

MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS, MEETING HELD ON MONDAY, JULY 2, 2018 AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410.

Present

Marion Nero, Chairman; John Pepper, Secretary; Jackie Cianci, Breina Schain

Absent: Agnes white

Alternates: Gerald Devine. Douglas Noble, Thomas Selmont.

Staff: James Fasano, Zoning Enforcement Officer/Inland Wetlands Agent.

I. CALL TO ORDER.

Ms. Nero called the meeting to order at 7:31 p.m. and read the public safety announcement for the record.

II. ROLL CALL

Mr. Pepper called the roll.

III. DETERMINATION OF QUORUM

Following roll call, a quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

Ms. Nero announced Mr. Devine as the voting alternate for this meeting.

V. ACCEPTANCE OF MINUTES – June 4, 2018

MOTION by Ms. Cianci; seconded by Mr. Pepper

MOVED that the minutes of June 4, 2018 be approved subject to corrections, additions, deletions.

Correction – page 3, “hereby”.

VOTE The motion passed unanimously by those present.

VI. PUBLIC HEARING

- | | | | |
|----|---|-------------------|-------------------|
| 1. | Ilia Benga | 2018-07-01 | PH 7/2/18 |
| | <u>159 Birch Drive</u> | | MAD 9/5/18 |
| | Requesting a 5 foot front line variance of the | | |
| | Required 40 foot front line setback | | |
| | For a front porch | | |
| | The resulting front setback requested is 35' feet. | | |

Secretary Pepper read the call of public hearing into the record.

The application of Ilia Benga, 159 Birch Drive, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 5'foot front line variance of the required 40 foot front line setback in an R-20 zone. The resulting front line setback requested is 35 feet for a front porch. Property is located at 159 Birch Drive, Cheshire CT 0610, as generally shown on Assessor's Map No. 4, Lot No. 56, in an R-20 zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

Ms. Nero stated the application included an A-2 survey.

Ilia Benga, 159 Birch Drive, applicant presented her application for a 5 foot variance request. The subject property has a driveway at the side of the house; there is another house in the back which is very close to the property; and the right side neighbors have a deck very close to the subject property. The applicant's family has no privacy in the back of their house; they share a driveway with neighbors; and desire to build a front porch in order to better enjoy their home and outside weather.

Questions were posed by Ms. Schain regarding the applicant's thoughts about the house when it was purchased 11 years ago, and other issues on the property. ZEO Fasano reminded Ms. Schain that questions should be based on the application and zoning and not toward the applicant's state of mind. Ms. Benga did state she was unfamiliar with the process of buying a house but did want her children in a good school system.

Regarding the proposed porch, Ms. Cianci asked if it would be an open or enclosed front porch.

Ms. Benga said it would be an open porch.

It was clarified by Mr. Fasano that the house setback is 43.5 feet; there is 3 feet; and 5 more feet are needed.

If the variance is not granted, Ms. Schain asked if the applicant would build a porch within the requirements.

Stating she has not given thought to that issue, Ms. Benga commented on wanting to do something the family would like.

Mr. Fasano stated a 3.7 foot porch will not protrude enough for people to enjoy, and the Building Department would have to be consulted.

Mr. Noble stated the request is a reasonable one for 7.5 foot porch on the front of the house.

Mr. Pepper stated his agreement with the comments of other Board members.

Mr. Devine visited the property site, did not go onto the property, and asked about another place to put a porch, i.e. on the back or side of the house. He noted the applicant has limited property.

According to Ms. Benga there is no place else to put the porch on this property. The neighboring houses are very close to her house; there is no privacy in the rear; and the front is the only place for a porch.

It was pointed out by Mr. Devine that there are obstructions which limit what can be done on this property.

Ms. Nero talked about a deck on the side of the house, noting a deck cannot be put on the back due to lack of room, and there is no place for a porch on the back of the house.

The Board was told by Mr. Fasano that there is land in front of the applicant's house, and whether this small lot (probably a nonconforming lot) will be developed is unknown. It is possible the applicant could purchase this lot, or a portion of the lot. If that happens the lot owner would be reducing the buildable lot and make it more nonconforming. The applicant owns 43 feet from the front door towards the other property.

Letters of public notice of the variance application were sent to all abutting neighbors. No responses were received.

Mr. Devine pointed out that the back section of the house slopes and nothing can be done on the back of the property. In this application, topography might be the saving grace for the approval.

Ms. Benga advised she has talked to the front property owner about purchasing the lot, and the owner is thinking about it. There is no yes or no answer at this time.

Chairwoman Nero closed the public hearing.

VII. DECISION MAKING

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Discussion

Mr. Devine stated the topography stands out on this application, and a house should probably not have been built there. Topography is a hardship issue; the upward sloping prevents the applicant from using their land for appropriate needs; and he will give the applicant benefit of the doubt due to shortage of land. Mr. Devine will vote in favor of the application.

Ms. Cianci stated her agreement with the comments of Mr. Devine. She looked at the house, and suggested an exterior porch to the deck area and make one big area. Ms. Cianci supports the application.

Ms. Nero agreed with other Board member comments. She said the topography does not enable the applicant to utilize the property to the best advantage. The porch will enhance the design and she supports the variance request.

Mr. Pepper sees a hardship due to the lot size, and supports the variance request.

Ms. Schain was going to vote against granting the variance. She visited the property, and said there is privacy from the tree line, neighbors in the back off to the left, and thought the Board would be giving special privilege to approve a front porch. This property owner takes pride in the property. Ms. Schain thought the grass area was owned by the applicant, and just learned it is not. She hopes this property owner will sell the applicant the lot in front. After hearing Board member comments, she will approve the variance request.

MOTION by Mr. Pepper; seconded by Mr. Devine.

MOVED that the Zoning Board of Appeals grants the variance of Section 32, Schedule B, Dimensional Requirements, requesting a 5 foot front line variance of the required 40 foot front line setback in an R-20 zone. The resulting front line setback requested is 35 feet for a front porch. Property is located at 159 Birch Drive, Cheshire CT 06410, as generally shown on Assessor's Map No. 4, Lot No. 56, in an R-20 zone.

Based upon the evidence presented at the public hearing and the general knowledge of the members of the Board, it is here by found:

That a hardship (topography, lot configuration, placement of septic) exists to the property which is not applicable to other properties in the district, and that to strictly apply the Zoning Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district.

That the variance is the minimum variance that will make possible the reasonable use of the land.

That the variance will not result in injury to the neighborhood or public welfare; and that granting of the variance will not confer upon the applicant any special privilege.

The scope of this variance is limited to that which is indicated in the plans and documents presented at this meeting dated July 2, 2018.

VOTE The motion passed unanimously by those present.

Ms. Nero informed the applicant that the variance has been approved; it will not become official until filed on the land records of the Town of Cheshire in the Town Clerk's office; and this is the responsibility of the applicant.

If the applicant requires any assistance, Ms. Nero advised them to contact the Planning Department.

VIII. OTHER ZONING BOARD OF APPEALS BUSINESS.

IX. ADJOURNMENT

MOTION by Ms. Schain; seconded by Mr. Devine.

MOVED to adjourn the meeting at 8:00 p.m.

VOTE The motion passed unanimously by those present.

ATTEST:

MARILYN W. MILTON, CLERK