

MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS PUBLIC HEARING AND REGULAR MEETING HELD ON MONDAY, MARCH 3, 2014, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN ST. CHESHIRE CT 06410

Present

Ken Wilson, Chairman; Marion Nero, Secretary; Paul Bellagambo, John Pepper, Agnes White.

Alternates: Jackie Cianci, Gerald Devine, Robert Formica

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

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 2, 2013

MOTION by Ms. Nero; seconded by Ms. White

MOVED to accept the minutes of December 2, 2013 subject to corrections, deletions, additions.

Correction: V – Acceptance of Minutes – should read “Ms. Nero”.

VOTE The motion passed unanimously by those present.

VI. COMMUNICATIONS

1. Connecticut Federation of Planning and Zoning Agencies 66th Annual Conference, March 13, 2014.

If anyone is interested in attending this conference, they must contact the Planning Department.

VII. PUBLIC HEARING

Secretary Nero read the public hearing notice.

The application of David Budd, 815 Marion Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Setback

Requirements in an R-40 one. The resulting variance allows an 8-foot extension of the second story roofline with an existing non-conforming storage shed foot print. Property located at 815 Marion Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 34, Lot No(s) 13 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.

1. **David Budd** **14-03-01** **PH 3/3/14**
815 Marion Road **MAD 5/7/14**
Requesting a variance of Section 32, Sch. B.
Setback Requirements in an R-40 Zone
Requesting an 8' foot extension of the second
Story roofline within an existing non-conforming
Storage shed foot print.

Chairman Wilson noted that the application did not include an A-2 Survey.

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

MOVED that the Board waive the requirement for an A-2 Survey for the subject application.

Discussion

Mr. Pepper stated there is a good outline in the application submission of what is proposed. However, it is easier to make a decision with an A-2 Survey.

ZEO Kehoss informed the Board that the subject application talks about a vertical expansion. The structure is outside the building involved; it is totally non-conforming; and is within the setback. There is no question that the building for the vertical expansion is not increasing or decreasing any part of the footprint closer or farther away. The A-2 Survey is not as important in this type of application.

VOTE The motion passed 4-1; Pepper opposed.

Chairman Wilson pointed out the last page in the application packet from a 1987 ZBA meeting for a variance approval which failed to pass 2-2. There are no other existing variances issued for this property.

David Budd, 815 Marion Road, owner of the property since 1992, explained that the property was divided prior to his ownership, and he has a four acre lot. The storage shed had a fire in April 2013, and during the rebuilding of the structure it was learned it was a non-conforming use. He came forward 8 feet on the second story.

Mr. Budd submitted letters of support for the variance request from his neighbors.

Secretary Nero read the letters into the record – Joan C. Molloy, 3/1/14; Phil Tito, 2/16/14; Linda Bouchard, 2/16/14.

According to Mr. Budd the shed being rebuilt is about 90% completed and will be completed pending approval of the Board for the variance. He is a home improvement contractor, and has built the new structure on the same footprint. Mr. Budd submitted a copy of the A-2 Survey for the subject property, 815 Marion Road. Photographs of the subject building were included in the applicant's submissions to the Planning office.

It was noted by Mr. Wilson that one of the pages in the packet is a snapshot of the A-2 Survey. He asked Mr. Budd about the fire in April 2013.

The Board was told by Mr. Budd that the fire on his property was in April 2013. Shortly after the fire he began to rebuild the shed, with assistance from his neighbors. There is an 8x16 bump out on the north side of the shed building. A 10x16 section was added and extended on the 2nd floor to be completed. The 2nd story is used only for storage.

Mr. Wilson stated that if something is grandfathered in no variance is needed, but the applicant was building a new structure in the setback zone, and this is why the variance is needed.

The Board must take into consideration the "hardship" for a variance request, and Mr. Wilson said the hardship must be proved by the applicant. The hardship is whether the property cannot be used for the way it was intended or the way others in the area are using their property.

Mr. Budd stated that his house was built in 1850; it is the original farmhouse for the property; it is on a higher grade; and the property was once a farm with cows. In the design and rebuild for the shed he created something unique which duplicates what Cheshire used to look like. The shed was on the property when he purchased it.

In response to a question on what was in the original shed that was destroyed by the fire, Mr. Budd stated that it stored antique tractors, his business equipment and wood working tools, with everything consolidated into this one shed. Mr. Budd said there was a free standing 8'x8' shed that was an eyesore, and it was removed before the fire in April 2013.

Regarding the 10 x 16 bump out, Mr. Bellagambo asked if this was still in the footprint.

It was explained by Mr. Kehoss that when the application was issued, it was represented that the 10 x 16 building was within the building envelope. A survey was not required; the setbacks were met; and an A-2 survey was not required.

The discussion on this application is about the height of the vertical change, not the bump out, and Mr. Wilson asked how the applicant became aware of the violation.

Mr. Budd replied that he received a call from Mr. Kehoss following a visit from the building inspector.

Chairman Wilson stated that the applicant increased the footprint of the front of the building and added space above it. If the variance is denied, the applicant would have to comply with instructions from ZEO Kehoss, disassemble the shed, and return it to what was there before.

According to Mr. Budd the construction status is the shed is about 99% completed, needs some siding, venting material and interior painting.

Chairman Wilson commented on this being an unfortunate situation, with the structure being dealt with on the back end, and the inspector finding the violation.

In his summary of his application, Mr. Budd stated that the building is 99% completed. He has kept to the original footprint; everything has stayed the same except for the bump out; and he is requesting a variance for the structure to remain as it is now.

THE PUBLIC HEARING WAS CLOSED.

VIII. DECISION MAKING SESSION

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|--|-----------------|-------------------|
| 1. David Budd | 14-03-01 | PH 3/3/14 |
| <u>815 Marion Road</u> | | MAD 5/7/14 |
| Requesting a variance of Section 32, Sch. B.
Setback Requirements in an R-40 Zone
Requesting an 8' foot extension of the second
Story roofline within an existing non-conforming
Storage shed foot print. | | |

Secretary Nero read the public hearing notice.

The application of David Budd, 815 Marion Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Setback Requirements in an R-40 one. The resulting variance allows an 8-foot extension of the second story roofline with an existing non-conforming storage shed foot print. Property located at 815 Marion Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 34, Lot No(s) 13 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.

Discussion

Chairman Wilson stated that the hardship with this application would be to deny it, causing the applicant to rebuild, reframe and re-roof the structure. This is an undesirable situation and the Board must deal with the question of approval or denial of

the variance request. He noted this is not the first time the Board has dealt with such a situation.

Mr. Devine stated the Board has dealt with 8 foot items on a regular basis, and this is a vertical expansion. He would let it be and sees no overt mistake, but something that happened. The new barn will increase the value of the property, enhance the neighborhood, and he feels, strongly, that the variance should be approved.

Mr. Pepper commented on the existing structure going back 150 years which sets the tone. The applicant has done a beautiful job on the structure, and he would vote to approve the variance.

Ms. White noted that the structure is up, there has been a vertical expansion involved, and it would right to approve the variance request.

Mr. Formica knows the Budd family, and stated they would never do something intentionally wrong or incorrectly. He said Mr. Budd takes great pride in his property, his work, and this new structure, and the variance should be approved.

Mr. Bellagambo does not see an existing hardship or a reason to deny the variance. It is in keeping with what is already there; there is no horizontal change; it is a vertical change; and the variance should be approved.

Ms. Cianci commented on the support of the neighbors for the variance, and statements that the structure is an asset to the property. It is a vertical upgrade, was pre-existing, and the fire damaged the shed. The applicant needs to do something, and she agrees the variance should be granted. The hardship is there now, and the new structure looks nice.

Ms. Nero agreed with the comments from the other Board members. She has visited the property, has seen the subject shed structure which adheres to the existing footprint. The neighbors support the variance and the new shed, and Ms. Nero said the variance should be approved.

This is an unusual hardship, and Chairman Wilson said that if the variance is denied, the applicant would have the expense of demolishing the structure.

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

MOVED that the Zoning Board of Appeals grants the variance of Section 32, Schedule A, Dimensional Requirements for the 8 foot extension of the second story roofline for property located at 815 Marion Road, Cheshire CT 06410. The variance is granted based upon the evidence presented at the public hearing and the general knowledge of the Board it is hereby found that a hardship exists to the property that 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 properties in the same district

and under the zoning regulations. The hardship does not appear to be the actions of the applicant. Granting of the variance will not confer upon the applicant any special privileges. The variance is the minimal variance to make it possible for the reasonable use of the land and structure. The variance will not result in injury to public health or welfare; and granting of the variance will be in harmony with the general intent and purpose of the regulations. The scope of this variance is limited to that which is indicated in the plans and documents presented at this hearing dated March 3, 2014.

VOTE The motion passed unanimously by those present.

The variance has been approved. The variance does not become official until it is filed on the Land Records of the Town of Cheshire, in the Town Clerk's office. This is the responsibility of the applicant.

IX. OTHER ZONING BOARD OF APPEALS BUSINESS

X. CHAIRMAN'S REPORT

XI. ADJOURNMENT

MOTION by Ms. Nero; seconded by Ms. White.

MOVED to adjourn the ZBA meeting at 8:18 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk