

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

June 3, 2019

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on June 3, 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), Terry Bearden-Rettger, Sky Cole, Michael Stenko and Robert Byrnes.

ROTATION OF ALTERNATES

The rotation for the meeting was: first, Mr. McNicholas; second Mr. Byrnes; third Mr. Stenko. Mr. Fincham had to recuse himself from one hearing continued from April 1 and had asked Mr. Stenko to sit on his behalf. Mr. Fincham was also unable to attend tonight's meeting, so Mr. Stenko sat on his behalf for all petitions. Mr. Seavy was unable to attend and asked Mr. Byrnes to sit on his behalf. Thus, the rotation for the next meeting will be: first, Mr. McNicholas; second Mr. Byrnes; third Mr. Stenko.

NEW PETITION

Appeal No. 19-011

Daniel Musolino, agent for Jerzy and Joanna Kopacz
19 Silver Spring Park Road

Mr. Musolino represented the home owners who were also present. He explained to the Board that the home was recently purchased and the plans showed small expansions in the bathroom, kitchen and dining area, plus a mudroom addition off the front of the house. A setback variance was requested. The house was nonconforming to setbacks. The lot was .26- acres in the RAA zone so the lot was very likely upzoned. Mr. Musolino stated he was not increasing the nonconformity of the setbacks with the proposed plans, however an additional 9" in the front was requested. Mr. Cole stated that increase would increase the nonconformity as the plans would increase the setback from 27.3 to 26.7. Mr. Musolino stated he could keep the front to 27.3 and would not need to increase the nonconformity.

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 PETITIONS:

Appeal No. 19-010

Frank & Sarah Genova
20 Dowling Drive

Owner Frank Genova represented himself again for this continued petition. Mr. Genova stated he worked with his architect to revise the plans as agreed to at the May 13 meeting. As discussed at the May 13 meeting, setback and floor area variances were no longer needed, only lot coverage was requested. New plans were distributed to the Board reflecting the revised plans with lot coverage request.

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.

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

Alternate Robert Byrnes was sitting for Mark Seavy. This was a continued petition from April 1, 2019. Mr. Byrnes stated on the record that he visited the site prior to the meeting and listened to audio from the April 1 meeting.

Attorney Peter Olson continued to represent the appellants. This hearing was continued from April 1 meeting. Mr. Olson stated that since April 1, his clients and the landowner John Papa, did conduct settlement discussions but nothing was decided upon. Mr. Olson declined to offer details of those settlement terms to the Board.

Mr. Olson asked the Board to review section 3.1 in the zoning regulations that dealt with residential uses, preserving neighbor character and property values. He asked Ridgefield realtor Karen Harrington, the realtor who sold the property to PTD Properties, to speak to the Board about property values. Ms. Harrington stated that overall homes in Ridgefield valued over \$1,000,000 are depreciating in value. The storage container on the lot would greatly affect the value of the neighboring homes, especially due to the 3 lots being on a private accessway. Another realtor, Chip Neuman also spoke. He also stated the neighboring properties would suffer a huge deprivation in value with the storage container located on the lot. He further stated, realtors would need to explain the container and its use to potential buyers.

Mr. Smith asked Mr. Olson if he agreed that the use of the storage container for farming was permitted under the regulations. Mr. Olson replied yes, but under regulation 3.1, the storage container hurt the value of the surrounding properties. Farm buildings are accessory uses, not primary uses and should be approved under a site plan. Mr. Olson also stated a parking plan on the lot was not required under the zoning permit but parking on the site has damaged the accessway.

The Zoning Enforcement Officer and Director of Planning Richard Baldelli then spoke to the Board. He referred back to the regulations that permitted farming and the documents showing the accessway as legal. Mr. Baldelli stated the container was clearly to be used for farming, met setback regulations and was in compliance with wetlands regulations. Also, no certified appraisal was done on the neighboring properties. Mr. Stenko asked if the container was considered a building, Mr. Baldelli replied yes since it has a ceiling, walls and a floor. No regulations state a building has to be permanent. Ms. Bearden-Rettger asked if the container was allowed under the regulations in the front yard. Mr. Baldelli replied there was no primary building for the structure to be behind. Mr. Smith asked about parking. Mr. Baldelli replied there was no requirement for parking on farm lots. Parking regulations were reviewed by the Board. Mr. Smith asked if regulation 3.1 was taken into account when granting the permit as this situation was unique with the 3 lots on one accessway and use of a storage container for farming. Mr. Stenko stated that these details would greatly affect property values. Mr. Baldelli replied that Section 3.1 was a heading and the regulations that followed were the standards that needed to be met. This permit application met the standards and there was no discretion on his part regarding property values. Mr. Cole asked why there were headings listed in the zoning regulation like 3.1. Mr. Baldelli replied they were likely added for guidance. Mr. Baldelli further stated if this situation was reversed, how could he deny permits because of potential loss of property value. It would open many doors for debate. Mr. Smith stated the ZBA was more elastic, meaning it has more room to review regulations than other departments.

No one else appeared to speak for or against the petition.

Mr. Olson spoke again after Mr. Baldelli. He stated the appellants have no objections to farming, only the type of structure that was allowed in the permit. While there was not a farm stand on the lot now, the zoning permit says there may be one in the future. Unlimited storage containers could be added to the lot as allowed by the regulations. Parking under regulation 7.3.B mentioned unlisted use to be determined by Commission or Staff and 7.3.D., states parking spots shall be installed and maintained. Parking on the lot grass was not be sufficient and parking should have been decided, along with other issues, under a site plan application. Mr. Baldelli replied he spoke with the owners about parking before issuing the permit and in a 3-acre lot there would be enough parking for workers. Since a farm stand does not need any permit to operate, there are no parking requirements.

The hearing was then closed for Board discussion. A decision can be found at the end of these minutes.

DECISIONS

Appeal No. 19-011

Daniel Musolino, agent for Jerzy and Joanna Kopacz
19 Silver Spring Park Road

REQUESTED: a variance of Section 3.5.H., setbacks, to construct an addition to a single-family residence that will not meet the required setbacks; for property in the RAA zone located at 19 Silver Spring Park Road.

DATE OF HEARING: June 3, 2019

DATE OF DECISION: June 3, 2019

VOTED: To Grant, a variance of Section 3.5.H., setbacks, to construct an addition to a single-family residence that will not meet the required setbacks; for property in the RAA zone located at 19 Silver Spring Park Road.

VOTE: To Grant: 5 To Deny: 0

In favor
Bearden-Rettger, Cole
Byrnes, Stenko and Smith

Opposed

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 plans shall be located exactly as shown on the 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 overhang 27.3 ft. from the front property line.

The Board voted this action for the following reasons:

1. The upzoned .26-acre lot located in the RAA zone has created a hardship that justifies the granting of a variance in this case. It is noted that the addition does not increase the nonconformity of the lot.

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. 19-010
Frank & Sarah Genova
20 Dowling Drive

REQUESTED: a variance of 3.5.H., setbacks, 3.5.F., lot coverage and 3.5.G., floor area ratio, to allow additions, including a second story, that will not meet these dimensional standards; for property in the RAA zone located at 20 Dowling Drive.

DATES OF HEARINGS: April 29, May 13 and June 3, 2019
DATE OF DECISION: June 3, 2019

VOTED: To Grant, a variance of 3.5.F., lot coverage, to allow additions that will exceed the permitted lot coverage; for property in the RAA zone located at 20 Dowling Drive.

VOTE:	To Grant:	5	To Deny:	0
	<u>In favor</u>		<u>Opposed</u>	
	Bearden-Rettger, Cole			
	Byrnes, Stenko 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 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 revised and approved with the variance application.

The Board voted this action for the following reasons:

1. The undersized lot, 1-acre in the RAA zone, along with the enactment of the lot coverage regulation long after the house was built, 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.

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

The Board voted to reverse the Zoning Enforcement Officer's decision to issue a Zoning Permit for a structure to be used for farming, with one vote to sustain and four to reverse.

VOTE:	<u>To Sustain</u>	<u>To Reverse</u>
	Cole	Bearden-Rettger, Byrnes Smith, Stenko

The reasons for the vote are as follows:

1. It is the opinion of the Board that the Zoning Enforcement Officer did not give adequate weight to the requirements of Section 3.1, Residential Zones – Purposes, in the decision to issue the permit, which states in part:

“The residential districts may allow for certain non-residential uses when it can be demonstrated that they are compatible with nearby residential uses and preserve neighborhood character and property values.”
2. The Board finds the farming structure, which is an accessory structure to a non-residential use, to have an adverse effect on the character of the neighborhood as well as on surrounding property values. The effect is significant enough to warrant the reversal of the ZEO’s decision.

DATES OF HEARINGS:	April 1 and June 3, 2019
DATE OF DECISION:	June 3, 2019

As there was no further business before the Board, the Chairman adjourned the hearing at approximately 9:15 pm.

Respectfully submitted,

Kelly Ryan
Administrator