasons:

1. The odd shape of the undersized lot has created an unusual hardship that justifies granting a variance in this case. It is noted that the modified plans meet the RA setback.
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