

**CITY OF NORWICH
ZONING BOARD OF APPEALS
May 10, 2016
Meeting Minutes**

The regular meeting of the City of Norwich Zoning Board of Appeals was called to order at 7:00 p.m. Roll call was taken and it was determined that a quorum was present.

PRESENT:

Marc Benjamin, Chairman
Henry Olender, Vice Chairman
Mark Kulos
Peter Cuprak – Alternate
David Martin – Alternate
Robert Phoenix – Alternate

ABSENT: Raymond Dussault

ALSO PRESENT: Tianne Phoenix Curtis, Zoning Enforcement Officer
Linda Lee Smith, Recording Secretary

E. COMMUNICATIONS: None

F. ACCEPTANCE OF MINUTES

Upon motion by Mark Kulos, seconded by Peter Cuprak it was voted unanimously to APPROVE the minutes of the April 12, 2016 regular meeting as amended.

G. OLD BUSINESS: None

H. NEW BUSINESS:

1. V#16-04 – Application of George Billias for property located at 22 Cranberry Pond Road in a Residential (R40) zoning district. In accordance with Sec. 1.1 30’ side yard setback required request reduction to 22’ for the construction of a deck.

Seated were Marc Benjamin, Henry Olender, Mark Kulos, Robert Phoenix and Peter Cuprak

Tianne Curtis entered into the record Exhibits “A-G”. Ms. Curtis entered into the record Exhibit K1, K2, K3, and K4 existing conditions of property submitted this evening.

George Billias, property owner residing at 66 Case Street presented. Mr. Billias stated he wanted to construct an L-shaped deck with a slider. Mr. Billias stated he would be removing the window and the deck would be rapping around the house and be elevated to the first floor.

Mark Kulos asked if Mr. Billias owned the property. Mr. Billias stated yes. Ms. Curtis stated she confirmed the property purchase with the deed with the City Clerk’s office.

Mark Kulos stated his property was a perfect triangle. Mr. Billias stated his hardship was he didn’t have anywhere for the deck to sit on the property because of the hill he didn’t have a yard; and he had put a fence up for the 30’ drop. Mr. Billias stated if he If he sells the house to a family they would have a back yard. Mr. Billias stated most houses have a deck for cookouts, and he purchased the house as a foreclosure.

Mark Kulos asked if the side of the house was hilly. Mr. Billias stated yes it slopes up and he'd be facing the woods and the kitchen.

Henry Olender asked Mr. Billias if there were any houses located below him. Mr. Billias stated yes there was a house on Dudley Street and he spoke to the property owner who was in support on him improving his property.

David Martin stated it wasn't clear what Mr. Billias hardship was. Mr. Billias stated it's because it's a triangular lot.

Mark Kulos asked if the house was on sewer or septic. Mr. Billias stated septic. Mr. Kulos asked where the leaching fields were located. Mr. Billias stated they're towards the front of Cranberry Pond Rd.

Henry Olender asked why he couldn't put the deck on the other side even though there was an uphill slope. Mr. Billias stated because there was a staircase to the basement that would lead out to the deck, whereas most people would go through their kitchen which would be a better layout. Henry Olender stated convenience is not a hardship.

Mr. Kulos stated the hardship has to be something related to the land that would be require him to put the deck where he is requesting. Mr. Billias stated this side had a better view. Mr. Billias stated he had shortened the deck because of the setback to 6'x13', and 24' x 4'.

Marc Benjamin stated if Mr. Billias wanted to maintain the front of the deck he still would need 30' to 28' to maintain the line, but he could come in 2' on the conforming side and make it as large as he wanted.

Marc Benjamin explained for the hardship there would be no other place available to put the deck. Mr. Benjamin stated he understood why the board members were questioning the hardship because there was quite a bit of space on the other side for the deck.

Mark Kulos stated if there was a 10' rise over 10' length of run then you would have a problem with a hill, and would have to chop into, and if there wasn't a hill and you would still lay the deck out that isn't a hardship. Mr. Billias stated it's probably slopes up 5' with a lot of ledge. Mr. Billias stated he had to remove some rocks and build it up on the side because he didn't want the soil to run down. Mark Kulos asked if there were issues with drainage. Mr. Billias stated he put stone in because he didn't want runoff. Mark Kulos asked if he had made a semi retaining wall. Mr. Billias stated yes.

Henry Olender stated he sees no hardship, just a matter of convenience, and the size of the deck was confusing because it was so small. Mr. Billias stated it was going to be bigger but because it was important for him to get the deck approved with the setbacks he decreased the size of the deck. Elton Ziolk, 431 Pond Rd, North Franklin, CT stated the original deck size was 8'x8'.

Marc Benjamin asked the board members for an opinion to either move to continue taking testimony, continue and the board members could go out to look at the specifics with the grade or the board could move on the decision if they thought they had enough information. Marc Benjamin asked the board members if they wanted to continue another month and visit the site. Mr. Billias stated he is trying to flip the house, and he's been in it 2 months already. Marc Benjamin stated one thing the board can't consider for the variance is financial.

Mark Kulos stated the only thing that would concern him was if the rise were a topographical issue, and the rise were too great to support the deck, and they would be looking at the side of a hillside. Mr. Billias stated they would be looking at the hill and another house. Mr. Kulos stated the rise couldn't be very much if you could see the other house. Mr. Kulos stated a valid hardship would be due to some feature of the land unable to place the deck anywhere except where it's proposed. Mr. Kulos stated convenience and aesthetics aren't valid hardships.

Elton Ziolk stated the conforming area the board members were recommending for the deck was the safest area for the children to play, and the hardship was having the deck wrap around the long side. Henry Olender stated the deck built on the conforming side would be the safest for children to play in the yard and come up onto the deck. Mr. Billias stated he would put the deck on the conforming side of the house.

Motion was made by Robert Phoenix and seconded by Henry Olender to close the public hearing.

2. V#16-05 – Application of Sound Development LLC for property located at 646 Boswell Avenue and owned by Seafood Etc. Inc. located in the General Commercial (GC) zoning district. In accordance with Sec.5.1.3.2 reduction of the number of required parking spaces from proposed 9,120 sq. ft. building from 37 spaces to 30 spaces; Sec. 5.3.1.1 reduction of buffer on the north side of the property from 50’ to 10’, the property on the north being in a multi-family zone.

Seated were Marc Benjamin, Mark Kulos, Henry Olender David Martin, and Robert Phoenix

Attorney Mark Block 138 Main Street, Norwich, and Alan Carpenter, a registered professional engineer in Connecticut, 520 Hartford Turnpike, Vernon.

Attorney Block stated he was representing Sound Garrett Acquisitions which has an option to purchase the property at 646 Boswell Ave. to construct a commercial retail building, the property had been operated recently as Seafood Etc. Mr. Block explained the zone change had gone through the City Council because for many years it’s been partially in Multi-Family and General Commercial zone making it hard to develop, and now property is entirely located in the GC zone. Exhibit “H” survey map. This will make the property more useable and it’s consistent with the Plan of Development.

Attorney Block stated they were requesting two variances for the property, with the hardship being the size, the topography, and physical conditions of the property, which would require reduction from 38 parking spaces to 30, and reduction of the buffer north side from 50’ to 10’ being multifamily bordering on Edgewood Road.

Henry Olender asked Mr. Block because he stated 38 parking spaces being reduced to 30 but on the application 37 is stated. Mr. Block stated 37 was correct.

Alan Carpenter stated the property is commercially zoned, the depth of 300’ on both sides, 150’ wide, existing 3,000 sq. Seafood Etc. building. Exhibit “I” photograph of the existing conditions of Edgewood Drive. Mr. Carpenter stated the existing condition of the property’s western boundary elevation is 140’ and the eastern elevation 70’, 70’ vertical fall across the property. Mr. Carpenter stated the development of the property is restricted by the topography of the property, considered one of the hardships, the geologic ledge conditions are restricting the full development. Mr. Carpenter stated they need to narrow the buffer for only the MF zone. Mr. Carpenter stated he wants to keep as many trees for buffering as possible for the abutting neighbors. Mr. Carpenter stated the 10,000 sq. ft. building, the tenants won’t need the amount of parking spaces required by zoning. Mr. Carpenter stated by adding the additional parking spaces would push them further into the topographic condition that restricts the development of the property. Mr. Carpenter stated the reduced amount of parking spaces is ample for the business that is why they’re asking for the parking space variance. Mr. Carpenter stated the other variance is for the location of the facility and use the property as proposed, variance north buffer 50’ to 10’. Mr. Carpenter stated there is approximately 40’ Right of Way, private road, Edgewood Rd, and residential uses on the other side of Edgewood Rd. Mr. Carpenter had previously talked to the neighbor concerned about buffering and wants to satisfy the neighbor. There is some vegetation they will retain within the development plan.

Marc Benjamin stated Mr. Carpenter is requesting a reduction for the buffer from 50' to 10' and eliminating 7 parking spaces. Mr. Carpenter stated yes that is correct, and he stated it is 100' for the buffer.

Marc Benjamin asked Mr. Carpenter what size building would have been allowed for 30 spaces. Mr. Carpenter stated 1 space for each 250 sq. ft., 6,500 sq. ft. building would have been too small. Mr. Carpenter stated many towns have reduced the number of parking spaces to save more land for green space. Marc Benjamin asked in reference to other towns how many parking spaces required. Mr. Carpenter stated for same size building approximately 30-34.

Mark Kulos asked if the building was going to be subdivided into individual businesses. Mr. Carpenter stated no there would be one business.

Mr. Kulos asked Mr. Carpenter if he was planning a retaining wall or fence to the rear of the property line along Edgewood Rd. Mr. Carpenter stated there was ledge behind the site, overburden and slope and may have to put up a retaining wall, guide rail for safety reasons and would be installed along the 20'-30' drop to their store including the 100' buffer fencing.

Ms. Curtis stated if the variance were approved tonight they would still need full Site Plan review.

Andrew Zeeman, 20 Rogers Road owner of the private road and house on Edgewood Rd. spoke in support and had no issues with the setbacks. Mr. Zeeman stated it's pretty much wooded and if they put up a solid 6' fence to block out lighting and view in the area of the MF residential area it would satisfy his needs as he has a special needs child.

Marc Benjamin asked Mr. Zeeman if he wanted the board to put a condition on the Variance for a fence. Mr. Zeeman stated he would like a 6'H fence along the 100' Multi-family zone. Mr. Carpenter stated he had no problems installing the fence for the neighbor.

Mr. Block stated he had spoken with Attorney Morell's office who was representing NG King YU, property owner of 644 Boswell Avenue in reference to the buffers on the west side, Sandy Lane property and not doing any construction over his property line and to respect his buffer and to buffer accordingly.

Tianne Curtis stated in relation to the landscaping buffer the regulations are for four buffer plantings and there are regulations take into consideration.

The board had thorough discussion on lighting, drainage, locator of mechanicals and screening as it pertained to the surrounding residential uses.

Robert Phoenix asked if the City had had a screening requirement and Ms. Curtis stated yes evergreens.

Motion was made by Robert Phoenix, second by Mark Kulos to close public hearing.

3. V#16-06 – Application of Tora Sterregaard for property located at 22 Goldberg Avenue in a Residential (R20) zoning district. In accordance with Sec. 1.1 30' front yard setback required request reduction to 3' for the construction of a 15' x 8' addition for bathroom.

Seated were Marc Benjamin, Mark Kulos, Henry Olender, Peter Cuprak and David Martin

Tianne Curtis entered into the record Exhibit "A"- "L"

Tianne Curtis entered Exhibits presented this evening including Exhibit "J" letters of support from 23 Sturtevant Ave., 10 Goldberg Ave., 17 Goldberg Ave., and 15 Goldberg Ave., Exhibit "K" google aerial maps, and Exhibit "L" mounted photos.

Tora Sterregaard, property owner 22 Goldberg Avenue presented. Ms. Sterregaard stated the house was built in 1920 on the corner of Goldberg Ave. and Sturtevant Ave., and her parents purchased the house in 1963, and she's lived there for 17 years with her father who recently passed away and she would like to continue to live in it. Ms. Sterregaard stated she has some medical problems and would like to construct a first floor bathroom to continue staying in her home. Ms. Sterregaard spoke to Fred Marzec, Architect he recommended doing a bump out on Sturtevant Ave. which was why she's requesting the variance and it wouldn't affect the view from Washington St. because of the trees. Ms. Sterregaard stated there was quite a bit of grade in the back that she couldn't build on, and this 8'x15' addition would protrude out over the garage.

Mark Kulos asked Ms. Sterregaard what was located in the bump-out on the other side of the house. Ms. Sterregaard stated it was the sun porch with windows on 3 sides. Mr. Kulos asked why she couldn't put the bathroom there. Ms. Sterregaard stated because all the plumbing exists in the house is located on the north side. Mr. Kulos asked if she had a full basement. Ms. Sterregaard stated yes.

David Martin asked the size of the sunroom. Ms. Sterregaard stated 10'x12'. Ms. Curtis stated the Tax Assessor's card reads 12'x8' and Mr. Martin stated approximately a little smaller than the bathroom being proposed.

David Martin asked if there was a bedroom currently on the first floor. Ms. Sterregaard stated no.

Ms. Curtis asked Ms. Sterregaard what her intentions were for the sunroom. Ms. Sterregaard stated the sunroom would be used in the future as her bedroom when she couldn't go up the stairs any longer.

Henry Olender asked Tianne Curtis if she had front yard averaged her property. Ms. Curtis stated she attempted to use it but because there were only two houses and it had to go to the intersection she couldn't use the front yard average. Ms. Sterregaard had gotten a survey done on her property. Ms. Curtis stated the rule is if the homes on either side of home in question 50% encroach on the front yard she can do the front yard average. Ms. Curtis stated the front yard setback was consistent with other homes on Goldberg Ave. Tianne Curtis stated the GIS mapping was less than helpful, and very unclear where property lines were.

Mark Kulos stated Ms. Sterregaard is on a corner lot with two front yards, and she would have to drive into the garage under the bathroom.

Robert Phoenix asked Ms. Sterregaard if the home had been in her family since it was built. Ms. Sterregaard stated not since it was built but since 1963. Mr. Phoenix asked Ms. Curtis the 30' set back on Sturtevant Ave. was it because it's considered road frontage. Ms. Curtis stated yes it's considered a front yard setback. Mark Kulos stated it's on a corner lot with two front yard setbacks.

Ms. Sterregaard stated she had hired CLA to do the survey and the frontage on Goldberg Ave. the City's GIS mapping showed as 60' and the deed stated 66' she had it surveyed actually size 65.58. Ms. Curtis stated the survey CLA did was correct.

Henry Olender stated in visual terms the addition would appear to be setback 10' from the property. Mark Kulos agreed the additional would appear 12'-13' from the property line.

Kelly August, 16 Goldberg Ave. neighbor spoke in favor. Ms. August concurred with Mr. Olender in reference to the Google aerial map for Goldberg Ave. where Ms. Sterregaard house is located the houses are almost on the sidewalk. Ms. August stated the addition wouldn't be unattractive but in fact it would be lovely. Ms. August stated putting the addition off the sunroom didn't make

sense for resale in the future whereas you would have to go through the bedroom to access the bathroom. Ms. August stated Fred Marzec's point for the plumbing runs on the other side of the house and would require an injector pump and was concerned not being able to access the basement there would be a maintenance issue, and they couldn't put a door from a dining room to the bathroom. It would have been awkward. Ms. August stated Fred Marzec had suggested to extend the garage so it wasn't overhanging. Marc Benjamin stated it will allow her to build the addition from ground to roof line.

Sam Malone, neighbor, 23 Sturtevant Ave, agreed he was in favor of her being able to stay in her house, Exhibit "J" letter of support.

Stuart Horner, neighbor, 16 Goldberg Ave., agreed to support Ms. Sterregaard variance, Exhibit "H". Mr. Horner stated he had looked to buying 44 Goldberg Ave. and the porch was on City property. He concurred with Sam Malone and Kelly August.

Motion was made by Robert Phoenix, second by Henry Olender to close the public hearing. Motion carried unanimously.

I. DISCUSSION/DECISION ON APPLICATIONS

Tianne Curtis entered into the record for V#16-05, 646 Boswell Avenue Exhibit "A"-H" and Exhibit "I" submitted this evening the existing conditions for Boswell Ave. Ms. Curtis stated the referral for V#16-05 had been sent to the Police Dept. and no response.

1. V#16-04 – Application of George Billias for property located at 22 Cranberry Pond Road in a Residential (R40) zoning district. In accordance with Sec. 1.1 30' side yard setback required request reduction to 22' for the construction of a deck.

Seated were Marc Benjamin, Henry Olender, Mark Kulos, and Peter Cuprak, and Robert Phoenix

Motion was made by Henry Olender, second by Marc Benjamin to accept for discussion.

Henry Olender stated he didn't have a valid hardship. Mark Kulos stated other than the odd size of the lot because there were other location options for the deck could be constructed, and he agreed with Mr. Olender the applicant hadn't proven a hardship.

Robert Phoenix concurred with Mr. Olender and Mr. Kulos and also stated because it was for financial and convenience they are not valid hardships.

Marc Benjamin stated he would consider a variance to allow the deck to the 2' edge of the house if the builder wanted to follow the edge of the house. After much discussion Mr. Olender stated if he moved the deck back 2' in from the edge of the house he could build it without a variance but Mr. Billias didn't want to. Marc Benjamin stated there has been a lack of a hardship.

Upon motion by Henry Olender, second by Marc Benjamin motion carried unanimously to DENY V#16-04.

2. V#16-05 – Application of Sound Development LLC for property located at 646 Boswell Avenue and owned by Seafood Etc. Inc. located in the General Commercial (GC) zoning district. In accordance

with Sec.5.1.3.2 reduction of the number of required parking spaces from proposed 9,120 sq. ft. building from 37 spaces to 30 spaces; Sec. 5.3.1.1 reduction of buffer on the north side of the property from 50' to 10', the property on the north being in a multi-family zone.

Seated were Marc Benjamin, Henry Olender, Mark Kulos, David Martin, and Robert Phoenix

Motion was made by Robert Phoenix for discussion with conditions, second by David Martin.

Mark Kulos stated the reduction of the parking spaces is reasonable being the topography of the land precludes use of the back 1/3 of their property and only permits parking on 2 sides of the building as opposed to 3, losing the entire side of the building where they could put the other 7 parking spaces. Mr. Kulos stated the buffer line is the oddity of the fact with the mix of GC and MF zones in the intersection, and it's only one section about 100' of property line looking for reduction of buffer line from 50 to 10'. The neighbor who owns the private drive, Edgewood Rd, is being affected and as long as they maintain screening/fencing for the private drive area it should be granted.

Robert Phoenix agreed and wanted to add for the parking situation the detail space will promote opportunity for the neighborhood to utilize the building, with parking he was a bit of concerned with compact parking spaces; Tianne Curtis stated there was code for parking spaces. Mr. Phoenix stated once the building was developed and approved he would like screening of rooftop mechanicals from all sides as a condition.

Marc Benjamin stated the neighbor requested the privacy fence, and the applicant would be willing to accommodate. Mr. Phoenix stated his approval was contingent on both visual screening from the road and rooftop mechanicals.

Mark Kulos was concerned was also concerned about the visual screening and as long as the applicant maintains and saves as many trees to the best of their ability.

David Martin stated he would like the 6' privacy screening fence installed, and the hardship was the topography of the land, the proposed building size which is a reasonable building size, and therefore the request is appropriate.

The consensus of the board was to protect Mr. Zeeman's view on Edgewood Rd the 100' area mentioned with a 6' privacy fence. After much discussion Mark Kulos stated he would like to have screening on the rooftop mechanicals to best of their ability.

Marc Benjamin stated the motion to grant for relief from 37 to 30 parking spaces, the hardship being the sloped terrain in the back not enough space with 70' grade change for those spaces to grant the side yard setback, the green space from 50' to 10' in the approximate 100' area where the commercial meets the residential the applicant must provide a 6' privacy fence and that to attempt to supply some visual screening on all four sides of the roof top mechanicals if so possible.

Motion was made by Robert Phoenix, second by David Martin to APPROVE with conditions that the 100' area where GC meets the MF zones 6'H privacy fence be installed and screening on all four sides of the roof top mechanicals if possible. Motion carried unanimously.

3. V#16-06 – Application of Tora Sterregaard for property located at 22 Goldberg Avenue in a Residential (R20) zoning district. In accordance with Sec. 1.1 30' front yard setback required request reduction to 3' for the construction of a 15' x 8' addition for bathroom.

Seated Marc Benjamin, Henry Olender, Mark Kulos, Peter Cuprak, and David Martin

Motion was made by Peter Cuprak, second by Marc Benjamin for discussion.

Peter Cuprak stated he understood Ms. Sterregaard's hardship of trying to go upstairs to the bathroom, and she would not be able to enjoy the use of her property without installing a bathroom downstairs; and she has a lot of support from her neighborhood.

David Martin stated the hardship was the existing location of the house, the two front yards, it's a reasonable request usage to add a bathroom to the first floor, and consistent with rest of the neighborhood as the houses are very close to the road, and it's not inconsistent with the rest of the neighborhood.

Mark Kulos concurs with all the hardships mentioned and also because she has an agreement with a good portion of the neighborhood, most of the houses on the Sturtevant Ave side, they're almost built on the property lines.

Motion was made by Peter Cuprak, second by Marc Benjamin, motion carried unanimously to APPROVE V#16-06.

J. OTHER MATTERS: None

K. ADJOURNMENT

Upon motion by Henry Olender and second by David Martin it was unanimously voted to adjourn at 9:23 p.m.

Respectfully submitted,
Linda Lee Smith
Recording Secretary