

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

August 27, 2018

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on August 27, 2018 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 Mark Seavy.

ROTATION OF ALTERNATES

The rotation for the meeting was: first, Mr. McNicholas; second Mr. Stenko; third Mr. Byrnes. No alternate was needed for this meeting so, the rotation for the next meeting will be: first, Mr. McNicholas; second Mr. Stenko; third Mr. Byrnes.

NEW PETITION

Appeal No. 18-013
Petition of In 2 Blue Design
79 Bayberry Hill Road

The owners of 79 Bayberry Hill Road, Anthony and Bethani Angell represented themselves for the petition. The property was recently granted a setback variance, #18-004 to construct an in-ground pool. The owners were told by the health department that the septic tank needed to be relocated to the north of the proposed location. Previously, it was located to the south of the proposed pool. Due to the septic relocation, the pool location had to be moved south but the setback of 25.8' approved in #18-004, was to remain the same in the new submitted plans.

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

CONTINUED PETITION

Appeal No. 18-010
St. Mary's Corporation
Catoonah Street

Attorney Robert Jewell and architect Vincent Falotico represented the applicants, St. Mary's Corporation at the continued hearing. Mr. Jewell informed the Board that the setback variance request was being waived, now only FAR and lot coverage variances were requested. Mr. Jewell stated that by removing 14" from a planned bathroom, a front setback variance was no longer needed. It was noted the bathroom would still be ADA compliant. The FAR was also recalculated from the earlier application. The surveyor forgot to include the 2nd floor of a structure on the property. As hardships, Mr. Jewell stated that the FAR and lot coverage regulations were created long after the enactment of zoning in the Town and were intended for residential properties. He also stated that the Church was operating under a special permit, since it was operating well before the enactment of zoning in 1946. Mr. Jewell stated the church would apply for a special permit if granted the variances. Mr. Smith asked if the church was operating under a

nonconforming use or under a special permit. Mr. Jewell replied it was considered operating under a special permit in a residential zone because it was operating before zoning was enacted. Mr. Jewell listed hardships as the enactment of zoning in the Town in 1946 and the enactment of FAR regulations in 2000 and lot coverage in 1990, long after the church was created.

Mr. Smith asked if the church spoke with any of the neighbors who had concerns about the proposed plans. Mr. Jewell replied that he did speak with a neighbor that had questions about an easement with the church and his neighboring property. He also stated that the parking originally shown on the plans was eliminated. Ms. Bearden-Rettger asked about the use of the other buildings on the property. A representative from the church, Dick Camuso, replied a barn that was used for meeting space, a garage and a house that was currently being rented.

Jane Tullo of 45 and 47 Catoonah Street spoke out against granting the variances. She entered a copy of her letter into the file and read it aloud. Some of her arguments against granting the variances included the increase in FAR and lot coverage and the potential use of other structures on the property for meeting space. She did not find the church had legitimate hardships and was acting as a business by renting out a structure on the lot for rental income. The Board was also presented with a development plan given to parishioners detailing proposed phases of development. Neighbors also questioned why surrounding properties formally owned by the church could not have met the needs of the new plans to the church building. Dwayne Escola of 52 Catoonah Street spoke out against granting the variances. Mr. Escola stated the church did not have a legitimate hardship and the lot coverage and FAR requests could be eliminated with certain architectural changes. He further stated the Catholic Church had moral issues and should not be allowed to expand. Mr. Jewell replied to Ms. Tullo and Mr. Escola stated the church under the law was a religious use, not a business use and the 1st Amendment protects all churches. He also stated that the other recently sold church properties were all in residential zones and would have needed a variance as well. Mr. Falotico stated that the project phases were created to allow expansion in the future if needed, currently there were no funds within the church for that level of expansion. David Staples of 49 Catoonah Street spoke as well. He stated he was sympathetic to the issues the church was facing with expansion, especially since the church and school were split by High Ridge Avenue. Mr. Staples had concerns about the front parking lot entrance being relocated and construction noise. Mr. Smith stated these were issues that he would need to be addressed with various Town departments and in the special permit phase. Peter Lutz of 46 Catoonah Street asked if 14' of the setback request could be removed why the proposed FAR and lot coverage increases could not be removed as well. Mr. Smith stated the Board can only vote on the application filed and the submitted plans. He also stated that if the church's long-term goal was to expand, the church would have to file additional applications with the ZBA.

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

DECISIONS

The Board voted the following actions:

Appeal No. 18-013 **Petition of In 2 Blue Design** **79 Bayberry Hill Road**

REQUESTED: For a variance of Section 3.5.H., setbacks, to allow construction of an in-ground swimming pool within the minimum yard setback. The lot was originally granted a setback variance in ZBA variance #18-004; for property in the RAA zone located at 79 Bayberry Hill Road.

DATE OF HEARING: August 27, 2018
DATE OF DECISION: August 27, 2018

VOTED: To Grant, variance of Section 3.5.H., setbacks, to allow construction of an in-ground swimming pool within the minimum yard setback. The lot was originally granted a setback variance in ZBA variance #18-004; for property in the RAA zone located at 79 Bayberry 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 in-ground pool shall be constructed exactly as shown on the 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 hardships listed in variance #18-004 continue to apply to this petition.
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. 18-010
St. Mary’s Corporation
Catoonah Street

REQUESTED: Variances of Sections 3.5. F., lot coverage, and 3.5.G., floor area ratio, to construct an addition that will not meet these dimensional standards; for property in the R 7.5 zone located on Catoonah Street.

DATES OF HEARING: July 9 and August 27, 2018
DATE OF DECISION: August 27, 2018

VOTED: To Grant, variances of Sections 3.5. F., lot coverage, and 3.5.G., floor area ratio, to construct an addition that will not meet these dimensional standards; for property in the R 7.5 zone located on Catoonah Street.

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 constructed exactly as shown on the revised 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 church on this property pre-dates the enactment of zoning regulations in the town, as well as the much more recently adopted of FAR and coverage regulations. Further, coverage and FAR limitations developed for residential properties unduly impact the church's use, which is a use permitted in this residential zone. Combined, these factors create an unusual hardship that justifies the grant of the variances in this case.
2. The proposal is in harmony with the general scheme of development in the area, and will have no materially 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 8:30 pm.

Respectfully submitted,

Kelly Ryan
Administrator