

MINUTES OF THE TOWN OF CHESHIRE ZONING BOARD OF APPEALS HELD ON MONDAY, MARCH 4, 2013, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE T 06410

Present

Ken Wilson, Chairman; Marion Nero, Secretary; Vincent Lentini

Alternates: Jackie Cianci and Gerald Devine

Absent: John Pepper, Agnes White and Alternate Zachery Welburn

Staff: Dave Kehoss, Zoning Enforcement Officer

I. CALL TO ORDER

Chairman Wilson called the meeting to order at 7:31 p.m.

II. ROLL CALL

Secretary Nero called the roll.

III. DETERMINATION OF QUORUM

A quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES – FEBRUARY 4, 2013

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

MOVED to accept the minutes of February 4, 2013 subject to corrections, additions, deletions.

VOTE The motion passed 4-0-1; Lentini abstained

VI. COMMUNICATIONS

1. Connecticut Federation of Planning and Zoning Agencies 65th Annual Conference – Thursday, March 14, 2013.

If anyone plans to attend this conference, please contact the Planning Department.

VII. PUBLIC HEARING

1. **Application 13-03-01 PH 3/4/13**
William J. Beck, Jr. MAD 5/8/13
29 Holly Road
Requesting a variance of Section 32, Schedule B,
Dimensional Requirements requesting a 9 foot
Street line variance of the required 40 foot street line
Setback and an 8-foot rear line variance
Of the required 30 foot rear line setback for an addition

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

The application of William J. Beck, Jr. 29 Holly Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 9 foot street line variance of the required 40 foot street line setback and an 8 foot rear line variance of the required 30 foot rear line setback, property located at 29 Holly Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 56, Lot No. 118 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.

Chairman Wilson noted that the applicant has an A-2 Survey as part of the application. Letters were sent to abutting neighbors.

Mr. Kehoss informed the Board that there were no responses to the letters sent to neighbors.

Mr. Beck presented his application, stating that he has owned this property for 34 years, and has never done anything to the property due to the shape of the lot and unusual configuration. At this time, Mr. Beck would like to put an addition on the house to include a garage and handicapped bathroom. The hardship was cited by Mr. Beck, who said it is the unusual triangular configuration of the lot, curvature of Holly Road at the curbing of his home, and the shape of the lot. This house is a corner lot; the west side line is 100 feet deep; the east side line is 58 feet deep; and there is no other location on the lot for an addition without going to a second floor. Mr. Beck wants to continue to live in a ranch house, with the addition of a handicapped bathroom and a garage. He noted that the majority of the lots in his neighborhood are rectangular in shape, and other homeowners have put on additions. With the existing zoning regulations he cannot put anything on his lot.

Mr. Beck requested that the Board grant the variance request, which he has kept to the minimum possible. He hopes the Board would agree that there is a hardship involved with the land, and in order to utilize his property and remain in the home, he needs a variance approval.

Chairman Wilson stated that the Board must find a hardship for a variance approval, and the applicant has stated the hardship is the irregular shape of the lot, a triangular configuration. He asked what the addition would include.

In response, Mr. Beck said it would be a two car garage and addition of a 2nd handicapped bathroom. The garage would be on the bedroom side of the house, with a 4 foot hallway (taken off the existing 3rd bedroom) for access into the house from the garage.

The existing house is 30 feet from the back property line and Mr. Wilson questioned if this is already a non-compliance. He asked about the front corner going towards the street, and lack of a dimension.

Mr. Beck said it is just a little over 30 feet.

ZEO Kehoss said that the rear lot is 30 feet under the regulations, and the house is not in a non-conforming position. The dimension is close, and it is assumed it abides by the building permit.

Mr. Wilson thinks the original developer did his best to squeeze this house into its location, and it is smaller than other houses without a garage.

The Board was told by Mr. Kehoss that the subdivision was formed in 1949 before zoning regulations, and this lot size is non-conforming at 13,933 s.f. when the minimum lot size in this zone is 20,000 s.f. The home was built in 1963.

With regard to the septic system, Mr. Wilson noted that the drawing shows it is in the front yard, and Mr. Beck stated it is right outside the front door.

Mr. Beck informed the Board that he had personal contact with neighbors when he hand delivered the letters. Most were favorable, and one property owner has a stake in the ground, on Oak Avenue, where four lots meet. For the proposed garage, the curb line measurement on Manor is over 80 feet, and the frontage is 101+ feet. The rear property line is 175 feet.

Ms. Cianci asked why the applicant wants a handicapped bathroom.

In response, Mr. Beck said he is being proactive and looking to the future. He also wants to stay in a ranch style home, needs the 2nd bathroom and wants it to be handicapped accessible.

Mr. Devine asked about other neighbors having work done on their property.

According to Mr. Beck his rear property line neighbor put on an addition on the far side of his house, and increased his one car garage to a two car garage. Another neighbor across the street is completing his addition to the rear of his house. Five or six neighbors had put on additions to their homes. He also advised that all the houses have septic systems.

Ms. Nero visited the site and asked about the garage in the back yard, and if the neighbor got a variance for this garage.

Having been there for 34 years, Mr. Beck said this garage was there. It is about 6'9" from the 12 foot side line. The neighbor added the 2nd garage and increased the roof line. He noted that the original owner of this house was friends with the developer.

If the variance is approved, Mr. Devine asked how close the applicant will be with neighbors on the rear property line.

Mr. Beck said it is no closer than 22 feet out of the 30 feet. The neighbor put his addition on the other side of the house and away from him.

PUBLIC

Amy Girdizis, 29 Holly Road, stated that she has been a resident of the house as long as Mr. Beck. She, too, has spoken with Mr. Kehoss and Ms. Patrignelli in the Planning Department. Mr. Beck and Ms. Girdizis both hand delivered letters to neighbors and most of the neighbors were positive towards the proposed addition. With regard to handicapped bathrooms, Ms. Girdizis advised that she and Mr. Beck have aging parents, and are being proactive having this bathroom. The addition will include a 1st floor laundry room which will be moved from the basement. According to Ms. Girdizis the neighbors have been positive about the addition and it will improve and be an asset to the neighborhood. They want to stay in their neighborhood and improve the home.

Mr. Beck thanked the Board members for their time in listening to his application, and for their service to the Town.

THE PUBLIC HEARING WAS CLOSED.

VIII. DECISION MAKING SESSION

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| 1. Application 13-03-01
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Mr. Wilson stated that the applicant cited the hardship for the variance as the unusual shape of the property, an undersized lot which does not conform to current regulations, and the lot being laid out before the minimum 20,000 s.f. rule for the zone. The curve of the road makes the property unusual. These are all considered hardships, and Mr. Wilson stated they are valid hardships.

Mr. Devine commented on the non-conformity of the lot making it difficult for the Board to apply a planning and zoning approach. The lot was set up and redone long before zoning regulations were in place. It is an undersized lot because of the geography and topography and shape thanks to the way the road was made. He said this is the fault of the Town for allowing this to happen, and Mr. Beck should not be penalized by the past mistakes of the town government.

Mr. Lentini stated agreement that there is a hardship with this application. The variance request is not excessive, and the applicant is not requesting a large variance. He would be in favor of granting the variance.

Ms. Cianci supports the variance request, and understands the need for the house to have more than one bathroom.

Ms. Nero believes there is a hardship with this application with the lay of the land, and a house is entitled to two bathrooms. The houses surrounding 29 Holly Road encroach on it, and this is a fair variance. She will support the request.

Mr. Wilson considers the proposed addition to be reasonable and makes the house in harmony with the neighborhood. The applicant is requesting a garage and connection to the home. The garage is a necessity, and will be in harmony with the neighborhood.

MOTION by Mr. Lentini; seconded by Mr. Devine.

MOVED that the Zoning Board of Appeals grants the variance of Section 32, Schedule B, Dimensional Requirements for property located at 29 Holly Road, Cheshire CT, for a 9 foot street line variance of the required 40 foot street line setback, and an 8 foot rear line variance of the required 30 foot rear line setback. The variances are granted based on the evidence presented at the public hearing and the general knowledge of the Board. It is found a hardship exists to the property which is not applicable to other properties in the district. And, to strictly apply the zoning regulations would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of the zoning regulations. This hardship does not appear to result from the actions of the applicant. The variance is the minimum variance to make possible reasonable use of the land, and 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 of March 4, 2013.

VOTE The motion passed unanimously by those present.

The variance(s) were approved. They do not become effective until they are filed on the land records of the Town of Cheshire in the Town Clerk's office, and this is the responsibility of the applicant.

IX. OTHER ZONING BOARD OF APPEALS BUSINESS

Chairman Wilson commented on the clear and accurate application packet presented by the applicant at this meeting. He asked that Mr. Kehoss look into preparation of a packet which will provide applicants with what the Board expects in order to review, discuss and make decisions on a variance request.

It was noted by Mr. Kehoss that an A-2 Survey is very expensive, and the Board is usually satisfied with drawings which are accurate for a variance application plan. It is up to the Board to approve or deny based on maps being submitted. Mr. Kehoss advised that when someone comes into the office about a variance, it is explained to them what is required along with the issue of submission of limited mapping and information to the Board. He always stresses the importance of accurate mapping and photographs.

At the recent Planning and Zoning Commission meeting, Mr. Wilson reported that PZC will be putting together a video on the review and possible changes to the Plan of Conservation and Development. This review is State mandated. The video will explain the Plan and will be on the town web site and cable access television. Mr. Wilson suggested that the ZBA also put together a video of a mock variance application to be aired on cable television and the web site. He believes this video would provide the public the information they need to know to appear before the Board.

Mr. Kehoss noted that a question is whether the web site has the capability to handle a video like this. He will check and report back to the Board.

X. CHAIRMAN'S REPORT

XI. ADJOURNMENT

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

MOVED to adjourn the meeting at 8:20 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk

