

ZONING BOARD OF APPEALS
November 6, 2017 Meeting Minutes

Board Members Present: Shane O'Connor, Daniel Flanagan, Douglas Glazier, Ronald King and Alternates Christopher Halpin and Mark Horan

Town Staff Present: Jennifer Rodriguez, Town Planner

The meeting was called to order at 7:02 pm

Board roll call was taken.

MINUTES:

Chairman O'Connor referred to the September 5, 2017 meeting minutes and asked for any corrections or changes. There were none. Mr. Glazier moved to approve the September 5, 2017 meeting minutes as published. Mr. King seconded the motion. All were in favor. The vote was 6 – 0, the motion was approved.

BILLS & CORRESPONDENCE:

None

OLD BUSINESS:

None

NEW BUSINESS:

a. DMV Applications

There were none.

b. Public Hearings

Alternate Christopher Halpin was seated for Board Member Howard Aspinwall for the public hearing that evening.

- 1. Public hearing on Application #FY17-18-04, Owner/Applicant: Deborah Pepin for a variance for the property located at 19 Garry Road to reduce the distance from the driveway to the property line to 3 feet, where 10 feet is required.**

Deborah Pepin of 19 Garry Road addressed the Board and stated that she wanted to extend her driveway to double wide for the full length of the driveway. She went on

to say that the driveway currently had a portion that was double wide and 3 feet from her property line. Ms. Pepin reiterated that she wanted to extend that double wide portion to go from her garage all way down to the road.

Ms. Pepin stated that the water main was located in the front yard and, therefore, she could not move the driveway farther over from the property line. She went on to say that she had recently had her home sided and wanted to redo the driveway since it was currently cracked and broken. She then explained that her father had recently moved in with her and needed a lot of help. Ms. Pepin noted that she needed more parking to accommodate all of the various therapists came to her home to assist her father.

Ms. Pepin noted that her neighbor did not have any issues with her expanding her driveway. She then read a letter dated November 1, 2017 from her neighbor, Frank and Rosalie Mancarella, of 15 Garry Road as follows:

“We have received notice that our neighbor, Deborah Pepin, at 19 Garry Road is requesting a variance to expand her driveway close to our property line. There is a portion that is already 3 feet off the line, and we have no objections to making the double portion straight from the front of the garage, down to the road as she has requested.”

Ms. Pepin then submitted the letter to Chairman O’Connor for the record.

Ms. Pepin reiterated that there was already a portion of her driveway, about halfway up from the road that was not a turn around, but was double wide to within 3 feet of the property line. She went on to say that the driveway was like that when she bought the house.

Mr. Glazier asked Ms. Pepin, if her application were approved, if she would be repaving the entire driveway. Ms. Pepin replied that she would be repaving the entire driveway. Mr. Glazier then asked Ms. Pepin how a double wide driveway would improve things for the people who come to her home to work with her father. Ms. Pepin explained that her father’s car was currently parked in her driveway and that when the therapists came to the house they couldn’t all fit in the driveway. She then went on to say that if she had to leave to go to work while the therapists were at her house they had to shuffle cars all around in order for her to get her car out.

Mr. Flanagan asked if the therapists’ visits were scheduled ahead of time. Ms. Pepin replied that the visits were scheduled. Mr. Flanagan asked how far in advance the visits were scheduled. Ms. Pepin replied that it depended on how long he needed each therapist’s assistance. She went on to say that the speech therapist was coming to the house a couple of times each week and that the occupational and physical therapists were each coming once per week.

Mr. Halpin asked Ms. Pepin if she had looked at what the water runoff would be with an expanded driveway and how it would impact the neighbor's home. Ms. Pepin stated that there was a slight incline, therefore the water would go right into the road where there were sewers. Mr. Halpin clarified that there were sewers nearby in the front of Ms. Pepin's home. Ms. Pepin stated that that was correct.

Mr. Flanagan commented that he was trying to understand what the hardship was. He then clarified that the visiting therapists would not park their vehicles in the road. Ms. Pepin stated that the therapists would not park their vehicles in the road in the winter. She then reiterated that she could not go further over on the other side of the driveway because there were water lines there. Mr. Flanagan asked how far underground the water line was. Chairman O'Connor replied that the water lines were usually down about 6 feet underground. Mr. Flanagan commented that he did not understand how that would affect a driveway. Chairman O'Connor noted that if there were any issues with the water lines they would have to tear up the entire driveway which would be very expensive on top of the cost to repair the water line.

Mr. Flanagan commented that the reason for requiring 10 feet from the property line was really for the benefit of the neighbor. He then pointed out that Ms. Pepin's neighbor had stated that they had no issue with the driveway only being 3 feet from their property line. He then noted that he had driven by the property in question and that there were many other homes in the area where the driveways were 3 feet or closer to the property line. Mr. Flanagan then pointed out that two wrongs did not make a right. He reiterated that he was still trying to see the hardship. He acknowledged that the therapists had to visit the home and that they could not park in the road, but then pointed out that the visits were scheduled, therefore Ms. Pepin could move her vehicle out before the therapists arrived so as not to get blocked in. Mr. Flanagan also commented that he was not even sure that the water line issue justified a hardship.

Ms. Pepin reiterated that she already had a portion of her driveway that was double wide and 3 feet from the property line. She went on to say that it would look stupid if she were to extend the driveway further into her front yard and then had the portion sticking out on the neighbor's side of the driveway.

Mr. Glazier noted that if Ms. Pepin's car and her father's car were in the driveway then there was no place for the therapists to park without blocking her in. Mr. Halpin pointed out that giving a variance for that reason would be based upon a hardship for a person and not a property.

Mr. Glazier stated that he had visited the property in question and spoken with Ms. Pepin's father. He went on to say that if she were to widen the driveway and go straight down from her garage to the road it would look much better than it currently did. He then noted that the existing driveway was in very poor condition.

Mr. Flanagan referred to Mr. Rodriguez' correspondence dated November 6, 2017 and asked Ms. Rodriguez for some clarification regarding the Statutes listed in that correspondence specifically Item 4 which stated "per the Connecticut General Statutes (CGS), the Board will need to consider whether a valid hardship, that is neither personal nor financial in nature, has been determined." Mr. Flanagan then pointed out that Ms. Pepin's hardship seems to be personal in nature. He then referred to Item 5 from Ms. Rodriguez' correspondence which stated "per CGS the Board will also need to consider whether or not the result of the requested variance is in harmony with the area in respect to public health, safety, property values and neighbor impact." Mr. Flanagan commented that he was torn between those two statements. He went on to say that Item 6 from that same correspondence stated "if the board finds that both requirements of #4 and #5 are met, and there is a motion made to approve the request, the Board shall enumerate the hardship(s) for the record as part of the motion." He then asked Ms. Rodriguez how the state would look at the situation.

Ms. Rodriguez stated that the Statutes read as follows:

"The Zoning Board of Appeals shall hear and decide on requests that seek to vary the application of the zoning bylaws, ordinances or regulations in harmony with their general purpose and intent with due consideration...(she noted that there were things that the Board could "consider" and things that were a "must")...for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated...(she noted that it must be something unique to that parcel)..., a literal enforcement of such bylaws, ordinances or regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured" and "any variance granted by a Zoning Board of Appeals shall run with the land and shall not be personal in nature to the person who applied for and received the variance."

Mr. Horan asked if there were other properties that had driveways 3 feet from the property line for their entire length. Mr. Halpin replied that there were other driveways that close to the property line. He then commented that they could reference public safety, welfare and property value with regard this hardship.

Mr. King noted that there was a need to replace the existing driveway due to the condition of the existing driveway. He went on to say that it would be more consistent with other properties on the street if it were a straight forward driveway as opposed to having the existing bump-out. Mr. King stated that making the driveway more consistent with the other properties in the neighborhood was a reason that would be tied to the property and not the individual.

Mr. Glazier noted that there was already a part of the driveway that jutted out to 3 feet from the property line, therefore the applicant was not going to go beyond what was already in existence. He went on to say that having the driveway go all the way down to the road at that same distance from the property line would greatly improve the appearance of the entire house and lot. Mr. Glazier then stated that it did not seem unreasonable to extend the rest of the driveway out to 3 feet from the property line since there was already a portion that was at 3 feet. He then commented that if the laws were really that strict then Zoning would be able to come in and make Ms. Pepin tear up the existing portion of her driveway that was already 3 feet from the property line. Ms. Rodriguez stated that that was not the case. She then explained that Zoning laws were not retroactive; whatever was there remained and it became legally nonconforming but to extend that would be a violation of today's regulations. She noted that prior to 2005 there were no driveway regulations and they were receiving a lot of complaints regarding driveways with people paving over property lines, property line disputes and people opening doors into each other because the driveways were so close to the property lines. She went to say that there were also snow shelf issues with people shoveling snow onto their neighbors' driveways because they were so close together. Ms. Rodriguez stated that after consideration of all of those types of driveway complaints the Planning and Zoning Commission created driveway regulations in 2005 with an amendment in 2006 that required that any new or expanded driveway not be closer than 10 feet from the property line. She then explained that an Ordinance was retroactive, but a regulation was not. The discussion then continued briefly and Mr. King noted that the abutting neighbor had already been dealing with a portion of the driveway being 3 feet from the property line and had said that they had no issues with the requested variance. He went on to say that expanding the driveway would make the driveway more uniform and the property more uniform with the neighborhood.

Chairman O'Connor asked the Board for any further questions. Mr. Glazier commented that he had read over a lot of the Zoning Regulations that Ms. Rodriguez had forwarded to the Board members in the past. He went on to say that Zoning Board of Appeals decisions were one of the most controversial decisions in town government because of the many different viewpoints that could be taken. He then commented that he believed that the reason that the regulations were put in place and enforced was so that the use of variances wouldn't be overextended. Mr. Glazier then stated that it did not appear that Windsor Locks had an overabundance of variance requests each year.

Chairman O'Connor asked for any public input for or against the application. There were none.

Chairman O'Connor referred to Application #FY17-18-04 and asked for a motion. Mr. Glazier moved to approve Application #FY17-18-04, Owner/Applicant: Deborah Pepin for a variance for the property located at 19

Garry Road to reduce the distance from the driveway to the property line to 3 feet, where 10 feet is required. The granting of this variance is for the improvement proposed in this application only, permitting an exception to the requirements of the driveway zoning regulations Section 225. The hardship upon which this decision is based is the logistics of parking and moving cars in and out of the driveway for Ms. Pepin's father's therapy and repaving to have a double wide driveway all the way down to the road will greatly improve the appearance of that property with respect to the rest of the environment. Due to the proximity of the proposal to the property line, the applicant shall submit a professionally drawn survey/site plan to the Zoning Officer with the permit application to the Building and Land Use Office. Once completed, the applicant must submit an Improvement Location Survey, aka an "as-built" prior to the use of the expanded driveway, showing driveway compliance. Changes to this site plan may require a return to this Board. This is not a permit to construct the driveway. Please see the Building and Land Use Office, as well as the Department of Public Works, for any possible permit requirements. Mr. King seconded the motion. Chairman O'Connor asked for any further discussion. There was none. The vote was 4 – 1 (Mr. Glazier, Mr. Halpin, Mr. King and Mr. O'Connor were in favor; Mr. Flanagan was opposed), the motion was approved.

A brief discussion took place regarding the Board's September meeting.

Mr. King moved to adjourn the meeting. Mr. Glazier seconded the motion. All were in favor. The vote was 6 – 0, the meeting was adjourned at 7:40 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.