

1. Call to Order

The Chester Zoning Board of Appeals held its regular meeting on Monday, November 16, 2015, at the Chester Town Hall, 203 Middlesex Avenue, Chester, Connecticut. Vice Chairman John DeLaura called the meeting to order at 7:30 PM.

2. Seating of Members

Members present and seated were John DeLaura, Al Bisacky, Lisa Tollefson and Alex Stein.

Vice Chairman DeLaura explained in detail the public hearing and regular meeting procedures. He also advised the applicant there were only four members present at this meeting. Normally there are five members present and a super majority of four votes in favor would be required to pass a variance. He advised the applicant she had the option of postponing the application until next month if she wished to do so. The applicant decided to move forward this evening.

3. Approval of Minutes

Motion by Bisacky, second by Tollefson, to approved October 19, 2015 Minutes as written. Approved with Stein abstaining.

4. Old Business

(a) Public Hearing and Consideration of Application

Application submitted by Mary Jane Fisher (applicant) and Carolyn C. Kosswig, Elaine M. Roberts, and Joyce Mahoney (owners) for variance of Section 60B Required Characteristics (minimum lot area, minimum lot width, minimum lot rectangle, front, rear and side setbacks, maximum building coverage) and Section 50D, Nonconforming Uses & Improvements, Extension or Expansion, to build a year round one story house on existing site, at property located at 6 Lakeview Avenue, Chester, CT (Tax Map 12, Lot 141, Zone R2).

Mary Jane Fisher introduced herself as the applicant noting that Brian Buckley would be presenting her application. Brian Buckley introduced himself as the applicant's representative. He noted they were asking for variances of two sections of the Zoning Regulations - Section 50D - Extension and Expansion and Section 60B - Required Characteristics.

Mr. Buckley reviewed the various portions of Section 60B as follows -

- Minimum Area of Buildable Land - 30,000 square feet. He noted

the parcel is now 10,876 square feet which is now compliant with Section 40B.1 Pre-Existing Substandard Parcels.

- Minimum Lot Area - 2 acres. This is .25 acres which is not compliant.
- Minimum Lot Width - 200 feet. He noted the parcel has 101.23 feet which is over the 67 feet required by Section 40B.1 as referenced previously.
- Minimum Lot Rectangle - 150' x 300'. This has 96.79' x 101.23' which is not compliant.
- Front Setback - 40 feet. He noted existing is 16.5 feet. It is being increased to 25 feet so asking for a 15 foot variance. Rear Setback - 40 feet. He noted existing is 4 feet. They are proposing 20 feet and asking for a 20 foot variance.
- Side Setbacks - 40 feet. He noted existing is 4.4 feet. They are proposing 30 feet and asking for a 10 foot variance. The other side setback existing is 21.5 feet. They are proposing 34 feet and asking for a 6 foot variance.
- Building Coverage - 15%. The existing is 13.6%. They are asking for a variance of 15.45%.

Mr. Buckley noted 15% of 2 acres would allow 13,069 square feet of coverage. In the 30,000 square feet that is the minimum building area, 15% would allow for 4500 square feet. 15% of the 10,876 square feet allows 1631.4 square feet. As Section 40B.1 allows a substantial reduction in the minimum buildable area in a 2 acre zone and with 10,000 square feet, this lot is considered to be compliant. Mr. Buckley therefore noted 40B.1 allows you to look at substandard parcels to have the minimum required area (2 acre zone or 30,000 square feet). He further noted they felt the 15% was not reasonable in terms of what 40B.1 allows the Board to consider. They are asking for a 4.5% over the 15%. In a 2 acre parcel, that's 392 square feet. In a 30,000 square foot parcel, it's 135 square feet. They are asking for 50.6 square feet. Mr. Buckley pointed out the four setbacks of 40 feet allows a buildable area that is 523 square feet so there's no way to build anything on this parcel without coming to the Zoning Board of Appeals.

Mr. Buckley noted they situated the house on the lot that is in keeping with the neighborhood, giving a little more front yard setback than the rear setback. He pointed out most of the houses on the street are very close to the property line. They also feel what they are asking for is a reasonable house. It's one story wood

frame, 2 bedrooms, 2 bathrooms and one car garage. It is a very modest house and in keeping with the neighborhood in terms of the scale and density in that area. The whole of Cedar Lake Terrace are all cottages. There isn't a lot that meets the 2 acre zone.

Mr. Buckley reviewed the architect which is a ranch with low sloping roof. Maximum height from grade is 18'9" which 35 feet is allowed.

Mr. Buckley presented Minutes from the Old Saybrook Zoning Board of Appeals from August 12, 2015 in which the State has allowed towns to consider reductions and eliminations in nonconformities can be used as a basis for granting a variance in cases like this where a hardship is not available or unique because everyone in that area share the same problems.

Mr. Buckley noted there is a Deed in the application package dated March 15, 1999 the purpose of which was to bring into compliance by combining 2 lots and a portion of another lot to bring the new lot above the 10,000 square feet.

Mr. Buckley noted every setback being requested shows a reduction from existing. He felt they were asking for reasonable variances based on the actual house being proposed. This would be a total tear down. The applicant is also proposing a year round use. This would be a benefit to the community and enhances the neighborhood.

Vice Chairman DeLaura asked when the lot was reconfigured to the 10,000 square feet. Mr. Buckley replied 1999.

Lisa Tollefson asked what the square footage was of the proposed house. Mr. Buckley replied 1,156 square feet of living area and 526 of garage. Total coverage would be 1,682 square feet.

There was discussion as to how one gets to the garage. Also the shed will be removed.

Vice Chairman DeLaura noted he felt this was a modest amount of coverage on a 10,000 square foot lot.

Vice Chairman DeLaura read into the record a letter from Lee Vito, Sanitation, dated November 10, 2015 noting soil testing indicated suitability of a proposed 2 bedroom dwelling with conditions.

Vice Chairman DeLaura asked if there was anyone present who wished to speak in favor of the application.

Patrick Fisher noted he and his wife were both in favor of the application.

Vice Chairman DeLaura asked if there was anyone present who wished to speak in opposition to the application.

William Cobb, 29 Cedar Lake Road, noted he would like to see what is being proposed. There was discussion as to where the well would be located.

Sarah Perini, 8 Lakeview Avenue, noted she hadn't seen anything and did not get a letter. She questioned the property lines noting her property line is less than 5 feet from the house.

Elaine Roberts, one of the owners, noted the property line for 6 Lakeview was moved due to the fact the septic for 8 Lakeview was on their land. Mr. Buckley noted that was never done and there was nothing on file to indicate that.

Vice Chairman DeLaura noted he was hearing there is a boundary dispute. Mr. Buckley noted he had an A2 survey which was reiterated by the Deed. There was nothing else on file at the Town Hall. Ms. Perini noted she had a copy of the Deed at home as well as a survey. This is a very big discrepancy.

Vice Chairman DeLaura asked Ms. Perini if the Deed and Survey presented this evening were then erroneous. Ms. Perini replied yes. She bought the property through a realtor and did everything the right way. The lilac bush is the property line.

Vice Chairman DeLaura noted the Board is looking at a survey done by Jeffrey A. Sanborn, Licensed Surveyor of Jacobson & Associates, dated September 1997. This survey was done in anticipation of the Quit Claim Deed filed in the Town Hall which was submitted to the Board. Mr. Buckley stated there was no other Deed filed with the Town of Chester.

Sarah Perini noted the new septic is right on the boundary line.

Vice Chairman DeLaura noted the information on the Deed defines the

property lines.

Sarah Perini asked the Board to continue this hearing because now she is being told what she bought was misrepresented to her.

Vice Chairman DeLaura noted the applicant could ask for a continuation or could withdraw the application in order to do more research. Also, the Board could deliberate and vote and the decision could be appealed if anyone felt the information was incorrect.

Sarah Perini noted she wanted to know what the height of the new roof was going to be compared to the old roof. She has an entire view of the lake from her property. Mr. Buckley noted the height of the proposed new house was 18.9 feet which was compliant with the regulations. He did not know the height of the old house as it was not germane to this application. He indicated 35 feet is the maximum height permitted.

Elaine Roberts reiterated that within the last couple of years the property line was moved back down to what the original property line was because of the septic system. Mr. Buckley noted apparently it was never filed.

Sarah Perini reiterated it is a very big issue where her property line is located.

Vice Chairman DeLaura asked the applicant if she was willing to continue this hearing in an attempt to straighten out this matter. Mr. Buckley noted this would be a hardship on his client if it has to go through the Courts and delay the purchase. Vice Chairman DeLaura noted the Board must be sure all property lines are accurate if it decides to grant a variance. Ms. Perini has been very adamant and compelling that she is disputing the property line. Mr. Buckley noted there is a 15 day appeal period to any decision and delaying this puts an undue hardship on his client. He asked the Board make a decision based on the legal documents filed in the Town Hall. The neighbor can then file an appeal to the Board's decision.

Al Bisacky noted there is a Deed and Map and the testimony is that those documents are not correct. He didn't feel he could rely on those documents to make his decision. Perhaps there is something else filed in the Land Records that wasn't found. Mr. Bisacky further noted if he had to vote on this application tonight he would

deny it.

Mr. & Mrs. Cobb noted they were concerned about where the septic and well were going to be located. The plan was again reviewed. Vice Chairman DeLaura noted this Board is not concerned about where the septic and well are going. The Sanitarian has looked at this and approved it for a 2 bedroom house.

Alex Stein noted the Board can only consider what is before it. If the facts change, that may address the Cobbs concerns.

Mr. Buckley noted the street card from the Assessor showed the Deed he supplied. There were no other documents filed after that time. Vice Chairman DeLaura noted there could be subsequent facts that this Board does not have knowledge of.

Ms. Kisselbrack asked what it would mean if there are subsequent documents that have never been filed with the Town. Alex Stein noted that is not an issue that this Board can address.

Mr. Buckley reiterated he submitted the legal documents that were recorded with the Town and reminded everyone there is a 15 day appeal period.

Al Bisacky noted if there was a concern about going over the approved variance setbacks, the house could always be built smaller.

Ms. Kisselbrack asked if this application was denied, could a new application be submitted. Vice Chairman DeLaura noted the Board is not obligated to hear a new application for six months unless it was substantially changed. Alex Stein noted the applicant would be responsible for filing a new set of fees if a new application were submitted.

Mr. Buckley noted after consulting with his client, they would like to continue the public hearing until next month. Vice Chairman DeLaura thanked everyone for their patience and the applicant for continuing this to next month to give everyone an opportunity to present further evidence.

5. New Business -

(a) Receipt of New Applications - none.

6. Any Other Business - none.

7. Audience of Citizens - none.

8. Adjournment

**Motion by DeLaura, second by Stein, to adjourn. Unanimously
Approved.**

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith R. Brown". The signature is written in black ink and is positioned below the text "Respectfully submitted,".

Judith R. Brown, Recording Secretary