

MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS, MEETING HELD ON MONDAY, JUNE 3, 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; Breina Schain
Alternates: Doug Noble, Virginia Ogurick
Absent: Agnes White, Gerald Devine
Staff: Mike Strollo, Zoning Enforcement Officer.

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

The Clerk 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 – March 4, 2019

MOTION by Ms. Cianci; seconded by Ms. Schain

MOVED to approve and accept the minutes of March 4, 2019 subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

VI. COMMUNICATIONS

- 1. Connecticut Federation of Planning and Zoning Agencies
Newsletter – Spring 2019 – Volume XXIII, Issue 2**

VII. PUBLIC HEARING

Secretary Cianci read the call of public hearing for each application.

- 1. Daniel & Sarah Mach 2019-06-01 P.H. 6/3/19
800 Wolf Hill Road MAD 8/7/19
Requesting a 7' foot side line variance
Of the required 12' foot side line setback
In an R-20 Zone. The resulting sideline requested
Is 5' feet; for a garage and breezeway.**

Daniel and Sarah Mach, applicants, were present for their application. Mr. and Mrs. Mach stated they are requesting a 7 foot setback variance to build an attached garage. This would enable them to safely store their possessions, children's toys, provide access to their home with safety of their children. The zoning regulations were created after their house was built and this is their hardship. They have explored other options to build the garage and breezeway, and the proposed location is the only one which will not impact the septic system on the property. The requested variance is the minimum which will enable building the garage and breezeway. The variance approval will meet the intention of the regulations and not be a detriment to the public welfare.

Mr. and Mrs. Mach respectfully requested that the variance be approved.

With regard to the garage and breezeway, Ms. Nero asked about not building the breezeway and being in compliance with the zoning regulations.

Mr. Mach replied that would not work, as the garage would have to be 10 feet past the location of the septic system and encroach into the setback. To keep the look of the house the breezeway must be put in.

Ms. Schain raised questions about safety of the children and the gate at end of the driveway to go into the house.

Mrs. Mach said the gate is the access to the rear of the home to the patio, and when pulling into the driveway the children, getting out the vehicle, could have free roam towards the road before getting to the gate.

Ms. Schain started to raise more questions about the parent(s) being with the children, ages of the children, free roaming, etc. Chairman Nero stopped this line of questioning as it was not relevant to the variance application.

Ms. Ogurick asked about the size of the garage.

Mr. Mach stated it is a one-car garage.

Ms. Cianci asked about neighbors in opposition to the variance application.

Ms. Mach submitted letters of support from neighbors.

Ms. Cianci read the letters into the record from Jackie and Ford Cole, Consuelo and Curtis Hill, Janice Deconinck, Fred and Pam Angliss, Arlene and Ray Mittenthal, Donna and Peter Conklin.

Regarding the breezeway, Mr. Noble asked about removing it from the plans and conforming to the zoning regulations.

According to Mr. Mach the current configuration is the only way to do the garage because of the leaching fields in the back. The garage is a standard, one car garage, and they are not going excessive with their plans.

There was no public input. The public hearing was closed.

- 2. Patrick Ciaburri 2019-06-02 P.H. 6/3/19**
335 Fenn Road **MAD 8/7/19**
Requesting a 7' foot side line variance of the
Required 30' foot side line setback in an R-40
Zone. The resulting side line setback request
Is 23 feet.

Ms. Nero reported the applicant submitted an A-2 survey.

Attorney William Hickey, 45 State Street, Waterbury CT, represented the applicant. Mr. Hickey reported that Mr. Ciaburri inherited this house from his Mother. In 2011 he built a pool, decided to install a deck on the pool, and discovered a building permit was needed for the pool. He was told by the contractor that a building permit was not necessary because the deck was not attached to the pool, so Mr. Ciaburri went ahead with building the deck.

At this time, Mr. Ciaburri wants to build a garage, and he went to the Building Department to secure a permit for this work. He was advised that a building permit was needed for the deck. Mr. Ciaburri is willing to get a building permit for the deck, but cannot do so because the deck is 7 feet over the line. Without the variance approval he cannot get the permit, and would have to tear down the deck at a cost of about \$10,000.

Attorney Hickey advised that the neighbor next door has no problems or issues with the applicant's variance application. Photographs of the property and deck were submitted for the record. Mr. Hickey noted that 7 feet is less than 25% of the 30 foot side line.

In the photographs, the red house is the neighbor's house, and Ms. Schain said the trees set a barrier, which is in the applicant's favor. The deck is nice, proportionate to the pool.

According to Mr. Hickey, the pool is private, and improves the look of the property.

Mr. Noble pointed out that when the deck was built, the contractor should have been well versed in the town zoning regulations. The contractor should know the regulations and protect the town.

Mr. Hickey noted the contractor was a Cheshire business. He said the applicant got a permit for the pool, and is trying to get a permit for the garage.

With regard to how it was found there was no permit for the deck, Mr. Strollo (ZEO) explained that for the garage permit, the building inspector found no permit issued for the deck. The applicant took bad advice from the contractor.

Ms. Cianci read a letter of support from the property neighbor, Christopher Maher into the record.

There was no public comment; the public hearing was closed.

VIII. DECISION MAKING SESSION

- 1. Daniel & Sarah Mach 2019-06-01 P.H. 6/3/19**
800 Wolf Hill Road MAD 8/7/19
Requesting a 7' foot side line variance
Of the required 12' foot side line setback
In an R-20 Zone. The resulting sideline requested
Is 5' feet; for a garage and breezeway.

MOTION by Ms. Cianci; seconded by Ms. Ogurick.

MOVED that the Zoning Board of Appeals grants the variance of Section 32, Schedule B, Dimensional Requirements, requesting a 7' foot side line variance of the required 12 foot side line setback for the addition of a garage and breezeway. The resulting side line setback requested is 5 feet. The property is located at 800 Wolf Hill Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 44, Lot No. 213, 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 (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 June 3, 2019.

VOTE The motion passed unanimously by those present.

2.	Patrick Ciaburi	2019-06-02	P.H. 6/3/19
	<u>335 Fenn Road</u>		MAD 8/7/19
	Requesting a 7' foot side line variance of the Required 30' foot side line setback in an R-40 Zone. The resulting side line setback request is <u>23 feet.</u>		

MOTION by Ms. Cianci; seconded by Ms. Ogurick.

MOVED that the Zoning Board of Appeals grants the variance of Section 32, Schedule B, Dimensional Requirements, requesting a 7' foot side line variance of the required 30 foot side line setback for the addition of a garage and breezeway. The resulting side line setback requested is 23 feet. The property is located at 335 Fenn Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 44, Lot No. 213, in an R-40 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 June 3, 2019.

Discussion

Mr. Noble stated he would, normally, vote “no” on such an application because of the zoning regulations. Because the permit requirement was unknown to the applicant, and because of an unprofessional contractor, the applicant is put in the position of tearing down the deck at a cost of about \$10,000. Mr. Noble hopes other contractors file under the proper zoning laws and do not put people in the same position as Mr. Ciaburri.

Stating agreement with Mr. Noble, Ms. Schain said it is not really a hardship, but the applicant got wrong information from the contractor, who got it from the town. Without the neighbor’s objection and the trees and set up, she will approve the variance.

VOTE The motion passed unanimously by those present.

IX. OTHER ZONING BOARD OF APPEALS BUSINESS

X. ADJOURNMENT

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

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

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk