

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

January 7, 2019

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on January 7, 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. Alternates Robert Byrnes and Michael Stenko were also present.

ROTATION OF ALTERNATES

The rotation for the meeting was: first, Mr. McNicholas; second Mr. Byrnes; third Mr. Stenko. No alternates were used for this meeting. Thus, the rotation for the next meeting will be: first, Mr. McNicholas; second Mr. Byrnes; third Mr. Stenko.

NEW PETITIONS

Appeal No. 18-030
Anthony Messina
8 Sawmill Hill Road

Builder Ron Rucolas appeared for the applicants. He stated to the Board that the owners wanted to construct an inground swimming pool 25.6" from the setback. The lot was subject to the RA setback of 25" though it was now located in the RAA zone requiring a 35" setback. The proposed pool would be to the rear of the lot, as the house was placed to the rear of the lot as well. No neighbors would be affected by the proposed location. Mr. Cole asked why the pool could not be moved closer to the house. Mr. Rucolas replied that the owners wanted additional space for fencing around the pool. He further stated that the proposed plans still comply with the RA 25" setback.

No one else 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. 18-029
Sanjay Tripathi
Property Located at 90 Canterbury Lane

This is an appeal of the decision of the Zoning Enforcement Officer. Attorney Keith Ainsworth represented the applicant, Sanjay Tripathi, who filed the appeal. Mr. Smith stated prior to this hearing that this appeal would likely require two public hearings and the next hearing would be scheduled for January 28.

Mr. Ainsworth explained to the Board that Mr. Tripathi of 78 Canterbury Lane was appealing the decision of the zoning enforcement officer to issue a zoning permit, #Z-18-186, to his neighboring property 90 Canterbury Lane, owned by Dane and Smadar Unger. A statement was also submitted to the record. The zoning permit was for the installation of a 2-ground mounted solar arrays. Mr. Ainsworth stated solar power was an emerging issue in Ridgefield, he knew of only one other property in Ridgefield that had a ground mounted system. He also stated the Tripathi's were not against solar power, but stated

these arrays looked industrial and did not belong in a residential neighborhood. The arrays were to be 1019 sq. ft. and 11 ft high. Mr. Ainsworth also said these arrays were not minor structures as described in the zoning regulation 3.4. A.1. Mr. Ainsworth stated the arrays were not similar to a shed or gazebo and large enough in scale and type that they should be regulated under the regulations. Photos were introduced and entered showing the arrays from the Tripathi's property. Installation of the arrays started in late October. Aerial photos were introduced showing the Tripathi home oriented to the corner of the Unger property facing the arrays. Mr. Ainsworth stated the Unger's are building a garage that will block their views of the arrays from their home. Mr. Ainsworth further stated that the entered photos do not show how big the arrays actually are and recommended visiting the properties. Mr. Smith confirmed with the Board that all members visited the properties prior to the meeting. Additional photos showed 12" poles to represent potential tree plantings. Mr. Ainsworth stated the poles only block about 1/2 of the view of the arrays from the lower level and only about 1/3 blockage from the upper level of the Tripathi home. Trees over 15" were hard to plant, claimed Mr. Ainsworth, the bulbs were very big and could take years to grow. Mr. Ainsworth stated to the Board that he wished to withdraw the section on setback violations on the submitted appeal and the statement submitted at the hearing. He had claimed the placement of the arrays at 27" from the side setback was a violation of the RAAA setback of 50". However, the lots are in the PRD, *Planned Residential Development* zone and have 25" setbacks. Mr. Ainsworth stated applicants still believe arrays should be on other side of their property, away from Tripathi's property line.

Appellant Sanjay Tripathi spoke to the Board about his appeal of the zoning permit. He stated that after living in Ridgefield for 12 years, the neighboring lot began construction approximately 16 months ago. He corresponded with the owners of 90 Canterbury numerous times on various issues. In late October 2018, the arrays for the solar panels were installed and are now visible from almost everywhere in their home. Mr. Tripathi submitted for the record a petition from 52 residences in Ridgefield supporting his position that the arrays are not suitable in a residential area. Mr. Tripathi also submitted a recent article from the Ridgefield Press in which Planning and Zoning Commission members stated they didn't like the appearance of a proposed storage facility on Route 7 and did not approve those plans.

Richard Baldelli was next to appear and speak. Mr. Baldelli stated to the Board that he has been Ridgefield's Planning Director for over 1 year and the Ridgefield zoning enforcement officer since 1986. Prior to that he was the ZEO of Newtown 7 years. Mr. Baldelli stated that after being notified of the appeal, he turned over his ZEO file to the administrator for the ZBA, as required under CT Statue 8-7. He further stated the appeal application listed the issuance of building permit B-18-535 as being appealed, along with the zoning permit. Mr. Baldelli stated a building permit could not be appealed to the ZBA. He distributed to the parties and Board members a folder containing relevant documents to the issuing of the zoning permit and the appeal. Mr. Baldelli noted his response to the setback issue, previously withdrawn by Mr. Ainsworth, was within the materials. Mr. Baldelli directed members to Section 2 of the folder that included building dimensions, floor area ratio, and lot coverage regulations that apply to buildings only, not accessory structures. Mr. Baldelli stated the solar panels would serve the large property and home as a small accessory structure. Mr. Baldelli further stated that solar panels were not listed in the Ridgefield zoning regulations, as the regulations could not possibly list all potential accessory structures. He also said neighbors often complain when a neighboring property applies for permits. For example, a swimming pool often brings neighbors' complaints to the ZEO. Complaints about possible drownings, potential swim lessons being held, lighting of the pool area, etc. As the ZEO, he can not take neighbors' feelings into consideration when granting zoning permits.

The attorney for the owners of 90 Canterbury Lane, Matthew Mason of the law firm Gregory and Adams PC, spoke next at the hearing. Mr. Mason started by stating the permit was not approved under regulation 3.4. A.1., but under 3.4. B.1., *Permitted with Zoning Permit*. Mr. Mason stated filing the appeal was based on the Tripathi's not liking the look of the unfinished panels. Beauty was in the eye of the beholder and how the

panels look to the Tripathi's was not an issue under zoning, Mr. Mason said. Mr. Mason said Mr. Baldelli in his testimony did correctly address the true size of the solar panels and further stated the Unger's could have constructed them twice as large under the allowable dimensions. Mr. Smith asked for clarification of those numbers, Mr. Mason said he would confirm with the surveyor. Mr. Mason stated the Unger's have been called inconsiderate for installing the arrays. But Mr. Mason said the Unger's have done everything legally and followed all zoning procedures. Screening with trees and other landscaping has been planned since April of 2018 and the Unger's had informed the Tripathi's about their plans to install the solar panels and about screening them.

Mr. Mason asked Chris Lobdell, Director of Operations at Pure Point Energy to speak about the Unger's solar panels. Mr. Lobdell explained to the Board that 30% of Pure Point's solar installations are ground mounted, most with 25" setbacks. He confirmed the panels were 1019 sq. ft and 11" tall. The panels would be at a 30-degree angle. Mr. Lobdell further stated that the panels were not planned to the left side of the Unger property because the septic system was located there and the shading analysis did not favor that location. The selected panels were completely residential, not used commercially, though they are what was referred to as net metered, which provides customers with a credit if all power gained was not used at site and sent to the power grid. Mr. Lobdell stated the solar panels will provide about 66% of the power needed for the Unger residence. While the panel installation was unfinished, Mr. Lobdell showed photos of finished solar panels. In the net metering program, the power generated from solar panels could be used elsewhere if needed and if unused by the residence, a credit could be issued back to the home owners. Mr. Seavy asked is credit could be used for example on a dark day. Mr. Lobdell replied yes, it could be pulled from grid, a power credit, not by a payment back to home owner. Ms. Bearden-Rettger asked if home owner could get a financial credit for unused power. Mr. Lobdell replied it could be up to 3 cents a kilowatt. Ms. Bearden-Rettger asked why they chose ground-mounted panels versus roof panels. Mr. Lobdell replied that ground-mounted panels were easier to maintain. He further stated the location was selected because of the location of the septic system on the other side of the back of lot. Mr. Smith stated the location was probably selected so the Unger's could not see it behind their garage. Mr. Fincham asked if a solar map was done to show the ideal location. Mr. Lobdell replied yes, a solar map was done using new technology and will produce that report at the Board's request. Mr. Smith asked for locations of other ground mounted solar panels in Ridgefield. Mr. Baldelli replied that there was one on a property on Great Hill Road. Mr. Smith asked if the permit approval was the same 90 Canterbury Lane. Mr. Baldelli did not recall details on that permit.

Landscape architect Brian Cossari of Hoffman Landscapes spoke regarding the screening plans of the arrays on the Unger property. He stated to the Board that the Unger's started planning screening choices in April 2018. Mr. Cossari showed the Board the site plan that was recently drafted after the Board of Selectman's proposed ordinance meeting. It showed views from both homes blocked with the screening plans. Specific trees to be planted were not yet decided. A June 2018 photo was introduced that showed a pole as tall as potential trees blocking the view of the arrays from 78 Canterbury Lane. Mr. Hoffman also stated to the Board that the site plan showed a shed that would block the view of the arrays from the road. Mr. Smith stated that the ZBA cannot enforce landscaping and screening conditions.

Twelve people, many residents of Canterbury Lane spoke against the issuing of the zoning permit. One neighbor spoke in favor of the zoning permit to the Unger's. Smadar Unger also spoke. She stated to the Board that they will also be able to see the arrays from their house when completed. Light exposure was the main reason the location for the arrays was selected.

Mr. Smith stated tonight's hearing was now closed and continued the hearing until January 28 to allow the Board to review newly submitted materials.

DECISIONS

Appeal No. 18-030
Anthony Messina
8 Sawmill Hill Road

REQUESTED: a variance of Section 3.5.H., setbacks, to allow the construction of an inground swimming pool that does meet the minimum yard setback; for property in the RAA zone located at 8 Sawmill Hill Road.

DATE OF HEARING: January 7, 2019
DATE OF DECISION: January 7, 2019

VOTED: To Grant, a variance of Section 3.5.H., setbacks, to allow the construction of an inground swimming pool that does meet the minimum yard setback; for property in the RAA zone located at 8 Sawmill Hill 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 pool 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. This one-acre lot is subject to RAA regulations. That, along with the location of the house to the rear of the lot and the topography of the property, has created 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.

As there was no further business before the Board, the Chairman adjourned the hearing at approximately 9:30 pm.

Respectfully submitted,

Kelly Ryan
Administrator
