

BOARD OF APPEALS 2011 Meeting Minutes

Board Members Present: Shane O'Connor, Howard Aspinwall, Curtis Ruckey,
Robert Rosenberg, Alternate Lynn Mazza and
Alternate Daniel Merrigan

Town Staff Present:

Chairman O'Connor called the meeting to order at 7:00 pm.

Board roll call was taken.

MINUTES:

Chairman O'Connor referred to the March 7, 2010 meeting minutes and asked for any corrections or changes. There were none. He then asked for a motion. Mr. Ruckey moved to accept the March 7, 2010 meeting minutes, as published. Mr. Rosenberg seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

BILLS & CORRESPONDENCE:

None

OLD BUSINESS:

None

NEW BUSINESS:

- a. **Public hearing on Application #FY10-11-04, Owner: Joseph and Melanie Oliveira, Applicant: David J. Place Building for a variance for the property located at 18 Regina Drive to reduce the side yard setback to 8 feet, where 12 feet are required.**

The individuals were present:

- David Place, applicant; and
- Joseph Oliveira, property owner.

Mr. Place addressed the Board and stated that the owner of the property wanted to add a third bay to his existing garage in order to house all of their vehicles. He explained that the addition would be tastefully done, decorated with dormers and would increase the value of the area.



Your complimentary
use period has ended.
Thank you for using
PDF Complete.

[Click Here to upgrade to
Unlimited Pages and Expanded Features](#)

Chairman O'Connor asked the Board members for any questions. Mr. Ruckey asked if the additional bay would be an oversized bay. Mr. Place replied that they were just going to be going back from what was already there to make it deeper. Mr. Ruckey then asked if the door would be similar to the existing garage door. Mr. Place replied that it would be exactly like the existing door (a 9 foot door). Mr. Ruckey asked if it was their intention to add asphalt as well. Mr. Place replied that they would be doing so. He then explained that they would be blending it in to the existing asphalt. He also noted that the existing fence would also remain; it would just be moved over.

Chairman O'Connor stated that he had taken a drive by the property in question and that he had noticed that the house was not situated straight on the lot on the cul-de-sac. He then clarified that the front of the garage would be 8 feet from the property line, but that the rear of the garage would be farther from the property line. Mr. Place stated that that was correct.

Mr. Ruckey asked if the addition would put them over the maximum percentage for structures versus land. Chairman O'Connor replied that it would not.

Chairman O'Connor asked the Board members for any further questions. They had none.

Chairman O'Connor asked for any public comments in favor of the application. There were none.

Chairman O'Connor asked for any public comments in opposition to the application.

Attorney Edward McAnaney addressed the Board on behalf of his client MaryLou Tripp who resided at 16 Regina Drive. He went on to say that Ms. Tripp objected to the variance in question. Attorney McAnaney submitted a written objection to the Board members and noted that the Regulations required that there be special circumstances/conditions that applied to the land for which the variance was being sought. He went on to say that those circumstances/conditions needed to be particular to the property in question and not apply to any other parcels within zone. In addition, the strict application of the regulations would deprive the applicant of a reasonable use of his land or buildings and that the granting of the variance was necessary for that reasonable use.

Attorney McAnaney stated that the property in question was largely flat and treeless and that the existing house on the property already contained two garages. He went on to say that the parcel was located in the Residential A Zone where the required side yard was 12 feet. He then noted that the 12 foot side yard applied to all of the homes on Regina Drive as well as all of the homes in the entire zone. Attorney McAnaney stated that as a result there must be some type of hardship that would require that a variance be granted. He then commented



that the fact that the Oliveiras wanted a variance to add a garage bay did not entitle them to it; they must show a hardship. He also pointed out that the hardship could not be self-created. Attorney McAnaney stated that he had not heard a hardship that evening.

Mr. Ruckey asked Attorney McAnaney and Ms. Tripp what the issue was with the Oliveiras adding the third garage bay; what was the real issue that they had. Attorney McAnaney replied that the real issue was that it should not be granted unless there was a hardship. Mr. Ruckey again asked what the real issue was and Attorney McAnaney replied that the addition of the third bay would simply bring it that much closer to the property line. Mr. Ruckey pointed out that an 8 foot side yard in the Town of Windsor Locks was not out of the question. The discussion continued briefly and Attorney McAnaney pointed out that the Regulations put the burden on the applicant to provide a hardship in order to be granted a variance.

Chairman O'Connor asked Attorney McAnaney and Ms. Tripp if they realized that the applicant could build a detached building (garage) rather than an extension of his existing garage and that he could do so to within five feet of the property line. Attorney McAnaney stated that he did not believe that that was the case, but that if it were true the applicant would have to go before the Board as well. Mr. O'Connor reiterated that detached accessory buildings had a side yard setback of five feet and that that would not require that they come before the Board for a variance.

Chairman O'Connor asked the Board for any further questions. They had none.

Mr. Ruckey commented that understood the Regulations and agreed with the reasons that had brought forward that evening, but that after reading the hardship that had been submitted he agreed that there really wasn't one. He went on to say that he did notice that home was not centered on the property in question nor did it sit square on the property. Therefore the applicant did not have the same opportunity to put in an additional garage as some other properties might have.

Mr. Ruckey moved to decline Application FY10-11-04, Owner: Joseph and Melanie Oliveira, Applicant: David J. Place Building for a variance for the property located at 18 Regina Drive to reduce the site yard setback to 8 feet, where 12 feet are required, because the hardship had not been clearly stated. Mr. Oliveira referred to the hardship and pointed out that when Merrigan & LeFebvre had built the home it should have been built about 8 feet farther over from the property line. He went on to say that he had the original plans that showed where the house should have been built. He then noted that his was the only home that was angled on the property. Mr. Oliveira stated that he was a Police Officer in town and that he would sometimes bring a police car home overnight. He went on to say that he was also a DARE Officer and that he was

working on obtaining another DARE vehicle which would need to be housed on his property. He then explained that the DARE vehicle would need to be stored in the garage. Attorney McAnaney referred to Mr. Oliveira's comments regarding his home having been built in the incorrect place on his lot and pointed out that Mr. Oliveira had purchased his knowing that that was the case; therefore it did not constitute a hardship. He then referred to the DARE car and commented that that was simply speculation on Mr. Oliveira's part that he would even obtain one. Mr. Rosenberg seconded Mr. Ruckey's motion. The vote was 2 in favor of the motion and 3 in opposition to the motion (Ms. Mazza, Mr. Aspinwall and Chairman O'Connor were opposed to the motion), the motion was approved. The application was denied without prejudice. Mr. O'Connor stated that he voted against the motion to deny the application because he felt that the location of the house on the property was a hardship. In addition, he noted that there were many homes in Windsor Locks that were a lot closer than 8feet from the property line.

Mr. Oliveira asked how many votes he would have needed. Mr. Aspinwall replied that he needed 4 votes. Mr. Oliveira then pointed out that he only needed the variance for the front one or two feet of the garage since it was on angle; the rear portion of the garage did not require a variance.

Chairman O'Connor stated that Mr. Oliveira could come back before the Board again with another application at any time.

b. Review of a variance modification request for Unlimited Auto Sales and Detailing, LLC for the property located at 59 King Spring Road, Units D & E.

No one was present for this review.

Ms. Mazza moved to adjourn the meeting. Mr. Ruckey seconded the motion. All were in favor. The vote was 5 – 0, the meeting was adjourned at 7:30 pm.

Respectfully submitted,

Diane Ferrari
Recording Secretary

THIS IS A DRAFT

Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.