

ZONING BOARD OF APPEALS
TOWN OF BRANFORD
BRANFORD, CONNECTICUT 06405
MINUTES

The Branford Zoning Board of Appeals met Tuesday March 19, 2024 at 7:00 p.m. at the **BRANFORD COMMUNITY CENTER, 30-48 CHURCH STREET,** Branford, CT.

Commissioners Present: Jim Sette- Chairman, Lenny Tamsin, David Laska, Steve Sullivan,
Donald Schilder, Richard Falcigno

Commissioners Absent: Robert Harrington

Staff Present: Evan Breining (Asst. Town Planner), Jane Ellis (Zoning Enforcement Officer),
Michelle Martin (Clerk)

The meeting started at 7:15 pm.

Chairman Sette reviewed the meeting procedures.

Old Business:

Appeal of 19 School Street Notice of Violation

This item was heard last.

New Business:

24/3-1 Pamela Putnam Smith (Applicant & Owner) (D12-000-003-00001 R3) 101 Summer Island Road.

Var. Sec. 3.4.A.5 Vertical Expansion of the existing front setback nonconformity (18.3 feet instead of 40 feet).

Var. Sec. 8.1.C.3 To allow the enlargement of a nonconforming structure without eliminating the nonconformity for the expansion of the second floor over an existing first floor.

Todd Anderson (Anderson Engineering) represented the applicant and explained the proposal is to build a second floor addition on their house, which was built prior to zoning. This addition is in the existing footprint. This will also give them a view of their driveway which floods frequently. He also noted he received correspondence from the neighbor across the street and he has no objection to the project.

The commission asked a few questions.

Public Input:

1. Jim Boyd - (next door neighbor) said he has no objection to this addition.

Chairman Sette closed the public hearing and made a motion to grant the variances, and that they be consistent with the site plan and documentation on file.

Rich Falcigno seconded the motion which passed unanimously.

24/3-2 Richard & Jodi Pollack (Applicants & Owners) (E11-000-007-00007 R3) 25 Maltby Street.

Var. Sec. 3.4.A.10 Increase of maximum lot coverage to 0.32 where 0.25 is required.

Var. Sec. 8.1.C.3 To allow an increase of an existing nonconforming lot coverage for the construction of a screened porch and minor enlargement of an existing bathroom.

Jim Pretti (Criscuolo Engineering) represented the applicants and displayed a site plan. He explained the project entails removing the deck and turning it into a screened porch as well as enlarging a bathroom to add a washer and dryer since this is a small house. He also noted that his office received some correspondence from the neighbors in favor of the Application. Jim Sette noted he is also a neighbor and has no objection to the application.

Public Input: No one spoke

The commission had a brief discussion.

Chairman Sette closed the public hearing and made a motion to grant the variances, and that they be consistent with the site plan and documentation on file.
Rich Falcigno seconded the motion which passed unanimously.

24/3-3 Branford Trailer Park d/b/a Branford Mobile Homes, Susan Farricielli (Managing Partner) (Applicant & Owner) (D07-000-014-00006 BL) 26 North Main Street.
Var. Sec. 8.1.C.1 Enlargement: Proposed new home will be 8 feet longer than existing home. Applicant wants to remove and replace abandoned mobile home at Lot#11 with a new HUD mobile home.

Susan Farricielli (Managing Partner) spoke and said there is an old trailer from 1974 that has been empty for a while and she wants to remove that and put a newer one in its place. However, the newer one is a bit longer (60 ft) than the prior one and she wants to line this Newer trailer up with the other ones.

The commission asked a few questions.
Public Input: No one spoke.

Chairman Sette closed the public hearing and made a motion to grant the variances, and that they be consistent with the site plan and documentation on file.
Don Schilder seconded the motion which passed unanimously.

24/3-4 56-58 Harrison Avenue LLC c/o Richard Pelletier (Applicant & Owner) (D07-000-006-00005 BC) 56-58 Harrison Avenue
Var. Sec. 4.1.B.5 (1) To allow a covered wooden fire escape within the side yard setback (9.6 feet instead of 10 feet).

Todd Anderson (Anderson Engineering) represented the applicant and displayed a Site plan explaining the fire escape was installed already and then they realized it didn't meet the setback (by 4 inches).

Public Input: No one spoke.

Chairman Sette closed the public hearing and made a motion to grant the variance, and That it be consistent with what has already been built.
Lenny Tamsin seconded the motion which passed unanimously.

24/3-5 Steven Ronshagen & Lisa Lapia (Applicants & Owners) (C10-000-000-00005 R3)
29 Brocketts Point Road
Var. Sec. 3.4.A.9 Requesting floor area ratio of 60% where 50% is required for a new addition.

There was some opposition to this item so the board heard this item last.

24/3-6 Gary & Patricia Ottenbreit (Applicants & Owners) (D08-000-000-00015 R3)1 Oak Street.
Var. Sec. 8.1.C.1-Expansion of a nonconforming structure & use
Var. Sec. 8.1.C.2---“ “
Var. Sec. 8.1.C.3--- “ “
Var. Sec 3.4.A.10 Lot coverage variance 0.27 where 0.25 is allowed for an addition to a pre-existing two family house.

Attorney Tim Lee represented the applicant. He noted that he represented these applicants last year when they received a variance for a garage. When they went to the building dept. to start the project they realized they needed a variance for the lot coverage.

The commission asked a few questions.
Public Input: No one spoke.

**Chairman Sette closed the public hearing and made a motion to grant the variances, and that they be consistent with the site plan and documentation on file.
David Laska seconded the motion which passed unanimously.**

24/3-7 Paula & Ryan Murphy (Applicants) Paula's Twel12ve Properties LLC (Owner)
(E06-000-005-00002 R1) 35 East Main Street.
Var. Sec. 3.4.A.2 Requesting 4,135 sf per unit where 6,000 sf is required to convert finished 3rd floor to a family accessory apartment.

Paula Murphy said that their family has lived in town since 1896. She would like to add an accessory apartment to the finished third floor. They already have two apartments now in the house which they rent to cover their sisters medical expenses. She noted the third floor already has the blueprint for an apartment and it will not change the exterior in any way.

The commission asked a few questions and had a brief discussion.

Public input:
1. Sal Russo-He's in favor of the application.

**Chairman Sette closed the public hearing and made a motion to grant the variances, and that they be consistent with the site plan and documentation on file.
Lenny Tamsin seconded the motion which passed unanimously.**

24/3-5 Steven Ronshagen & Lisa Lapia (Applicants & Owners) (C10-000-000-00005 R3)
29 Brocketts Point Road
Var. Sec. 3.4.A.9 Requesting floor area ratio of 60% where 50% is required for a new addition

The commission then came back to this item.

Steve Ronshagen spoke and said he would like to add a one car garage addition with a family room above it as well as a bedroom on the third floor.

He is requesting a 60 % floor area ratio from the required 50%. He noted that he has a small lot and he is on the corner. He explained he did come before the board at the December meeting and one of his neighbors appealed the decision. He tried to meet with the neighbors to address their concerns but they have not yet met. He is trying to address their concerns by changing the plan to meet the town setback. They are also eliminating the plan for a deck and sliding doors and the window placement has been changed to increase privacy.

Attorney Peter Berdon spoke saying he is representing the neighbors (Susan Clark & Amy Wishingrad) and he is objecting to the admission of this survey since it was completed a couple days ago, and the rules require that a survey be submitted with the application. He noted his clients went thru great expense and time to review the materials that were submitted, and to substitute a new survey at this late moment is not compliant with the rules. He suggested the applicant withdraw this application and reapply with a new survey. He also noted that the prior surveys were inaccurate.

The applicant stated that there was a survey that was submitted with the application in December. The neighbors felt that wasn't correct. He tried to contact that surveyor and learned the surveyor had passed away. He then hired another surveyor which confirmed the information from the prior survey and it was submitted with this current application. This was discussed by all parties.

The applicant asked if this item could be continued to the next meeting which Attorney Berdon did not agree. Further discussion continued. Attorney Berdon asked that the stamped floor plans be submitted with the application.

Evam Breining noted that today is the deadline to submit applications for the April meeting.

The applicant noted that he has 7 letters of support from his neighbors.

It was noted that if this item is continued, then the applicant has to submit the materials to the office tomorrow.

The applicant requested this item be continued to the next meeting and he will submit the additional materials to the office tomorrow.

Old Business:

Appeal of 19 School Street Notice of Violation

This item was heard last.

Attorney Peter Berdon represented Lynn Clements of 19 School Street and suggested that The ZEO speak first.

Jane Ellis (Zoning Enforcement Officer) said she received a complaint regarding a site triangle violation. The resident at 36 Watrous said they can't see when pulling out of their driveway. She went out and looked 19 School Street and they have a 6 foot wooden fence and some shrubbery and from 36 Watrous Ave., it seems a site triangle violation. So, she sent a violation letter to Ms. Clements in September 2023 and then Attorney Berdon was hired to appeal the violation.

Attorney Tim Lee spoke next stating he is representing Linda Reed of 36 Watrous Avenue. He read the section in the regs regarding site triangles. He displayed photos for the Commission. He noted the fence that Ms. Clements erected is in the 25 foot triangle, and it

impedes Ms. Reed ability to back in and out of the driveway. The commission looked at the photos and asked some questions.

Attorney Berdon distributed copies of the regulation regarding the site triangle (Sec 2.2) and the actual requirement for compliance is in sec. 6.12 which is the design criteria for designing a driveway.

Attorney Lee stated that the fence causes a health & safety issue. He asked the board to uphold the violation and ask Ms. Clements to remove the fence out of the 25 foot area and trim the vegetation so Ms. Reed can pull her car in and out of her driveway. He then submitted exhibit A and B (photos) .He then submitted an aerial photo with the triangle superimposed on it.

Atty Berdon submitted a packet of exhibits (photos). Number 15 shows the view coming down the street. He noted that there is no parking on the right hand side of the street and that people do park on the left-hand side of the street. He then noted where the fence was and spoke of the site triangle definition and displayed a whiteboard with photos.

He asked the zoning officer a few questions and asked if she knew if there was a driveway permit on file. He then reviewed the photos.

He noted that he did not concede that there is a driveway at Ms. Reed's property, there is some gravel but not a legal driveway. There was never a driveway permit pulled.

He also noted that Ms. Reed also has some vegetation in front of her house in what would be the site triangle.

He then talked of the regulation sec. 2.2 and what is required for a driveway sec 6.12. .

He then spoke of your driveway placement and how it can control what goes on in your neighbor's property. So, this regulation cannot be enforced.

His second argument is that there is no driveway. He noted on one of the surveys(Exc) from 2015, there was no driveway.

He referred to the hedge row and it was planted in 1981 and its very slow growing. Its been the same height. It's grandfathered in. He noted that he has an affidavit from Ms. Clements landscaper that states that the hedges have been that height since prior to the Regulation (July 2018).

The commissioners asked some questions.

Attorney Berdon then referred to a police report of an incident that occurred when the fence was being installed. He noted the neighbors don't get along and it's best to keep the fence up.

Attorney Tm Lee replied to Attorney Berdon's comments and repeated that Ms. Clements is violating the Zoning regulation.

He also noted that Ms. Reed did inquire years ago when she moved in whether she needed A driveway permit and was told she did not need one. Ms. Reed claims she has parked her car in that location since 1985 and he displayed photos.

Chairman Sette asked a few questions and suggested this item be continued to the next meeting so it can be established if this is a driveway or not.

Public Input:

1. Hannah Purdy- 20 School Street – she spoke of reviewing the survey of 36 Watrous Ave and noted the zoning regulation for a driveway is 10 ft wide and this shows only 7.9 feet Between the property line and the house so it's not a legal driveway. Other neighbors pull off the road too but it's not a legal driveway.
2. Sandy Fisher- 23 School St.-She has owned the house for 53 years and there was never of driveway on Ms. Reed's property, ever. There is limited parking on that street so it's understandable that someone would want to pull off the road and park on their property. She talked of the boxwoods being planted back in the 1980's. She felt it wasn't really a site question. She didn't feel that it was a driveway at all. It's an issue of harassment.
3. Richard Atkinson- 24 Watrous Ave- He felt it wasn't a safety issue. He noted all the houses are right on the street. There has never been an accident or any issue with anyone backing out of their driveway. He's lived there 59 years.
4. Josh Mavis- 7 School St- All the houses are up against each other, these laws were Crafted in recent history to apply to apply to more suburban neighborhoods, which this is not. This is an old neighborhood. Most of the neighbors get along and are flexible. He has been there for 30 years.
5. Nick Fisher- 32 Watrous Avenue- He doesn't have any off-street parking and never has. He installed the septic system at Ms. Reed's house and he did it thru Lynn Clements property because there wasn't much room to go alongside the house at 36 Watrous Ave. He thought it was the early 90's. The fence had to be removed to do the install. There is no driveway at Ms. Reed's house.
6. Robin Tierney-44A School St.-Lived there since 2007 and it's a wonderful neighborhood. The houses are close together, so you have to be good neighbors. She used to walk her dog up and down Watrous Ave since 2007 and she never noticed a driveway at L. Reed's house.

Linda Reed (36 Watrous Ave)- spoke next and said she has lived there for forty years and in 1984 when she bought the house, there was no driveway. In 1985, the prior neighbors (the Blanchards) moved their fence over about 18 inches into their property, which gave her the opportunity to put in a driveway. She noted that there were no driveway standards at that point. She went into town hall and asked whether there was any permitting that needed to be done for a driveway and she was told that no permit was required. She mentioned that the configuration of her driveway is similar to Unc DeRoss's driveway.

In regard to the vegetation, she noted that the boxwood has grown right into the right of way and it's an issue with kids and people walking on the street and you have to be careful.

Also, zoning regulations are designed to provide standards or expectations on what things will look like in your neighborhood. Some of it may be preexisting nonconforming but a lot of it is still the expectation of what should be in your neighborhood.

She noted that there is a state statute governing fences and it states you cannot put up a fence maliciously. She mentioned a spite fence which is built to prevent someone from going into a driveway, and there is a lot of case law regarding that.

She said someone had noted earlier in the meeting that there has always been a fence there and she said that the fence was removed about 21 years ago, it was a lot of Brush and shrubs and she had photos to show that.

She noted there is no exception in the regs for one way streets site triangle. She said that she is concerned and it has made using her driveway very difficult and how the fence is built so it tapers to the property line and there are steel posts on the inside of the fence on her side which are about 2 ½ feet high and its impossible to see them when you pull into the driveway. This seems to speak of the malicious nature of the fence itself.

Oct 2022, an evergreen has been planted within the site triangle.

She noted she is protected under the ADA act and has a letter from her physician.

She gave them a copy of these. She went into some detail and said she hasn't been able to use her driveway since 2021.

The comm asked a few questions. Ms. Reed went into some detail of the history before the fence was put up and when the fence was put up. She had no idea that her neighbor was going to put the fence up. She noted she fell from the holes that were dug in her yard.

She stated again that there has been a driveway there since 1985.

She referred to the driveway not being shown on the survey as previously stated, saying in 2015 she had a small addition put on her house for her father to stay there and the survey was done as an as built for the addition.

Attorney Berdon replied to her comments about the survey.

Chairmen Sette closed the public hearing and made a motion to uphold the ZEO violation.

David Laska seconded the motion.

He stated if they vote yes, they are upholding the decision, and if they vote no, they are not upholding her violation.

The commission had a brief discussion among themselves.

Chairman Sette noted if the commission determines that there is no driveway, then the Violation is thrown out .

Chairman Sette asked the commissioners to vote (on whether this is a driveway).

The results:

Dave Laska- no

Lenny Tamsin- no

Don Schilder-- no

Rich Falcigno- no

Steve Sullivan – yes

Jim Sette- no

So, the violation has been overturned.

Other Business:

Approval of February 15, 2024 Meeting Minutes

The board unanimously approved the minutes.

The meeting adjourned at 9:15 pm.