

**MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS MEETING HELD ON MONDAY, MAY 4, 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; Paul Bellagamba, John Pepper.

Absent: Agnes White

Alternates: Jackie Cianci, Gerald Devine and Robert Formica.

Staff: David Kehoss, Zoning Enforcement Officer

**I. CALL TO ORDER.**

Chairman Wilson called the meeting to order at 7:35 p.m. and read the fire safety announcement for the record.

Mr. Formica is the alternate for this meeting.

**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 - APRIL 6, 2015**

MOTION by Ms. Nero; seconded by Ms. Cianci.

MOVED to accept the minutes of April 6, 2015 subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

Chairman Wilson explained the procedures for a public hearing before the ZBA, and the definition of "hardship" for a legal variance approval by the Board.

**VI. BUSINESS**

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| 1. | <b>L.P. and Sons LLC<br/><u>1043 Sperry Road</u><br/>Section 32, Schedule B. Dimensional<br/>Requirements requesting a 4% variance<br/>Of the maximum lot coverage in an R-40<br/>Zone. The resulting lot coverage<br/>Requested is 14%; New Home Construction</b> | <b>15-05-01<br/><br/>PH 5/4/15<br/>MAD 7/8/15</b> |
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Secretary Nero read the call of public hearing.

The application of LP and Sons LLC, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 4% variance of the maximum lot coverage in excess of the required maximum lot coverage of 10%. The resulting lot coverage requested is 14% for an R-40 Zone, property located at 1043 Sperry Road, Cheshire CT 06410, as generally shown on Assessor's Map No. 78, Lot No. 133 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.

Hunter Smith, Architect, represented the applicant. Michael Doro, LP and Sons LLC.

Chairman Wilson explained that the applicant did not submit an A-2 Survey, but did submit a Class D Survey which clearly shows the situation for this application.

Following a brief discussion and review of the Class D. Survey, a motion was made.

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

MOVED that the Zoning Board of Appeals accepts the Class D Survey for the application of LP and Sons LLC; the Class D Survey is accepted in place of the required A-2 Survey.

#### Discussion

Mr. Pepper commented on his preference for an A-2 Survey, but said a Class D survey is better than what was in the Board packets. He has concerns about moving forward without the A-2 survey.

It was noted by Chairman Wilson that the A-2 survey has more lines and information about the terrain of a property.

VOTE           The motion passed 4-0-1; Pepper abstained.

Mr. Kehoss informed the Board that any communication from neighbors on the subject application was in the packets, and no other information was received in response to the letter to abutting neighbors.

Hunter Smith, Architect, reported that the surveyor had promised the A-2 survey to the applicant for submission to the Planning Department, but he never followed through.

Mr. Smith stated this is a simple site; the existing house on the property is non-conforming and encroaches into the side yard; this house is technically a tear down. He displayed photographs of the existing house to the Board. The subject property pre-

exists zoning regulations by 24 years. This is a 17,500 sq.ft. lot; the R-40 zone was overlaid into the area; this increased the lot size requirement to 40,000 sq. ft.

The applicant is seeking relief on the lot coverage requirement, and the lot at 10% is a small lot for this zone, with sufficient space for a useful house.

Chesprocott has visited the site; the lot was perked and tested; and Chesprocott submitted a letter stating the septic system would support a four bedroom house.

Mr. Smith stated the applicant is working with the plan to limit the non-conformance, and is looking for a coverage variance which would be more in compliance with an R-20 zone than an R-40 zone. They are trying to find a good balance. The building coverage is the hardship. By elimination of the non-conformity there is creation of something more consistent with the houses in the neighborhood, and the applicant is staying within the setbacks.

The applicant personally visited and spoke with his neighbors who received the variance notice. He presented information on the drawings, footprint of the house, and every neighbor signed a document in favor of the applicant's variance request.

Secretary Nero read the letter from neighbors re: 1043 Sperry Road application for increase in lot coverage into the record. The letter was signed by the following neighbors:

Richard Talbot, 1050 Sperry Road;  
John Donovan, 1035 Sperry Road;  
Joseph Morrissey, 1037 Sperry Road;  
Jenny Rizzo, 1063 Sperry Road;  
Bonnie Seevers, 1063 Sperry Road;  
Reid Cashman, 1023 Sperry Road;  
Lingli Liu, 1026 Sperry Road.

Mr. Smith continued with his presentation to the Board, stating that because the lot pre-existed zoning regulations the 10% lot coverage was set. The hardship runs with the land and has been existing for a long time.

Chairman Wilson stated that the proposed house stays within the setbacks; it is 1800 sq. ft. on the first floor; 900 sq. ft. on the second floor; with a 600 sq. ft. garage.

Regarding the size of the house, Mr. Smith advised the garage is one story, and the master bedroom suite is one story.

With the exclusion of the garage, Mr. Wilson said a variance would not be required. If the living space on the 1st floor was smaller no variance is needed. The variance is required due to the size of the planned structure.

According to Mr. Smith the applicant is trying to provide a house compatible to the neighborhood, on a lot which was sized in 1946 at 17,500 sq. ft. and was not a subdivision.

Stating he visited the subject property, Mr. Wilson noted all the other homes are on larger lots, with larger houses. The existing house sits sideways on the lot and is of the 1946 era.

Michael Doro, the applicant, and owner of LP and Sons LLC, addressed the Board, explaining he lives in Berlin CT, owns a home there, and will build the house on Sperry Road. He will market both houses, and whichever sells first, his family will move into the other house. In that regard, the house on Sperry Road could be considered a "spec house." The existing house on the property has 870 sq. ft. of living space and a garage.

Mr. Wilson commented on surrounding lots supporting a 2200 sq. ft. house on lots larger than that of the applicant.

Mr. Smith cited the fact that the ground coverage is less than houses surrounding the subject lot, and the proposed house will be smaller than neighboring houses.

It was stated by Mr. Bellagamba that a 2,400 sq. ft. house is a large house. With the lot size the house would be 1,750 sq. ft. + garage. He questioned whether there was a reasonable effort to keep the footprint within this size to stay within the footprint.

Mr. Smith stated that it would still be above the 10%, and the applicant is trying to create a house with a 1st floor master bedroom suite. The subject lot preceded zoning. There will be a septic system and well water, with the septic system in the rear of the lot. The basement floor is walk out grade.

The back level of the property is about the same as the street and Mr. Wilson noted there is a walkout basement, and a small back yard with most of it taken up by the septic system.

Without an A-2 survey, a question was raised by Mr. Kehoss about there being no other structures on the lot (shed), and Mr. Smith said no other structures will be on this lot.

Mr. Kehoss stated the applicant cannot add a shed or any other structure to the lot because it will max out the space on the lot.

The Board was told by Mr. Smith that the garage will be of enough size to house bikes, lawn equipment, etc. During the perk tests, ledge was found in the front, and there will be a new foundation for the whole house. The existing foundation is concrete block and does not keep water out of the house.

Regarding the possible "build and sale" Mr. Kehoss asked if this was a plan of the applicant.

In response, Mr. Doro said that would be the plan if the Sperry Road house sold before his Berlin CT house.

Ms. Nero asked for clarification about the master bedroom on the 1st floor and 2nd floor having 3 bedrooms.

Mr. Doro said that was correct.

#### PUBLIC COMMENTS AND QUESTIONS

John Donovan, 1035 Sperry Road, addressed the Board stating he lives behind the existing structure on the subject property, and stated that anything will be an improvement over what is there now. He asked to see the plans for the proposed house.

Mr. Donovan, Mr. Smith and Mr. Doro reviewed the plans for the house.

Following review of the plans, Mr. Donovan stated he wanted to check on the grading in the back so water would not go down the hill and affect his property. He reported that the applicant has offered to mark the trees in the area before making a decision to remove them. This will give neighbors and the applicant the opportunity to decide on trees that can or should be removed.

With regard to the trees and water runoff, the applicant was informed by Chairman Wilson that the ZBA cannot speak to that or put restrictions on a variance approval. This would be handled by the Building Department and Planning Department.

Mr. Kehoss stated that the Building Department would handle any issues in this regard. Before a building permit is issued, he explained that the applicant he will have to submit a professional engineered site plan that includes a storm water management plan. Regarding the trees on the site, there are no wetlands out in this area, and proper storm water management must be accommodated.

With regard to the trees, Mr. Doro stated he will put red ribbon around the trees, and work with the neighbors regarding tree removal. He noted that the houses in the neighborhood are substantially larger than the proposed house, and the goal is to stay within the character of the neighborhood.

Mr. Doro thanked the Board for hearing his application.

THE PUBLIC HEARING WAS CLOSED.

The Board recessed for two minutes and reconvened at 8:20 p.m.

## VI. DECISION MAKING SESSION

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|---|-----------------|---------------------------------------|
| <b>1. L.P. and Sons LLC</b><br><b><u>1043 Sperry Road</u></b><br><b>Section 32, Schedule B. Dimensional Requirements requesting a 4% variance Of the maximum lot coverage in an R-40 Zone. The resulting lot coverage Requested is 14%; New Home Construction</b> | <b>15-05-01</b> | <b>PH 5/4/15</b><br><b>MAD 7/8/15</b> |
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### Discussion

Before beginning Board discussion on the application, Chairman Wilson said the hardship must be considered as introduced by the applicant and how the Board sees the hardship.

Mr. Pepper stated his understanding that updating is in order, but he does not see a hardship with this variance request. He said the applicant can get the square footage by shrinking the size of the structure or going up with the structure.

Mr. Wilson expressed mixed feelings about the true hardship of the application, and agrees it could be self created due to the decision on the size of the footprint of the building. The applicant is trying to maximize the potential of the property, in unison with the rest of the neighborhood. He recognizes the smallest lot in the zoning.

Mr. Pepper stated 10% is 1,700 sq. ft. footprint and going out it would be 3,400 sq. ft. which is a lot of house.

Mr. Formica stated the proposed house would be a nice addition to the neighborhood, and the hardship is trying to stay within the conformity of the neighborhood. The proposed house is smaller than others in the neighborhood, and he believes it is a good project for this neighborhood.

Ms. Nero also has mixed feelings and questions the possibility of what the applicant wants to do while keeping within the zoning regulations with the house he wants. She sees a hardship, and then does not see a hardship.

Mr. Bellagamba sees the hardship as the size of the lot, .4 acres in an R-40 zone. The variance request is just lot coverage while keeping within the property set backs. He noted the applicant has made reasonable effort to keep the size of the house down. Mr. Bellagamba is in favor of granting the variance application.

It was stated by Mr. Wilson that if the size of the lot is the variance, and the only variance is on the lot coverage not the setbacks.

Mr. Pepper commented on keeping with the look of the neighborhood as understandable, and believes the house could be built without the variance. He does not see a hardship to take up land in our town, outside the law.

Ms. Nero said the house will be built on this lot, whether bigger or smaller, and she understands the Board comments. The existing house was built in 1946, and is non-conforming in the area. The other houses in the area are on larger one acre lots, and this lot is less than one-half acre. She takes this into consideration, and there is another issue.

Mr. Pepper supports a house being constructed, which will be a beautiful house, and the charge of the Board is to insure the house is a reasonable size.

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

MOVED that the Zoning Board of Appeals grants the variance of Section 32, Schedule B, Dimensional Requirements, for a 4% variance of the maximum lot coverage in excess of the required maximum lot coverage of 10%, with the resulting lot coverage of 14%, to LP and Sons LLC, for property at 1043 Sperry Road, subject to the following conditions.

Based upon the evidence presented at the public hearing and the general knowledge of the members of the Board it is hereby found that a hardship which is not applicable to other properties in the district; and that 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. Granting the variance will not confer upon the applicant any special privilege; that the variance is the minimum variance that will make possible the reasonable use of the land; that granting of the variance will be in harmony with the general intent and purpose of the regulations.

VOTE           The motion passed 4-1; In Favor - Wilson, Nero, Formica, Bellagamba; Pepper opposed.

The variance is granted; it will not become official until it is registered on the land records of the Town of Cheshire.

## **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 8:35 p.m.

VOTE           The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk