

**MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS MEETING  
HELD ON MONDAY, FEBRUARY 6, 2012 AT 7:30 P.M. IN COUNCIL  
CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Vincent Lentini, Agnes White, Marion Nero, John Pepper, Ken Wilson

Alternates: Jackie Cianci, Gerald Devine.

Absent: Mr. Welburn

Staff: David Kehoss, Zoning Enforcement Officer/Wetlands Agent.

**I. CALL TO ORDER**

Chairman Wilson called the meeting to order at 7:30 p.m.

Chairman Wilson read the emergency fire notice.

**II. ROLL CALL**

Secretary Nero 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 5, 2011**

MOTION by Mr. Lentini; seconded by Ms. Nero

MOVED that the minutes of December 5, 2011 be approved subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

**VI. COMMUNICATIONS**

**1. CFPZA Quarterly Newsletter Fall 2011**

**2. Save the Date: CFPZA Annual Conference, March 15, 2012  
CFPZA Quarterly Newsletter Winter 2012**

Board members are invited to attend this annual conference, and should inform the Planning Department Office if they plan to attend.

Chairman Wilson explained the procedures for a public hearing of the Board.

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

**VII. PUBLIC HEARING**

**1. Application 12-01-01**

**Enrico Pezzella**

**1062 King Road**

**Requesting a variance of Section 32,  
Schedule B**

**Dimensional Requirements requesting  
A 1 foot variance of the required 12 foot  
Side line setback for an additional  
Garage stall.**

**PH 1/3/12**

**PH 2/6/12**

**MAD 4/11/12**

Secretary Nero read the call of public hearing.

The application of Enrico Pezzella, 1062 King Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 1-foot variance of the required 12 foot side line setback to construct a 12 foot wide addition for an additional garage stall, property located at 1062 King Road, Cheshire CT as generally shown on Assessor's Map No. 78, Lot No. 88 in an R-20A zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

Chairman Wilson noted that the applicant has requested a waiver of the A-2 Survey requirement. The Board reviewed the information submitted, and the following motion was made to move the application forward without an A-2 Survey.

MOTION by Mr. Lentini; seconded by Ms. Nero.

MOVED that the Zoning Board of Appeals grants the waiver of an A-2 Survey for the subject application.

VOTE The motion passed unanimously by those present.

Mr. Pezzella gave a short presentation on his application for a one (1) foot variance of the required 12 foot side line setback for 1062 King Road, to construct a two car garage in the back of his property. His family has lived in this residence for 10 years, and has had a car port with an enclosed porch as part of the house. The proposed addition will go out 12 feet x 30 feet.

Mr. Pezzella submitted a letter from his neighbor, Ms. LeChance who stated she is in favor of the variance application.

The issue of a hardship was raised by Mr. Wilson who noted that the Board can only approve a variance if there is a hardship attached to the land. A hardship means there is an inability to use the property as intended, i.e. a rock ledge which would require moving a proposed addition to the side of the property.

Mr. Pezzella wants to widen a single access driveway, with a two car garage. He informed the Board there is a slope on the side of the driveway which would be leveled and usable. Other properties in the neighborhood have one or two car garages.

Chairman Wilson stated that the hardship is not having a garage when most properties in the neighborhood have garages.

Mr. Pezzella said that having the garage will improve the home along with widening the driveway. And, there are no wetlands on the property.

Mr. Wilson commented on the slope on the property and the applicant dealing with this during construction of the addition.

Stating that was correct, Mr. Pezzella said the contractor would be leveling and excavating the slope and this area.

Secretary Nero read the letter from Terry LeChance, 1076 King Road, into the record of the meeting. This letter stated that Ms. LeChance is in favor of the variance request of the applicant.

In looking at the driveway, Mr. Lentini asked about adding to the living area in the back of the property.

Mr. Pezzella said he cannot add to the back and is going 12 feet more to the side and behind the car port is the kitchen area.

There were no public comments or questions. The public hearing was closed.

2. **Application12-01-01**  
**Richard Pellico**  
**20 Cherrywood Circle**  
**Requesting a variance of Section 32,**  
**Schedule B, Dimensional Requirements**  
**Requesting a 15 foot sideline variance of**  
**The required 30 foot sideline setback and a**  
**Lot coverage variance to 12% coverage where**  
**10% coverage is permitted, for an addition\**

**PH 2/6/12**  
**MAD 4/11/12**

Secretary Nero read the call of public hearing.

The application of Richard Pellico c/o Ken Rock, 1331 Highland Avenue, Cheshire CT 06410, requesting a variance of Section 32, Dimensional Requirements, requesting a 15 foot sideline variance of the required 30 foot sideline setback and a lot coverage variance to 12% where 10% coverage is permitted for an addition, property located at 20 Cherrywood Circle, Cheshire CT 06410, as generally shown on Assessor's Map No. 85, Lot No. 155 in an R-40 zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

Chairman Wilson noted that the applicant has requested a waiver of the A-2 Survey requirement. Mr. Wilson noted that this property is a corner lot. The Board reviewed the information submitted, and the following motion was made to move the application forward without an A-2 Survey.

MOTION by Mr. Lentini; seconded by Ms. Nero.

MOVED that the Zoning Board of Appeals grants the waiver of an A-2 Survey for the subject application.

VOTE The motion passed unanimously by those present.

Ken Rock, Rock Improvements, 1331 Highland Avenue, represented the applicant for the variance request. The proposed addition is a one story family room and laundry room on the back of the house, and this creates a need for a variance. This area is zoned R-40, one acre zoning at this time, and the applicant is seeking a 15 foot sideline variance and lot coverage variance of 12%. Another variance on this home was granted in 1989.

When this area of Town was developed in the 1940's and 1950's it was half acre lots, and later in the 1990's the Town decided to rezone this area and change it to R-40 (from R-20) and one acre zoning. This creates the hardship for this applicant. If this were still half acre zoning a variance for the side line or lot coverage would not be required.

On the plans submitted, Mr. Wilson pointed out the proposed addition (dotted line diagram) on the drawings, noting it out to the rear of the house, and is 15 feet from the neighbor's property. The existing structure is 13 feet from the property line, and this is the variance granted in 1989. Granting a new variance will not make the problem worse, and the proposed addition will be further away from the neighbor's property line. This is an R-40 zone; lots should be 40,000 s.f.; this property is one half acre and presents a problem because of setback and lot coverage regulation requirements based on 40,000 s.f. lots. This lot is 18,000 s.f. and many neighbors have had the same problem in this area of Town. This is a deep lot, 100 feet on the front, and 165 feet on the sides. Going out the back of the house takes advantage of the depth of the property.

Mr. Rock informed the Board that the addition would be 25 feet x 25 feet for a family room and laundry room/mud room, and it is all one addition. There are no wetlands on this property.

According to Mr. Wilson the hardship is considered to be whether the property cannot be used for its intended purpose. A variance was granted in the past for an addition, and this is another expansion of the house. He said it could be argued that this is a self-created hardship with the expansion.

Mr. Rock stated that the Town of Cheshire created the hardship by changing the zoning of this area to R-40 zone from R-20 zone. There have been other variances granted in this same development for the same hardship and reasons as stated by this applicant.

In 1965 there was a 3 foot variance granted for this property, and Mr. Wilson noted that there was another variance of 13 feet granted in 1989 for an addition. The 1989 variance was granted because of the lot configuration of the corner lot, since a property owner must have a front setback on the south and west side.

When this development was built, Mr. Rock stated that the property owners did comply with the half acre zoning.

With the first variance the property owner built a 24 foot x 26 foot addition to the original house and Mr. Wilson asked about the reason for the 3 foot variance.

Mr. Lentini stated that the 1989 variance was for the addition and the 1965 variance could have been for the small front porch.

Mr. Wilson noted that the new addition will not be seen from the street, and the 1989 variance was for an addition to the garage and back of the house.

The scope of the proposed addition was raised by Mr. Lentini, who asked why the applicant did not go to 13 feet like the garage, and why the extra 2 feet.

Mr. Rock said that the laundry room area is 10 feet x 10 feet, and the family room is 25 feet x 25 feet. The 15 foot variance is needed for the addition.

The Board was told by Mr. Devine that there have been similar situations in this area, i.e. Fawn Drive, where the problem is created by the Town changing the zoning of the area. This application is a repetition of the Fawn Drive application last year, and the Board approved this variance.

Mr. Wilson commented on the fact that the Board must look at each application individually, and the lots in this area are about 18,000 s.f. in size with many applications for variances.

With a denial of the variance, Mr. Lentini asked what the applicant would do, and if the addition would be moved over since there is room near the deck.

In response, Mr. Rock said, that with the layout of the home, this could not be done; there is a doorway by the deck which goes into the living room.

Mr. Pezzella commented on wanting to go to the left side but because this is a corner lot there are restrictions and he could not build the addition that way.

Mr. Wilson said the plan is done with the least amount of intrusion on the setbacks.

Mr. Lentini said that the applicant could change the shape of the addition, and going to 25 feet x 35 feet would be closer to the side line.

There is a "bilco" entrance there and Mr. Rock said this would be an awkward room, 14 feet x 30 feet for the family room and laundry room.

There were no public comments or questions; there was no communication from neighbors about this application; and all abutting neighbors did receive notification of the public hearing.

Mr. Pezzella informed the Board that he personally spoke with his abutting neighbors and those across the street, and all stated they were in favor of his plans to build the addition to his house.

It was clarified by Mr. Lentini that if this were still an R-20 zone the applicant would not need a variance.

The public hearing was closed.

- 3.     Application 12-02-02  
          House 2 Home Construction  
          1392 Cheshire Street  
          Requesting a variance of Section 32,  
          Schedule B, Dimensional Requirements  
          Requesting a 23.3 foot sideline variance of the  
          Required 30 foot side line setback for  
          Construction of a home.**

**PH 2/6/12  
MAD 4/11/12**

Secretary Nero read the call of public hearing

The application of House 2 Home Construction c/o CT Consulting Engineers, LLC, 1 Prestige Drive, Suite 110, Meriden CT 06450, requesting a variance of Section 32, Schedule B, requesting a 23.3 foot

side line variance of the required 30 foot side line setback for a residential property, property located at 1392 Cheshire Street, Cheshire CT 06410, as generally shown on Assessor's Map No. 30, Lot No. 17, in an R-40 zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

Chairman Wilson advised that there was an A-2 Survey included with this application.

John Gable, House 2 Home Construction c/o CT Consulting Engineers, LLC, presented the application on behalf of Ed and Gay Barnett.

On the site plan, Mr. Gable pointed out the existing home which will be demolished, and replaced by a new, smaller raised ranch style home, 1338 s.f. footprint. The applicant wants to go 6.73 feet into the 30 foot setback. The septic system will be abandoned; the lot is over 50% wetlands; and has received IWW approval. The applicant is requesting a 23.3 foot side line variance of the required 30 foot side line setback for 1392 Cheshire Street, and wants to go 6 feet into the 30 foot setback.

Mr. Wilson stated that the proposed structure will be 23.3 feet from the property line, and the applicant is looking for a 6.7 foot variance of the 30 foot requirement. The existing home is non-conforming and is close to the street and side. The proposed structure cannot be moved too far because it cannot encroach the wetlands.

On the plans, Mr. Gable pointed out the pink area which is extending over the side line. The shaded area is the drainage improvements for the site, which will be underground and received IWW approval. At this time there is no drainage on the site. The Town Engineer has approved the wetland concerns and wetland issues.

Mr. Wilson asked about sliding the house 7 feet north and be within the setbacks.

Mr. Gable said "no" because this is a 30 foot side yard, and they are hugging that sideline.

Mr. Wilson clarified that the new home will hug the setback on the north side and will be 7 feet into the setback on the other side.

The Board was informed by Mr. Gable that this application regarding the water plan and runoff from the driveway has been approved by IWW and the Town Engineer, and also went through the Regional Water Authority. The new home is 1,338 sq. ft. versus 1,530 of the existing house. There is also a right of way coming down to the rear which is not developed. The existing driveway will be removed with the new driveway further to the south in line with the proposed

garage (pointed out on the plans). Mr. Gable noted that this is a non-conforming lot, is 40,000 s.f. versus 29,000 s.f. so they are really squeezed down with the setbacks.

There is a non-conforming situation now and Mr. Wilson said that by sliding the house back and the proposal they are not encroaching on the front of the property, but will be encroaching 7 feet on the side setback. He asked about building a home similar to the others in the neighborhood and if there is a development behind this property. He said the proposed architecture is intended to blend in with the other properties.

Mr. Gable pointed out that there are condos to the south, a development to the north, and one house in the back.

Mr. Pepper asked about the rear of the proposed house moving closer to the wetland proximity.

In response, Mr. Gable said that it was the shape of the house, and they could not go back too far because of encroachment on the wetlands.

Mr. Wilson noted that turning the house 90 degrees would result in being too close to the wetlands.

#### PUBLIC COMMENTS AND QUESTIONS

Karl Kreig, President of the Carriage House Condo Association close to the subject property, advised that a letter was sent to the Board that the association is in favor of this application. However, there is a concern raised regarding the wetlands area and this becomes critical to the condo complex. With 2 to 3 inches of rain in a short time the wetlands fill up, it becomes a lake, and water flows into the condo property. The drain from the storm sewer system goes under water and the sewer system does not take the water away. Water comes from the wetlands and there is backup from the storm system, causing ponds, and basement flooding. The association has spent money working on drainage; unit owners have put in costly sump systems; but the situation is not totally rectified. The concern is losing some of the area that tends to collect with water with water pouring into the condo area sooner. If this is not going to happen, the association is in favor of the application.

It was stated by Chairman Wilson that the members of this Board are not water experts, and it depends on the IWW and town engineer for their expertise in water and drainage issues. The concerns expressed are taken seriously by the IWW and, if approved, the project moves forward. IWW compliance will be checked on the "as-built" and line of encroachment to insure compliance.

This is an ongoing problem with the condo complex, and Mr. Kreig said a better solution has not been developed.

Cindy DellaCamera, 1400 Cheshire Street, abutting rear neighbor, asked about the impact on her property, and if it goes over the property line or stays within the line.

Chairman Wilson showed the plans to Ms. DellaCamera, the location of the existing property and new property footprints, and noted that the new house will be centered between the north and south property lines. He showed her driveway and where the new structure will be, 30 feet from this property line. The variance is on the south side of the property where there is only 23 feet. The DellaCamera line is to the north. The town engineer has approved the driveway and side line, and the new property will be closer to the road, on the south side.

Ms. DellaCamera commented on there always being water on the subject property. The water will not go away; this is low land; and it fills up with water.

Mr. Devine asked about the back side of the house, and if there will be sloping of the land away from the house or towards the house.

In reply, Mr. Gable said this area is actually flat; proposed grading goes towards the wetlands; and fill must be brought in for this project. There will be creation of drainage there because the soils are poor. The house must be raised for drainage to run off towards the back and road; infiltrators will be in the new fill area to retain the water.

Mr. Wilson commented on the fact that IWW would not have approved this application if they were going to make the water situation worse.

It was clarified by Mr. Gable that the proposed infiltrators will take care of the entire 25 year rain event, 5 inches in a 24 hour period. The infiltrators can handle the increased water. There is no drainage on site now, so this project will be improving the drainage.

Mr. Wilson said this is a raised ranch style home so the property does not collect water.

Mr. Kreig asked another question about handling the 25 year storm, and where this water will go.

Mr. Gable responded, stating that the water will go into the infiltrator system, and pointed out what they look like on the plans. There are 3 chambers proposed, and over a 24 hour period the water is drained into the wetlands. This system has been reviewed and approved by the town engineer.

There were no further questions or comments. The public hearing was closed.

## VIII. DECISION MAKING SESSION

- 1. Application 12-01-01**  
**Enrico Pezzella** PH 1/3/12  
**1062 King Road** PH 2/6/12  
**Requesting a variance of Section 32,** MAD 4/11/12  
**Schedule B**  
**Dimensional Requirements requesting**  
**A 1 foot variance of the required 12 foot**  
**Side line setback for an additional**  
**Garage stall.**

Secretary Nero read the call of public hearing.

The application of Enrico Pezzella, 1062 King Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 1-foot variance of the required 12 foot side line setback to construct a 12 foot wide addition for an additional garage stall, property located at 1062 King Road, Cheshire CT as generally shown on Assessor's Map No. 78, Lot No. 88 in an R-20A zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

Chairman Wilson summarized the application, stating it is for a one (1) foot variance of the existing 12 foot setback. The hardship is that the property is 100 feet wide; the existing home is centered within this width; and in order to add the 12 feet, a 1 foot variance is needed. The hardship is also the fact that most of the homes in the neighborhood had one or two car garages, and the applicant does not, and is trying to add the garage.

Ms. Nero stated she is in favor of this application. The hardship is the property owner not having a garage, and cannot build one without the 1 foot variance due to the lot configuration.

Mr. Lentini said the hardship is genuine and not unique to the area because everyone has the same problem with the zoning changes over the years. This is only a 1 foot variance, and if more excessive he would be inclined to deny the application. He is in favor of this application.

Ms. White stated her support of the application because it is only a 1 foot variance request, with approval of the neighbors.

Mr. Pepper said he would support this small variance request and concurred with the sentiments of other Board members.

Mr. Wilson commented on the topography of the property, stating he would approve the small variance. The home is centered on the property and this addition requires only a 1 foot variance and is realistic.

MOTION by Mr. Lentini; seconded by Ms. Nero.

MOVED that the Zoning Board of Appeals grants the variance request of Enrico Pezzella, for a one (1) foot variance of the required 12 foot side line setback of Section 32, Schedule B, Dimensional Requirements, to construct an additional garage stall, for property located at 1062 King Road, Cheshire CT 06410, without conditions other than recognition that there is a general hardship. Granting of the variance will not confer upon the application any special privilege. The variance is the minimum variance which will make possible reasonable use of the land. The variance will not result in injury to the neighborhood or public welfare; and granting of the variance will be in harmony with the general intent and purposes of the regulations of the Town of Cheshire.

VOTE The motion passed unanimously by those present.

Chairman Wilson informed the applicants that the variance is granted. It does not become effective until recorded on the land records of the Town of Cheshire and this is the responsibility of the applicant.

2. **Application12-01-01**  
**Richard Pellico**  
**20 Cherrywood Circle**  
**Requesting a variance of Section 32,**  
**Schedule B, Dimensional Requirements**  
**Requesting a 15 foot sideline variance of**  
**The required 30 foot sideline setback and a**  
**Lot coverage variance to 12% coverage where**  
**10% coverage is permitted, for an addition\**

**PH 2/6/12**  
**MAD 4/11/12**

Secretary Nero read the call of public hearing.

The application of Richard Pellico c/o Ken Rock, 1331 Highland Avenue, Cheshire CT 06410, requesting a variance of Section 32, Dimensional Requirements, requesting a 15 foot sideline variance of the required 30 foot sideline setback and a lot coverage variance to 12% where 10% coverage is permitted for an addition, property located at 20 Cherrywood Circle, Cheshire CT 06410, as generally shown on Assessor's Map No. 85, Lot No. 155 in an R-40 zone. The application is on file and available

for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

Mr. Lentini stated that this is a typical problem of a neighborhood when the Town changes the zoning from R-20 to R-40, and the Board has been dealing with this problem to determine what is best. He is in favor of the application, and this variance will not impact the neighborhood. Mr. Lentini said he does have a problem with over-building a lot. But, with the hardship stated about the zone change, he is in favor of this variance request.

Ms. White stated her support of this variance request because of the zoning change. If this were still a R-20 zone this variance would not be required and the applicant would be in compliance.

Mr. Pepper stated his support of this variance request due to the hardship stated by the applicant.

Ms. Nero supports this variance request because the hardship is the change in the zone for this neighborhood, and not the fault of the applicant.

Mr. Wilson has some problems with this application because the law requires the hardship to be granted as long as the Board feels the existing situation does not allow the applicant to use the property in the way it was intended. This house has been expanded twice, and this is the third variance on the property for an expansion. The hardship is a little weak, but is due to the Town's change in the zoning which changes the setbacks to make the property non-compliant. Mr. Wilson said he would support the variance request.

MOTION by Ms. Nero; seconded by Mr. Pepper.

MOVED that the Zoning Board of Appeals grants the variance request of Richard Pellico, c/o Ken Rock, for a 15 foot sideline variance of the required 30 foot sideline setback, and a lot coverage variance to 12% where 10% coverage is permitted, Section 32, Schedule B, Dimensional Requirements, for an addition of family room and laundry room, property located at 20 Cherrywood Circle, Cheshire CT 06410. A hardship, topography, unusual lot configuration, steep slope, inland wetlands, placement of septic system exists to the property, land, structure, which is not applicable to other properties in the district. 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.

VOTE           The motion passed unanimously by those present.



Mr. Wilson agreed with the comments from Board members, and will support this variance request.

MOTION by Mr. Pepper; seconded by Mr. Lentini.

MOVED that the Zoning Board of Appeals grants the variance request of House 2 Home Construction, of Section 32, Schedule B, Dimensional Requirements, for a 23.3 foot side line variance of the required 30 foot side line setback, for property located at 1392 Cheshire Street, Cheshire CT 06410. The variance is granted based on the evidence presented at the public hearing and the general knowledge of the Board. It is hereby found that that the variance is the minimum variance for reasonable use of the land. The variance will not result in injury to the neighborhood or public welfare. Granting of the variance will be in harmony with the general intent of the zoning regulations.

VOTE           The motion passed unanimously by those present.

**IX.    OTHER ZONING BOARD OF APPEALS BUSINESS**

**X.     CHAIRMAN'S REPORT**

Chairman Wilson informed the Board that a legal representative from the Town Attorney's office will be present at the next ZBA meeting to provide information and give a training session for Board members.

Board members will be receiving e-mails from the Planning Department about upcoming training sessions, and Mr. Wilson encouraged Board members to take advantage of these sessions. All costs are paid by the Town.

The upcoming zoning conference is on March 15<sup>th</sup>. If Board members are interested in attending, they must contact the Planning Office. Board Member Lentini will be receiving a 12 year award at this conference.

ZEO Kehoss stated that the change in the zoning from R-20 to R-40 creates many issues and restricts what homeowners can do. This change was made in the late 1980's, and Mr. Kehoss said he does not know the rationale behind this change. This was an action by the PZC.

Mr. Devine said the Town wanted to use less land and put more people on the existing property when these changes were starting to be made. The Town did not want as much property used up by development.

Mr. Wilson said he felt it was more of the Town wanting to have large blocks, and not spot zoning.

In the late 1980's there was a real estate bubble and Mr. Devine this started to blow up in the 1990's, and again in 2010 and 2011, with many foreclosures.

Mr. Lentini commented on the Board dealing with neighborhood problems over the years, as people add and add onto their properties. The question is when is enough, and this is a problem for him in dealing with applications.

With the training sessions, Mr. Wilson said the Board members can learn how these types of applications can be handled.

Mr. Devine said the Board must keep in mind that whatever it decides can be overturned under the law.

**XI. ADJOURNMENT**

MOTION by Mr. Pepper; seconded by Ms. Nero.

MOVED to adjourn the meeting at 9:12 p.m.

VOTE The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk