

MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS, MEETING HELD ON WEDNESDAY, SEPTEMBER 7, 2016 AT 7:30 P.M. IN ROOM 207-209, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410.

Present

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

I. CALL TO ORDER.

Chairman Wilson called the meeting to order at 7:31 p.m. and read the fire safety announcement for the record.

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 - March 7, 2016

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

MOVED to accept the minutes of March 7, 2016 subject to corrections, additions, deletions.

Corrections: Page 2, last para. should read "not"; page 4, first para. should read "evidence".

VOTE The motion passed unanimously by those present.

VI. COMMUNICATIONS

1. CPFZA Quarterly Newsletter Volume XX, Summer 2016

Chairman Wilson informed the Board members that there are plans underway for a training/briefing session by the Town Attorney on State laws that govern the procedures and actions of the ZBA. Following the presentation there will be a question and answer period. Once the date and time are determined, Board members will be notified.

VII. PUBLIC HEARING

Chairman Wilson explained the procedures for a public hearing of the ZBA.

Secretary Nero read the call of public hearing into the record.

The application of Karen Gilgallon, 27 Saint Joseph Street, Cheshire CT 06410 requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a variance from the 50 foot side line setback proposed on the east and west side of the property for a 12 foot x 16 foot pavilion, property located at 27 Saint Joseph Street, Cheshire CT 06410, as generally shown on Assessor's Map No. 3, Lot No. 31, in an I-2 zone. The resulting side line setback requested is **28 feet setback proposed on the west side and 13 feet setback proposed on the east side of the property.** The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

1. **Karen Gilgallon 2016-09-01** **PH 9/7/16**
27 St. Joseph Street **MAD 11/11/16**
Requesting a variance of Section 32,
Schedule B, Dimensional Requirements
Requesting a variance of the required 50 foot
Side line setback on the west and east side of the
Property for a 12' x 16' pavilion, in an I-2 zone.
The resulting side line setbacks requested are:
28' foot setback on the west side and 13 foot setback
On the east side.
Waiver of an A-2 Survey.

The applicant has requested waiver of an A-2 Survey. The Board members looked at the photographs from the GIS System, maps, and sketches submitted by the applicant. Following review, the Board determined that there could be waiver of an A-2 Survey for this application.

MOTION by Ms. Nero; seconded by Ms. Schain.

MOVED that the Zoning Board of Appeals grants the waiver of an A-2 Survey for property at 27 Saint Joseph Street, Cheshire CT 06410.

VOTE The motion passed unanimously by those present.

Chairman Wilson reviewed the 1999 variance for 27 St. Joseph Street for a pool. He noted the requirements, circumstances and details for the pool variance are identical to those for the pavilion variance request.

The applicant, Joe Gilgallon, presented the application for a variance of his property, 27 St. Joseph Street, Cheshire CT, for construction of a pavilion on the exact same site of the former pool. Mr. Gilgallon reported that the pool has been taken down and demolished. The applicant and his family want to re-use the existing location for a pavilion, using the same footprint.

Hardship - Mr. Gilgallon cited the hardship as stated in the application (A)... ***"The hardship is the lot is undersized in an I-2 zone, which does not meet the requirements of the PZC, thereby not allowing us full use of the property."***

The hardship is the nonconforming lot size which is only 50 feet wide.

Chairman Wilson commented on the fact that this residence was built on the lot before any zoning was established in Cheshire. The home was built in 1958. With the zoning laws, a plan of development was established for residential, commercial and industrial zones and properties. Some areas in town, such as St. Joseph Street, were rezoned "residential" in the new industrial regulations. The applicant's building and lot have been non-conforming; nothing has changed since 1999; and the former pool was centered but did not encroach on neighboring properties.

It was stated by Mr. Gilgallon that the proposed pavilion has the same plan as the former pool, will be in the same circle as the pool, and he restated the hardship for his application. Mr. Gilgallon stated the lot is under-sized for the I-2 zone and does not meet any of the zoning requirements. With a non-conforming lot he cannot build anything on his property if the existing zoning laws are followed.

Ms. Schain asked if the pavilion would be larger than the former pool.

Mr. Gilgallon advised that they are similar in size, and noted the 1999 zoning regulations are different than those of today and interpreted differently. The new pavilion structure will be smaller than the pool, and is only 16 feet long.

It was noted by Mr. Wilson that the application is not related to a "patio" which does not require a variance...it relates only to the proposed structure.

Letters about the application and variance request were sent to abutting property owners, and responses were read for the record.

Dennis Smith, 24 St. Joseph Street; Mark Cipriano, Napoli Holdings; Edward Dayton 39 St. Joseph Street. All were in support of the variance request.

In looking at the 28 feet on the west and 13 feet on the west, Mr. Pepper said this is 41 feet total, and there is a slight discrepancy. He said this is why an A-2 Survey is important for applications, to get the correct information.

According to Mr. Gilgallon the original deed for the property states "50 feet more or less", so the 28 feet on the west is actually about 25 feet.

The Board was told by ZEO Kehoss that this does not affect the application. An "as built" is not required; the entire lot is non-conforming; the setback is 50 feet and the lot is 50 feet wide.

In his summary to the Board, Mr. Gilgallon said his family appreciates the opportunity to enjoy their back yard. With the pool demolished, they are not asking for anything more than was granted in 1999. The pavilion is a pre-built structure.

If this variance is approved, Mr. Wilson said the approval motion would state "for the pavilion only."

Ms Cianci pointed out the drawing of the pavilion design, and said it is beautiful.

VIII. DECISION MAKING SESSION

Secretary Nero read the call of public hearing into the record.

The application of Karen Gilgallon, 27 Saint Joseph Street, Cheshire CT 06410 requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a variance from the 50 foot side line setback proposed on the east and west side of the property for a 12 foot x 16 foot pavilion, property located at 27 Saint Joseph Street, Cheshire CT 06410, as generally shown on Assessor's Map No. 3, Lot No. 31, in an I-2 zone. The resulting side line setback requested is **28 feet setback proposed on the west side and 13 feet setback proposed on the east side of the property.** 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. Karen Gilgallon 2016-09-01
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On the east side.
Waiver of an A-2 Survey.</p> | <p>PH 9/7/16
MAD 11/11/16</p> |
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MOTION by Ms. Nero; seconded by Mr. Pepper.

MOVED that the Zoning Board of Appeals grants the variance of Section 32, Schedule B, Dimensional Requirements, for side line setbacks of 28 feet on the west side and 13 feet on the east side of the property at 27 St. Joseph Street, Cheshire CT. as generally shown on Assessor's Map No. 3, Lot No. 31, in an I-2 zone.

Based on the evidence presented at the public hearing and the general knowledge of the members of the Board it is hereby found:

1. That a hardship exists to the property 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.
2. That the hardship does not appear to result from the actions of the applicant.
3. That the granting of the variance will not confer upon the applicant any special privilege.
4. That the variance is the minimum that will make possible the reasonable use of the land.
5. That the variance will not result in injury to the neighborhood or the public welfare.
6. That the variance will be in harmony with the general intent and purpose of the regulations.
7. The scope of the variance is limited to what is indicated in the plans and documents for the public hearing; it is limited to construction of a pavilion; and does not apply to any other buildings or structures.

Discussion

Ms. Schain visited the property, noted that it is a very narrow lot compared to other lots, and will support the variance request to build a pavilion on the property for the enjoyment of the applicants.

Ms. Cianci stated her agreement with Ms. Schain's comments. She further noted that the pool is demolished, and the pavilion will be placed in the exact same location. She is in favor of the variance request.

Chairman Wilson commented on the fact that there is a hardship in this application; the I-2 zone makes the property non-conforming; the house is non-conforming; and the lot configuration is also a hardship. The proposed structure, a pavilion, is appropriate for the site and neighborhood. He will vote in favor of the variance request.

Ms. Nero agreed with the comments of other Board members. She said everything on this property is non-conforming, and people should be able to enjoy their land to its best advantages. She favors granting the variance.

Mr. Pepper said this lot defines "hardship" and he will vote to approve the variance request.

VOTE The motion passed unanimously by those present.

The variance is granted; it does not become official until it is recorded on the land records of the Town of Cheshire; this is the responsibility of the applicant, and can be coordinated with the Planning Department staff.

IX. OTHER ZONING BOARD OF APPEALS BUSINESS

None.

X. CHAIRMAN'S REPORT

Chairman Wilson will inform Board members of the date and time of the proposed training/briefing session.

XI. ADJOURNMENT

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

MOVED to adjourn the meeting at 8:06 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk