

MINUTES OF THE TOWN OF CHESHIRE ZONING BOARD OF APPEALS HELD ON MONDAY, JULY 1, 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, John Pepper, Agnes White

Alternates: Gerald Devine

Absent: Alternates Jackie Cianci and Zachery Welburn

Staff: Dave Kehoss, Zoning Enforcement Officer

I. CALL TO ORDER

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

Mr. Wilson read the emergency announcement.

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 – May 6, 2013

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

MOVED to accept the minutes of May 6, 2013 subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

VI. PUBLIC HEARING

Before the start of the public hearing, Chairman Wilson explained the procedures for a public hearing before the Board. Mr. Wilson read the definition of "hardship" into the record.

Secretary Nero read the call of public hearing.

The application of Richard and Rebecca Rhee, 40 Teds Court, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 7'6" foot rear line variance of the required 30 foot rear line setback for an addition of a deck, property located at 40 Teds Court,

Cheshire CT 06410, as generally shown on Assessor's Map No. 91, Lot No(s) 240 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.

1. **Application 13-06-01** **PH 6/3/13**
Richard and Rebecca Rhee **PH 7/1/13**
40 Teds Court **MAD 9/4/13**
Requesting a variance of Section 32, Schedule B
Dimensional Requirements, requesting a 7'6"
Rear line variance of the required 30 foot rear
Line setback
For a deck addition

Mr. Rhee explained that he is requesting a variance to build a deck on the rear of his house. He purchased the house in December 2011, and it is an unusually shaped lot, with the back yard bisected by the adjacent lot. The plan is to build a 14 ft. x 28 ft. deck on the rear, and he noted that his house is the only one in the neighborhood without a patio or deck. The proposed deck would not be intrusive or unusual compared to other properties in the neighborhood. Mr. Rhee informed the Board that he consulted a professional builder/consultant about his plans for a deck or patio. He was advised that a deck is the best way to go as a patio could result in future drainage issues and water problems and damage to the siding on the back of the house.

Mr. Wilson read Section A from the Rhee application into the record, which read that the hardship is the irregular shape of the property, and it cutting into a point in the rear.

With regard to the construction of the house by Ravenswood in 2001, Mr. Rhee noted that the original owner wanted a three car garage, and this caused the irregular shape of the lot and limitations of space in the backyard for any type of construction. The house has a 90 degree angle bisecting the rear of the property.

Mr. Wilson asked about a patio of blocks.

Mr. Rhee restated that a professional consultant/builder advised him against building a patio, and recommended he build a deck on the rear of the house.

There is an A-2 Survey included with the application. Mr. Pepper asked if the map was to scale.

Mr. Rhee believes it is to scale.

It was stated by Mr. Lentini that he has never seen a back lot 30 ft. and 12 ft. on the angle.

This is an unusual lot and Mr. Kehoss said there is 12 feet of setback line on every part of the angle. In looking at the map, he said it may not be exactly to scale.

Although he does not like builders giving maps not to scale, Mr. Pepper said he believes there is a hardship with this application.

Mr. Rhee commented on the drainage on the property in the back left side. There is a slight slope, but no flooding has occurred. The consultant had concerns about drainage issues with a patio. Mr. Rhee does not have drawings of the proposed deck, but it will be 14 ft. x 28 ft.; stairs will not be directed towards the yard; stairs would be directly out from the kitchen; and there will be a walkout from the sliders. The family has a new baby son, and Mr. Rhee said the deck would be used by the little boy as a safe play area.

Mr. Kehoss reported that there were no responses from letters to neighbors about the application. RWA submitted a letter with no comments on this application.

THE PUBLIC HEARING WAS CLOSED.

VII. DECISION MAKING SESSION

Secretary Nero read the call of public hearing.

The application of Richard and Rebecca Rhee, 40 Teds Court, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 7'6" foot rear line variance of the required 30 foot rear line setback for an addition of a deck, property located at 40 Teds Court, Cheshire CT 06410, as generally shown on Assessor's Map No. 91, Lot No(s) 240 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.

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Mr. Wilson said that applications for decks have come before the Board many times, with some approved and some not approved. The question is whether a deck is a right or privilege for a homeowner, and it all comes down to hardship.

Ms. Nero stated there is a hardship with this application which did not result from actions of the applicant. She is in favor of granting the variance.

Ms. White commented on the shape of the lot, the advice of the professional builder to build a deck rather than patio due to possible drainage issues. She is in favor of granting this variance.

Mr. Pepper stated that the hardship is obvious, and he supports the variance request.

Mr. Lentini is in support of granting this variance due to the odd shape of the lot with setbacks going from 12 feet to 30 feet. The variance request is not drastic, is only 7 feet. He would look into a patio which is down lower and offers more privacy.

Mr. Wilson understands the unusual shape of the lot as the driving force, and it is probable that no other lot in Town is the same. He is reluctant to vote to approve a deck as a patio is also a possibility, but not as convenient. He does not see a strong hardship proven for this application.

MOTION by Mr. Lentini; seconded by Mr. Wilson.

MOVED that the Zoning Board of Appeals grants the 7'6" variance of the required 30 foot rear line setback, Section 32, Schedule B, Dimensional Requirements, for property located at 40 Teds Court, Cheshire CT 06410, for a deck addition. This variance is granted subject to the following conditions. Based on the evidence presented at the public hearing and the general knowledge of the members of the Board it is hereby found: That a hardship exists to the property which is not applicable to other properties in the district; that to strictly apply the zoning regulations would deprive the applicant of rights commonly enjoyed by others properties in the same district under the terms of the zoning regulations. Their hardship does not appear to be the result of the actions of the applicant. The variance is the minimum variance possible to make reasonable use of the land. The scope of this variance is limited to that which is indicated in the plans and documents presented at this hearing dated July 1, 2013.

VOTE The motion passed 4-1; Wilson opposed.

THE VARIANCE IS APPROVED. IT DOES NOT BECOME LEGAL UNTIL FILED ON THE LAND RECORDS OF THE TOWN OF CHESHIRE IN THE TOWN CLERK'S OFFICE. THIS IS THE RESPONSIBILITY OF THE APPLICANT.

VIII. Other Zoning Board of Appeals business

IX. Chairman's Report

X. ADJOURNMENT

MOTION by Mr. Pepper; seconded by Ms. Nero

MOVED to adjourn the meeting at 8:05 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk