

MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS MEETING HELD ON MONDAY, MARCH 2, 2015 AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410.

Present

Ken Wilson, Chairman; Marion Nero, Secretary; John Pepper, Paul Bellagamba
Alternates: Gerald Devine. Absent: Agnes White and Alternates Jackie Cianci and Robert Formica
Staff: David Kehoss, Zoning Enforcement Officer

I. CALL TO ORDER.

Chairman Wilson called the meeting to order at 7:37 p.m.

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 - DECEMBER 1, 2015

MOTION by Mr. Pepper; seconded by Ms. Nero

MOVED to accept the minutes of December 1, 2015 subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

VI. COMMUNICATIONS

1. Connecticut Federation of Planning and Zoning Agencies
67th Annual Conference, Thursday, March 26, 2015.

ZBA members were invited to attend this conference. If interested in attendance, please notify Ms. Patrignelli in the Planning Office.

VII. PUBLIC HEARING

Chairman Wilson explained the procedures for a public hearing of the ZBA, and stated the fact that four (4) affirmative votes are required for a variance approval.

The definition of "hardship" was read into the record by Mr. Wilson.

Secretary Nero read the call of public hearing for the applications.

The application of Richard Pruitt Jr. 40 Holly Road, Cheshire CT 06410 requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 3.1' side line variance of the required 12' side yard setback in an R-20 zone, the resulting side line setback requested is 8.9 feet; and a 1.1% variance of the maximum lot coverage in excess of the required maximum lot coverage of 15%. The resulting lot coverage requested is 16.1% for a one story garage addition, property located at 40 Holly Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 56 Lot No. 120 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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| <p>1. Richard Pruitt Jr. 15-01-01
<u>40 Holly Road</u>
Requesting a variance of Section 32, Schedule B
Dimensional Requirements requesting a 3.1 foot
side line variance of the required 12 foot side yard
setback. The resulting side line setback requested is
8.9 feet, and requesting a 1.1% variance of the maximum
lot coverage. The resulting lot coverage requested is
16.1%. For a one story garage.</p> | <p>PH 1/5/15
PH 2/02/15
PH 3/02/15
MAD 5/06/15</p> |
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The resulting side line setback requested is 8.9' feet; and requesting a 1.1% variance of the maximum lot coverage. The resulting lot coverage requested is 16.1% for a one story garage.

Mr. Wilson advised that the applicant has requested waiver of an A-2 Survey. The Board discussed the drawings and documentation in the application file. After seeing the quality of the work and drawings the Board agreed that a waiver could be granted.

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

MOVED that the Zoning Board of Appeals grants the waiver of an A-2 survey for the application of Richard Pruitt, 40 Holly Road, Cheshire CT.

VOTE The motion passed unanimously by those present.

Attorney Jay Hershmann represented the applicant, Richard Pruitt, for the variance application.

The applicant is requesting a variance from the side yard setback of 12 feet resulting in an 8.9 foot setback on the south portion of the property and 10.5 feet on the north portion. The applicant is seeking a maximum lot coverage of 16.1% for a one story garage to make the existing garage a two car garage. The property has a paved driveway to be replaced with the 2nd story garage which will match the existing garage.

The Board was informed by Attorney Hershmann that the property is unique; it is a subdivision developed prior to the zoning requirements; it is a .42 acre lot which is less than current lots in an R-20 zone. The property has a septic system placed behind the garage which eliminates the possibility of making the garage a two car deep garage. The plot plan shows the road not being symmetrical, the lot line slightly curved, and variances have been granted to the house across the street under similar circumstances. The size of the lot requires a reduction in lot coverage.

Attorney Hershmann stated that denial of the variance would deprive the applicant of all rights of other houses in the neighborhood. Given the shape and size of the lot and location of the septic system there is no other possible location on the lot for a garage. Granting of the variance will not confer upon the applicant any special privilege. Most homes in the area have two car garages or sufficient space to add a 2nd garage. Addition of the garage is in harmony with the neighborhood and will not confer special benefit to the homeowner. There is no impact on the Plan of Conservation and Development. The applicant is requesting reasonable use of the property and is consistent with the neighborhood as developed.

Letters were sent to abutting property owners and property owner behind the subject property. Secretary Nero read the letters into the record of the meeting.

Chairman Wilson has a problem in defining a hardship with this application, stating the Board has had other applications stating a need for a garage and requested a variance to conform. This applicant wants a two car garage. In the past he has questioned why people need garages, and in some cases has voted in favor of a garage in a setback zone. Mr. Wilson has a problem; does not see a hardship for the application; this is expansion of a one car garage into a two car garage; and the applicant requests two variances. The applicant already has a garage and now wants a two car garage and change in lot coverage. He asked the Board members if there is a true hardship for the subject application.

Mr. Devine stated there is a hardship caused by the way these houses were arranged and set up. The applicant is not defacing the neighborhood; he is enhancing it; and he will not build something overwhelming to the neighbors across the street or next to him. He is trying to stay within the limits provided by the zoning except the original builder made the mistake of misusing the land. In looking at the chart(s) the house could have been placed somewhere else on the lot and the septic system could have been placed somewhere else, giving the property owner an opportunity to utilize the better part of his property. If that were the case the applicant would not be here tonight asking for help from the Board. Mr. Devine is in favor of the variance requests.

Ms. Nero agreed with Mr. Devine's comments. She believes there is a hardship because many of the 1960 developments had houses on small parcels of land. Ms. Nero visited the subject site; there is a driveway where cars are parked due to lack of garage space; and she believes it would be more aesthetic to have a structure than a paved parking area on the side of the garage. The hardship is the 1960's

developments restricting homeowners with doing anything on their land. In prior appeals the Board has sided in favor of the homeowner with this type of older development, and she finds it hard to go one way many times, and not go that way again.

It was noted by Mr. Devine that in 1960 most people only had one car. Now, the reality is a homeowner with 2 or even 3 cars in the family.

Mr. Pepper stated his understanding that a garage is not a luxury, but given comments from Board members about the septic system and property layout and changes, he is inclined to be in favor of the variance.

In response to a question about the style of this house and other houses in the area, Mr. Hershmann said it is a one story ranch house. The neighborhood has ranch houses, expanded ranches, colonials, and the adjacent properties are cape style houses.

At first Mr. Bellagamba did not see a hardship, but after listening to the presentation, realizing the lot is undersized for the zone, he sees that there could be a hardship here with this condition with the septic system location on the property. Mr. Bellagamba believes there is a hardship and something which could be done with approving the variance.

PUBLIC

William Beck, 29 Holly Road, lives across the street from the Pruitt residence, which is a twin copy of his house. #50 is the 3rd house which is the same.

According to Mr. Beck, the Pruitt house has had 4 additions. This house was 1120 sq. ft; and is now a 2452 sq. ft. house. Additions include a 12x25 foot addition without a variance; the original owner put on a 10x20 foot rear porch; and there is a 16x16 foot room behind the current garage. Mr. Beck feels that the lot has not stopped the former or current owner from developing the land, and his opinion is that the applicant has a want not a need. The existing garage has 16 sq. ft. in front; most 2 car garages are 24 sq. ft.; the applicant is asking for 12x37 feet, 4400 sq. ft. for more than a one car addition. Mr. Beck stated that if the applicant wanted to make a normal 2 car garage out of the existing garage he would only need 8 feet and no side line variance, possibly staying with the 15% coverage. As the neighbor directly across the street, Mr. Beck prefers to look at the paved driveway area than 2 houses about 20 feet apart from each other. He considers this cluster zoning. For his garage, Mr. Beck moved his driveway around to Manor Drive, putting the garages on the bedroom side of the house to avoid a similar situation with his neighbor. Mr. Beck opposes the variance requests.

Mr. Beck submitted a photograph of the subject property to the Board.

With regard to the 12x37 foot request for a one story garage addition, Mr. Beck this is more than enough space for a one car garage. He informed the Board that the applicant has a side line business, and he has concerns about some of the square

footage being used for commercial uses. He is opposed to commercial use in a neighborhood. Mr. Beck asked that there be a stipulation within the variance approval that there be no commercial use of the one story garage. There have been backhoes, forklifts, 20 ft. trailers with commercial lawn mowers come and go on the subject property. He is of the belief that there is potential commercial use for the garage space and it does not belong in an R-20 zone.

Maura Esposito, 30 Holly Road, lives on the side where the garage will not be seen. She sent a letter of support for the record. Ms. Esposito knows other residents have had variances. These are difficult little lots, and to add to her garage she would be in the same predicament as the applicant. She said Mr. Pruitt has trucks but they are not there all the time; they are town vehicles because he works for the town; and this does not bother her or the neighborhood.

Attorney Hershmann stated his disagreement with Mr. Beck's assertion that the garage could be accomplished with less square footage. The engineer who assisted with the drawings has said the homes will be approximately 24 feet apart from #50 to the garage, which is consistent with other homes in the neighborhood. With regard to the commercial activity concerns, Mr. Hershmann said that Mr. Beck could contact the ZEO. Further, Mr. Pruitt will not do any activity outside of the permitted use of the zone.

The Board was told by Attorney Hershmann that the subdivision was approved in 1948; zoning regulations were enacted in 1949; the lot size does not permit a garage any place else on the property. The proposed location is the only place for the garage. Many of the homes in the neighborhood have two car garages. A variance is required for Mr. Pruitt to proceed with his plans.

Regarding the trucks on the Pruitt property, Mr. Devine asked Mr. Beck if they are town vehicles.

In the photograph, Mr. Beck noted there is a town truck in the back of the photo. He has seen backhoes, commercial lawn mowers, etc. which are all connected to the side line business operated by Mr. Pruitt. This is his concern.

In response to a question to Mr. Pruitt from Mr. Devine regarding a side line business, he asked if this was a fact.

For the record, Attorney Hershmann said Mr. Beck is not able to determine if backhoes, etc. are owned by the Town of Cheshire.

Mr. Pruitt stated he has a property maintenance company. The fork lift brought to his home was to bring pellets to his house, and the backhoe was for septic system work. He had a mini-excavator to do work in his yard which was in the driveway for a while. For storage of his company property, he rents property from Strollo's for storage.

THE PUBLIC HEARING WAS CLOSED.

VII. DECISION MAKING SESSION

Secretary Nero read the call of public hearing.

The application of Richard Pruitt Jr. 40 Holly Road, Cheshire CT 06410 requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 3.1' side line variance of the required 12' side yard setback in an R-20 zone, the resulting side line setback requested is 8.9 feet; and a 1.1% variance of the maximum lot coverage in excess of the required maximum lot coverage of 15%. The resulting lot coverage requested is 16.1% for a one story garage addition, property located at 40 Holly Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 56 Lot No. 120 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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Board statements

Ms. Nero reaffirmed her position that she believes there is a hardship. It is a fact that the lots are not conducive to anything being done because of their size. Zoning regulations were not in force when the homes were built and the proposed garage will not be able to store backhoes and other heavy equipment. The hardship is the lots and homes built in the 1960's; homeowners cannot do anything to their property without going against the zoning regulations; the septic system is in the rear where a garage cannot be placed. These are the hardships she sees for the subject application.

Mr. Pepper commented on the fact that this is an oversized garage; a standard sized garage could be fit in; and in light of the neighbor's statement, his inclination is to disapprove the variance request.

Mr. Devine still agrees with granting the variance. However, with Mr. Beck's observations there must be a stipulation on what can and cannot be on that property.

Mr. Wilson said the Board cannot make a condition of the variance that the applicant stay within the zoning laws. With an illegal commercial activity there is a course of action through the ZEO. He asked if this needs to be done.

Mr. Kehoss stated the Board can place a stipulation that the garage cannot be used for commercial purposes. He would need this to investigate a complaint that commercial activity was occurring, and information to indicate there was an issue there. Mr. Kehoss said in the past applicants have stated what the garage would be used for, and the Board came up with general use in the variance approval.

According to Mr. Devine this is something which the Board should think about before approving a motion. He supports the fact that the land is a problem, with lots set up in 1948, houses built in 1960 without zoning regulations, and with wells and septic systems. These create future difficulties for sellers and buyers. Mr. Devine would approve extension of the garage with stipulations about the use.

Contrary to his former statement, Mr. Bellagamba looked at the plot plan, what he has seen and investigated, noting the subject house has more square footage than neighboring houses. It is a substantial sized addition that is proposed. He does not see a hardship in this case and is opposed to the variance approval.

Mr. Wilson stated the property has a one car garage, and a two car garage is not a right for the people of Cheshire. The applicant is able to use the property the way it was intended. He does not see a hardship.

MOTION by Mr. Pepper; seconded by Mr. Devine.

MOVED that the Zoning Board of Appeals denies the application for a variance of Section 32, Schedule B, Dimensional Requirements, for Richard Pruitt Jr. 40 Holly Road, Cheshire CT 06410 requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 3.1' side line variance of the required 12' side yard setback in an R-20 zone, the resulting side line setback requested is 8.9 feet; and a 1.1% variance of the maximum lot coverage in excess of the required maximum lot coverage of 15%. The resulting lot coverage requested is 16.1% for a one story garage addition, property located at 40 Holly Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 56 Lot No. 120 in an R-20 zone. Based on the evidence presented at the public hearing and based on the general knowledge of the Board, it is hereby found that a hardship does not exist for this property.

VOTE In favor - 2; Devine and Nero; Opposed -3; Wilson, Pepper, Bellagamba

THE MOTION FAILED TO PASS; THE APPLICANT IS NOT GRANTED THE VARIANCE.

VIII. Other Zoning Board of Appeals business.

IX. CHAIRMAN'S REPORT

X. ADJOURNMENT

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

MOVED to adjourn the meeting at 8:30 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk