

**MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS, MEETING HELD ON MONDAY, JUNE 1, 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

Absent: John Pepper and Agnes White

Alternates: Gerald Devine and Robert Formica. Absent: Jackie Cianci.

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. Devine and Mr. Formica were the alternate Board members for the 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 - MAY 4, 2015**

MOTION by Mr. Bellagamba; seconded by Ms.Nero

MOVED to accept the minutes of May 4, 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**

1. William J. Beck, Jr.

15-06-01

29 Holly Road

Requesting a variance of Section 32, Schedule B, Dimensional Requirements requesting a 6' foot rear line variance of the required 30' foot rear line setback in an R-20 zone, the resulting rear line setback requested is 24 feet; and a 0.09% variance of the maximum lot coverage in excess of

**the maximum lot coverage of 15%. The resulting lot coverage requested is 15.09% for a one story addition.**

Secretary Nero read the call of public hearing.

The application of William J. Beck, 29 Holly Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 6' foot rear line variance of the required 30' foot rear line setback in an R-20 zone. The resulting rear line setback requested is 24 feet; and a 0.09% variance of the maximum lot coverage in excess of the maximum lot coverage of 15%. The resulting lot coverage requested is 15.09% for a one-story addition, property located at 29 Holly Road, Cheshire CT 06410, as generally shown on Assessors 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.

#### Public Hearing

Chairman Wilson noted that two variances were requested by the applicant, William Beck. One was for lot coverage to 15.09%, and the other is for a 6 foot rear line variance. The lot coverage variance request is withdrawn.

Mr. Kehoss informed the Board that there were responses from abutting neighbors to the applicant's letter informing them of the variance request.

The Board members reviewed the A-2 Survey submitted by the applicant.

Amy A. Girdzis, 29 Holly Road, Cheshire CT 06410, represented the applicant William J. Beck, and stated that Mr. Beck was unavailable to be present at the meeting.

Ms. Girdzis read a prepared statement into the record for the variance request. The applicant wants to expand the kitchen for easier access and storage. The zoning hardship is that other lots in the subdivision are rectangular in shape; the options for expansion are limited due to the size and shape of the lot; the subject lot is triangular, reducing the overall lot size due to the Holly Road curvature. A diagram was included with the application showing the window of opportunity based on current zoning setback requirements. Ms. Girdzis said the completed project will enhance the home to remain comparable to other homes in the subdivision. Most of these homes have put in additions with zoning setback requirements, but there is an abutting non-conforming two car garage 6 feet from the neighbor's property line, which is the applicant's rear property line. There is a requirement to maintain a 30 foot setback to the property line.

Ms. Girdzis stated that the proposed addition will provide the same benefits, satisfaction and enjoyment shared by the neighborhood and abutting property owners. She said the applicant has taken efforts to confine the addition to a minimum size to best accommodate his needs with a minimum variance request. In 2013 the applicant requested and was granted a minimum 8 foot variance, and is now requesting a 6 foot

variance with the map showing that 4 feet is required. This variance request was based on efforts with multiple measurements; the A-2 survey indicates the lot coverage variance is no longer requested or required. Ms. Girdzis explained that the rear lot variance request of 6 feet is conservative. She said granting the variance will enable the residents of the house to stay in the home as they have been for the last 30 years.

Chairman Wilson questioned a hardship for this variance request. He noted the applicant stated personal hardship for the addition to make the home more livable and more useful for the next few decades. He asked for more information on the use of the expanded space and why the addition is in the location stated.

In response, Ms. Girdzis explained the addition is in back of the dining room and kitchen. It will push the dining room and kitchen back 6 feet, and this is the exclusive use of the proposed addition.

Mr. Wilson asked if consideration was given to expansion on the other side (west side) and staying within the setbacks.

All options were considered, and Ms. Girdzis said she and the applicant worked with a contractor on other projects, including the 2013 addition. She stated that from an efficiency standpoint and ease of utilizing the structure as it is today, was knocking out one wall. Knocking out the wall to the west still required going back because of the closeness to the side since there was not enough room for 6 feet of expansion. With the proposed plan they are knocking out one wall, and the west side of the house remains the same distance from the side property. Ms. Girdzis said the applicant is looking to move back, and from the A-2 survey it shows how the house is situated on the lot...the 6 feet is only at that corner.

Ms. Nero read an e mail from Pat Schwab, 50 Holly Road, in support of the variance request into the record.

A question was raised by Mr. Devine about the applicant doing anything on the side of the house and there seems to be enough room, about 20 feet.

In response, Ms. Girdzis said all possibilities were looked at, and this was one of them. For easement of construction and use and access, the architect and contractor looked at the most feasible way to accomplish the work. The chimney was also a factor, and the option requested is the best way to do what is required.

When the house was purchased, Mr. Devine asked if the applicant questioned anything about zoning regulations.

Stating "no" Ms. Girdzis said Mr. Beck was the homeowner, and she moved in after he purchased the house. At that time structural or modifications to the house were not considered.

Chairman Wilson commented on the non-conforming 40 foot front setback, and the way the house was originally placed on the site. The rest of the house was placed within the setbacks. The septic system can be in the front of the house if approved. He said the lot and house were constructed in the early 1950's.

Photographs were submitted with the application, and Mr. Bellagamba noted #3 and asked what it is showing.

According to Ms. Girdzis photo #3 shows the non-conforming garage of 83 Manor Drive, the abutting neighbor; the fence is the applicant's property; #1 shows the gravel area of the proposed addition and the 6 foot variance requested.

Regarding the 6 foot variance request, Mr. Bellagamba pointed out that the A-2 survey shows a 4 foot variance.

At the time the applicant and Ms. Girdzis did the variance information themselves to get the application submitted.

Mr. Wilson said the structure will only be 4 feet, and the applicants wanted a buffer in case there were issues.

Mr. Kehoss stated the Board can modify the variance request.

The Board was informed by Ms. Girdzis that she and the applicant have lived in the house for 36 years, and the 2013 variance was the first one requested and approved for 29 Holly Road.

#### PUBLIC COMMENTS AND QUESTIONS

Attorney Jay Hershman, 290 Highland Avenue, Cheshire CT, represented Richard Pruitt, 40 Holly Road. Attorney Hershman read a statement into the record in opposition to the variance request for 29 Holly Road, William J. Beck, applicant.

Based on the application review and testimony at the public hearing, Mr. Hershman stated the applicant has not demonstrated a hardship, and a desire to have a kitchen is not a hardship. The property can still be used as a single family residence in accordance with zoning regulations, and the addition could be on the west side of the house without requiring a variance. The reconfiguration of the house could be done utilizing part of the property for the 2013 variance, using part of the two car garage. Any financial burden associated with the expenses does not constitute a hardship. It is not believed the hardship is unique; most of the subdivision properties are undersized; 6 houses are on the curvature; this is not a hardship. Granting of the variance will make a non-conforming use more non-conforming, and expand the non-conformance. Disappointment in use, a larger kitchen, can be done on the property currently, but desire to enlarge the living area to be more comfortable and attractive is not a hardship. The applicant already enjoys reasonable use of the property, and nothing heard at this public hearing rises to the level of hardship. Public Works Department correspondence

has been sent to the property owner stating that as part of the last variance request, the driveway was moved to Manor Road, and a street excavation permit was never obtained for this work from the Town.

A closing statement was offered by Ms. Girdzis who stated that the purpose of the addition is not to expand living space for enjoyment but for needs. The home has been enjoyed for 36 years, and the applicant is trying to expand within the zoning regulations. With expansion to the left, she said one of the restrictions was the addition not being visible from the street, and the proposed expansion will not be visible from the street. If the addition was to the west it would be visible from the street. The applicant was keeping everything aesthetically pleasing, keeping curb appeal, and location of the addition is at the furthest corner of any abutting neighbors. She said there are other corner lots in the subdivision, but the subject property has the most restrictions. The home was non-conforming when built because of the curve of the road, and the applicant is trying to work within the restrictions presented.

THERE WERE NO FURTHER COMMENTS OR QUESTIONS. THE PUBLIC HEARING WAS CLOSED.

## **VII. DECISION MAKING SESSION**

Secretary Nero read the call of public hearing.

The application of William J. Beck, 29 Holly Road, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 6' foot rear line variance of the required 30' foot rear line setback in an R-20 zone. The resulting rear line setback requested is 24 feet; and a 0.09% variance of the maximum lot coverage in excess of the maximum lot coverage of 15%. The resulting lot coverage requested is 15.09% for a one-story addition, property located at 29 Holly Road, Cheshire CT 06410, as generally shown on Assessors 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.

- 1. William J. Beck, Jr. 15-06-01**  
**29 Holly Road**  
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Mr. Devine stated he is in favor of the variance request, which is a minimum of 6 feet. This house suffers from zoning changes since it was first built; placement of the house prevents it from changing or utilizing the land in a better fashion. Everything is skewed

to one side of the lot, and he said zoning regulation changes limits the applicant from utilizing the property effectively.

Mr. Formica commented on the option to reduce the variance to 4 feet, and to him this is the minimum, which would be further away from the rear property line. He would be in favor of a 4 foot variance rather than 6 feet, Mr. Formica considers the zoning changes over the years as the hardship for the application.

Mr. Wilson does not see a hardship for this application. The house is there since the 1950's; there is no limitation on the use of the property as intended; and he sees doing some of the kitchen changes on the west side.

Ms. Nero commented on giving this application much thought, and stated she does not see a hardship. This is not a must have, but a want.

Mr. Bellagamba has looked closely at this variance request, and does not see a hardship, and said there are other options for the kitchen addition. He stated the definition of a hardship is not in this application.

The issue of changing the variance request to 4 feet for approval was raised by Mr. Formica, who asked if there was support of a lesser variance.

Mr. Wilson stated he does not see a hardship at a 4 foot variance.

The Board was informed by Mr. Kehoss that it can grant a 4 foot variance, but it will need four (4) affirmative votes to pass.

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

MOVED that the Zoning Board of Appeals denies the application for a 6 foot rear line variance the required 30 foot rear line setback, of Section 32, Schedule B, Dimensional Requirements, for William J. Beck, Jr. 29 Holly Road, Cheshire CT 06410. 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 3; Bellagamba, Nero, Wilson; opposed 2 - Devine, Formica.

THE VARIANCE REQUEST IS DENIED.

**VIII. Other Zoning Board of Appeals business.**

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**IX. CHAIRMAN'S REPORT**

**X. ADJOURNMENT**

MOTION by Mr. Bellagamba; seconded by Mr. Formica.

MOVED to adjourn the meeting at 8:22 p.m.

VOTE The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk