

MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS, MEETING HELD ON MONDAY, MARCH 4, 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; John Pepper, Breina Schain
Alternates: Gerald Devine, Doug Noble
Staff: Suzanne Simone, Environmental Planner
Absent: Agnes White

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. Mr. Noble was the alternate for this meeting.

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 – January 7, 2019

MOTION by Ms. Schain; seconded by Ms. Cianci.

MOVED to approve and accept the minutes of January 7, 2019 subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

VI. COMMUNICATIONS

- 1. Connecticut Federation of Planning and Zoning Agencies
71st Annual Conference, Thursday, March 28, 2019**
- 2. Connecticut Federation of Planning and Zoning Agencies
Newsletter – Winter 2019, Volume XXIII, Issue 1**

Board members who are interested in attending the Conference should contact the Planning Department to register.

VII. PUBLIC HEARING

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For clarification, Ms. Simone said the non-encroachment line is the wetlands boundary itself according to the subdivision plans through Inland Wetlands & Water Courses Commission (IWW). These plans were approved in 2012.

Board members, Ms. Simone, Mr. Napolitano, and Mr. Anderson reviewed the plans.

On these plans, Ms. Simone pointed out the non-encroachment line, the actual wetland flags on the site, conservation easement area, wetlands to the rear, and regulated area. She advised that to do anything in the wetlands area, a permit is required.

Ms. Simone asked the applicant why the garage is planned for the proposed location and not another location on the property.

Mr. Anderson said there is a propane tank lid, which he cannot open, and this tank would have to be moved in order to build the garage. The Board was told by Mr. Anderson that he has large vehicles which he cannot get into the existing garage. He actually parks two cars at the end of the driveway. When snow is plowed these cars are snowed in, and the garage will solve many of his existing problems.

With regard to the garage built next door to the subject property, Mr. Napolitano said he built this garage, and this lot did not have any wetlands. The situation is similar to this application with the septic system in the front yard, which pushes the house deeper into the lot. He noted there is a good distance between the subject house and neighbor's house.

Ms. Schain visited the property and said the garage is okay and there are no issues. She asked about input from neighbors.

It was pointed out by Mr. Pepper that there is a line missing from the drawing which is 50 to 60 feet width of the back of the house.

Mr. Anderson stated he spoke with his neighbors and they have no problems with his plans to build a garage. No letters were written in response to his notification letters to neighbors.

It was stated by Mr. Napolitano that town land borders the subject property to the south and west.

On the map it shows the existing garage and Mr. Devine asked the applicant why there are no plans to extend this garage instead of building a separate garage from the house. He said if there is not enough space for three cars, the garage could go south and expand without going into the proposed area. He also asked about the paved driveway taken up by the original garage.

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With regard to a hardship for a variance, Mr. Devine stated the problem can be solved using the existing garage footage.

Mr. Anderson said a garage extension would result in a difficult turning around to get in and out.

Extending towards the blacktop would result in the same situation and Mr. Napolitano said going south would run into the septic system.

It was noted by Mr. Anderson that this would change the design of the roof. The second floor bathroom is over the garage. It would be very costly. The detached garage will have more storage.

Mr. Devine said the applicant is not adding a garage for beauty; it creates the hardship; and the issue is placement of the house by the builder.

The Board was told by Mr. Napolitano that he did not randomly set up the lots. The only place for the septic system is in the front yard; there is a high square footage of wetlands; the house could not go further towards Mountain Road as it would be too close to the septic system; and to the north it would get into the setback.

Mr. Devine commented on trying to find circumstances which limit use of the property, i.e. geography of the property or limitations placed by nature.

According to Mr. Napolitano, there are nature limits of 1+ acres of wetlands.

Mr. Pepper stated there are lots of wetlands in the setbacks.

This is a two acre lot and Mr. Anderson said his house is not large, but has limitations such as wetlands.

In looking at the plans, Mr. Noble said the grading requires IWW permit. There are issues on the encroachment line, and the only option is to put the garage behind the house...it cannot be in front...and the back is the only possible location.

Mr. Napolitano said what is proposed would look the most natural and be in keeping with the neighborhood.

Ms. Schain likes the garage offset and to the side, it matches the house next door, and there is beautiful country in the background. She said the garage will match the house.

Stating his agreement, Mr. Anderson said the back of the house is nature and his children do not want to eat breakfast looking at a garage.

The grade behind the house is 6 feet and Mr. Pepper said this is shallow.

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

VIII. DECISION MAKING SESSION

- | | | | |
|----|---|-------------------|---------------------------------------|
| 1. | A.M. Napolitano LLC
<u>595 Mountain Road</u>
Requesting a 30 foot side line variance
Of the required 40 foot side line setback
In an R-80 zone. The resulting sideline
Setback requested is <u>10 feet</u> for
Construction of a garage. | 2019-03-01 | PH 3/4/19
MAD 5/8/19 |
|----|---|-------------------|---------------------------------------|

Mr. Pepper said this is a big lot, and he understands the situation. There is 60+ feet on the back, which is not steep, and has lots of room. The issue is not the town's problem and he does not see a hardship...and there is an easier solution.

After more details and looking at the plans, Mr. Noble said an IWW permit would be required to put the garage further back. The only option is to have the garage offset behind the house, and a neighbor has his garage in the same place. He will approve the variance application as the hardship is due to IWW permit needed for site clearance and setback.

Ms. Schain said it is not right to put the garage behind the house. There is a hardship because of the property being surrounded by wetlands and the septic system. The proposed location is the best place for the garage and she sees a hardship. Ms. Schain approves granting the variance.

Ms. Cianci agrees there is a hardship with topography of the land. She said the garage will be similar to the neighbors, and no one has complained about this garage. It is right to put the garage in the proposed location.

Ms. Nero sees a hardship after looking at the wetlands map. Placing the garage directly behind the house is not an option. She is in favor of the variance approval.

As a point of discussion, Mr. Pepper said the wetlands are behind the setback and do not impact the property. There is not as much a hardship as has been stated by the applicant.

Ms. Schain walked around the house, and said wetlands come closer to the house with problems and creatures. The applicant should stay away from the wetlands and it makes sense for the garage to be the same as the neighbors garage.

Ms. Cianci would not want the garage in the back of the house as it would block the beautiful view.

MOTION by Ms. Cianci; seconded by Mr. Noble.

MOVED that the Zoning Board of Appeals grants the variance of Section 32, Schedule B, Dimensional Requirements, requesting a 30' foot side line variance of the required 40'foot side line setback. The resulting side line setback requested is 10'feet. The property is located at 595 Mountain Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 52, Lot No. 110 in an R-80 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 (i.e. inland wetlands and placement 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.

The hardship does not appear to result from the action of the applicant.

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 March 4, 2019.

VOTE The motion passed 4-1; in favor (Nero, Cianci, Noble, Schain);
 opposed (Pepper).

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 that if there are any questions regarding the matter, they must be addressed to the Planning Department.

VIII. OTHER ZONING BOARD OF APPEALS BUSINESS
None.

IX. ADJOURNMENT

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

MOVED to adjourn the meeting at 8:12 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk