

MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS, MEETING HELD ON MONDAY, JANUARY 7, 2019 AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410.

Present

Marion Nero, Chairman; Jackie Cianci, Secretary; Agnes White, Breina Schain
Alternates: Doug Noble
Staff: James Fasano, Zoning Enforcement Officer
Absent: John Pepper; Gerald Devine (alternates)

I. CALL TO ORDER.

Ms. Nero called the meeting to order at 7:31 p.m.

Ms. Nero read the public safety announcement for the record.

II. ROLL CALL

Ms. Cianci 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.

V. ACCEPTANCE OF MINUTES – December 3, 2018

MOTION by Ms. White; seconded by Ms. Cianci.

MOVED that the minutes of December 3, 2018 be approved subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

VI. PUBLIC HEARING

Secretary Cianci read the legal notice into the record of the meeting.

The application of Richard Pruitt Jr. 40 Holly Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 3.1' foot side line variance of the required 12' foot side line setback and 15.82% lot coverage of the required 15% lot coverage in an R-20 zone. The resulting side line setback requested is 8.9'feet, and the resulting lot coverage of .82% above the required lot coverage for a one-story garage addition. A waiver request of an A-2 Survey was submitted. The property is located at 40 Holly Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 56, Lot No. 120, in an R-20 zone. The application is on file and available for public

than 10%. The way the house was expanded limits compliance with current setbacks to accommodate a family of four. These small lots were deemed problematic, and there was resubdivision with increasing of lot sizes.

There are 14 houses on Holly Road. Nine (9) have two-car garages; four (4) have one-car garages; and one (1) has no garage; the most recent addition to a house on the road was a two-bay garage in 2013 which also needed a variance from the ZBA. The 40 Holly Road property is the last house with a single bay attached garage.

Mr. Pruitt said another problem area is the rear expansion where the septic system is located, and nothing can be done within the confinements of the property. He cannot extend forward in the front due to increasing the slope to the road.

The Board was told by Mr. Pruitt that one concern is his wife and children walking to school without sidewalks, the slope of the hill and car parked on the hill, and fear of something happening from a safety standpoint. He wants to have a garage to pull in the car, get out, and safely enter the house through a door in the garage.

Mr. Noble noted that the 2015 application had 16.1% lot coverage, and the current application has 15.84% lot coverage. He asked the reasoning for the smaller lot coverage in the subject application, i.e. smaller garage, or any differences from the prior application.

Mr. Pruitt stated nothing has been changed from the prior application.

In that regard, Mr. Noble asked about the lot coverage going from 16.1% to 15.82%.

ZEO Fasano explained that his math shows a 15.82% lot coverage.

Stating he drove by the subject house, Mr. Noble noted the paved area and sloping driveway, on-street parking, septic system in the rear with this being a problem. He talked about the size of the current garage, and if the new garage will be a separate entity attached to the house.

Mr. Pruitt stated it will be one big block, 12 feet wider. The town record shows his garage square footage larger than it really is. He submitted photos of a vehicle in the garage, showing he cannot get into his house from the garage...he (and family) must leave the garage and go through the front or back door.

Mr. Fasano stated the square footage will be corrected on the records.

With regard to the application, Ms. Schain asked if Mr. Pruitt is taking the current garage, enlarging it, with one door opening.

According to Mr. Pruitt the garage will be 24 feet wide with one garage door. The garage will be double deep in order to get into the house through the garage, and for storage. There is a door inside the garage to enter the house.

PUBLIC

William Beck, 29 Holly Road, lives across the street from Mr. Pruitt's house at 40 Holly Road, and is a second generation Cheshire resident. Mr. Beck stated his opposition to granting of the requested variance; nothing has changed since the 2105 variance application which was denied; and the lot coverage is 16.1% (not 15.82%). Mr. Beck read a written statement into the record in which he presented his facts concerning the variance request. His prepared statement refers to issues including the back yard septic system with the reasonable option to replace this system; the above ground pool and utilization of the subject property; the lot not being a true ½ acre lot, location of the garage addition over an existing paved area which does not equate into a garage addition; lack of a hardship; use of the expanded garage for a commercial business, storage of the applicant's commercial business equipment in the garage; the roof overhang, and 61' being the difference between the 16.1% and 15.82% lot coverage.

Mr. Fasano explained that if the overhang is included it would be 16.1%. The town does not measure the overhang, and in this situation the regular overhang is not included...and foundation size is used.

According to Mr. Beck, for his addition, the overhang was used and is stated on the forms.

In that regard, Mr. Fasano said sometimes people have different interpretations. For the Beck 2013 applications, the data was built on the foundation size. The A-2 survey shows the foundation two feet smaller than what was built. Mr. Fasano reviewed the Beck application and wanted to insure Mr. Beck was treated fairly. He reiterated that the town does not measure the overhang; the standard used is a one foot overhang; foundation size is the basis used for lot coverage, as in the Beck application.

With regard to the Pruitt application, Mr. Beck reviewed and commented on sections A, B, and C. He asked about a stipulation of no commercial activity allowed in the proposed addition.

From a zoning standpoint, Mr. Fasano informed those present that the regulations in place do not allow for a commercial business to be conducted from a residence, nor would storage of business equipment be permitted at a residence. Should this activity be taking place, the ZEO would issue a notice of violation, and after 30 days, a Cease and Desist Order would be issued. If there are complaints, they are made to the Planning Department.

With respect to the subject application, Ms. Schain asked for Mr. Beck's main objection to the garage, i.e. possible commercial activity.

Mr. Beck responded by stating the commercial activity is secondary. His primary concern is that the garage can be constructed without a variance, and 474 S.F. is excessive. It will change the property values, aesthetics of the neighborhood, and the applicant has 2,500 S.F. on the lot.

It was pointed out by Mr. Noble that the lot coverage is, technically 15% (15.82%) and not 16%.

The applicant, Mr. Pruitt, addressed the comments stated, reporting he updated his septic system in 2012; he cannot go to the rear yard; going on the right side of the house results in a problem with the curb cut; the garage measures 232 S.F. and it would not be too far off from settings of others; the largest garage in the neighborhood is 616 S.F.; his expanded garage would be 667 S.F.; usable vehicle space would be 444 S.F.; and the remaining space would be for dry storage. There are four (4) additions to the property prior to his owning the property...a bathroom, enclosed garage, living space off the back of the garage and the garage (with living area carried into the garage for house access). This shortened up the floor plan.

Mr. Pruitt submitted a letter from the 50 Holly Road neighbor, Patricia Schwab.

Ms. Cianci read the letter supporting the variance request, dated November 20, 2018, from Patricia Schwab into the record.

With regard to his commercial business, Mr. Pruitt submitted bills (\$775 per month) from 2016 to date for his rental of commercial space (at Strollo's behind Pop's Pizza). He also commented on the fact that the dumpster on his property is being used to clean out toys and other items before and after Christmas. Mr. Pruitt said he is a prisoner of his own property, and cannot bring a lawn mower home without photos being taken all the time when coming home, or going in and out of a vehicle. Therefore, he would be more comfortable with his family having access through the garage into the home.

Ms. Schain asked about the applicant's part-time job, and possible commercial activity in the proposed garage.

In response, Mr. Pruitt said he has a property management business, and there would be no commercial activity in the garage.

Michael Esposito, 30 Holly Road, lives on the right side of the Pruitt residence, and said the Pruitts are a good family, and he sees nothing wrong with the proposed two car garage. With his own one car garage he can barely fit his car into the garage, and

people with larger vehicles cannot get into their garage. He commented on issues with Mr. Beck and neighboring families. Mr. Esposito supports the variance request.

Chris Bowman, 761 West Main Street, noted that before zoning there was no look at some of the issues being raised. Today, they must be looked at because cars are bigger now, and he has faced the same situation of a large car not fitting into the garage. He supports approval of the variance request for the property at 40 Holly Road.

Frank Salvatore, Prospect road, stated he knows the applicant, and he is improving his home and neighborhood. He said the applicant does everything well, is very concerned, very helpful, a person of honor, and very involved in the community. He supports the variance request.

Mr. Beck clarified some of the minor comments, and said there were four (4) additions by prior owners. The #4, bathroom, was removed by the Pruitts with their last addition. Regarding the Schwab letter, he said she does not live in the house but in Illinois, and her elderly mother lives in the house. Mr. Beck said he gets along with his neighbors, co-exists with the Pruitts, and did take photos of the dumpster, overhang, cars in the driveway, and the town tractor/backhoe on the Pruitt property.

Mr. Noble said the focus of the meeting is for the Board to look at all the information and commentary from the neighbors. All this is taken into consideration for the ZBA to make a decision.

Maura Esposito, 30 Holly Road, commented on their being some issues involved, but everyone must focus on the application for the variance request. She believes many other neighbors will be coming to the ZBA due to having small lots and need for a variance. She understands the hardship and hopes the ZBA will focus on the true hardships of these lots. Ms. Esposito supports the variance request.

There were no further comments or questions. Chairperson Nero closed the public hearing.

VII. DECISION MAKING SESSION

Secretary Cianci read the legal notice into the record of the meeting.

The application of Richard Pruitt Jr. 40 Holly Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 3.1' foot side line variance of the required 12' foot side line setback and 15.82% lot coverage of the required 15% lot coverage in an R-20 zone. The resulting side line setback requested is 8.9'feet, and the resulting lot coverage of

MOVED that the Zoning Board of Appeals grants the variance of Section 32, Schedule B, Dimensional Requirements, for property located at 40 Holly Road, Cheshire CT 06410, for a 3.1 foot side line variance of the required 12 foot sideline setback, and 15.82% lot coverage of the required 15% lot coverage in an R-20 zone. The resulting sideline setback requested is 8.9 feet and the resulting lot coverage of .82% above the required lot coverage. The property at 40 Holly Road, Cheshire CT 06410, is shown on the Assessor's Map No. 56, Lot No. 120, in an R-20 Zone.

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

That a hardship, lot configuration, location of septic system, exists to the property and to strictly apply the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Regulations.

That granting of the variance will not confer upon the applicant any special privilege.

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

The variance will not result in injury to the neighborhood or public welfare.

The scope of this variance is limited to that which is indicated in the plans and documents presented at this hearing on January 7, 2019.

VOTE The motion passed unanimously by those present.

The variance was approved; it does not become official until filed on the land records of the Town of Cheshire; and this is the responsibility of the applicant.

Ms. Nero advised the applicant, Mr. Pruitt, that if there are any questions regarding the matter, they must be addressed to the Planning Department.

VIII. OTHER ZONING BOARD OF APPEALS BUSINESS

Ms. Nero informed the Board that Mr. Fasano is retiring as ZEO for the Town of Cheshire. On behalf of the Board she thanked him for serving as staff member to the ZBA and wished him success in his upcoming endeavors.

IX. ADJOURNMENT

MOTION by Ms. Cianci; seconded by Ms. White.

MOVED to adjourn the meeting at 8:56 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk