

**Minutes of
ZONING BOARD OF APPEALS
May 04, 2009**

MEMBERS PRESENT

Mrs. Yanicelli, Chairman
Mr. Barfuss, Secretary
Mr. Moylan
Mr. Ziotas

MEMBERS ABSENT

Ms. Davis

ALTERNATES PRESENT

Mr. Engel
VACANCY

ALTERNATES ABSENT

Mr. Socci

Also in Attendance:

Steve Kleppin, Town Planner/Sr. Enforcement Officer

MEETING OPENED

At 7:35 p.m.

Chairman Yanicelli explained to those members of the public present how the proceedings would be conducted, and that discussion and possible decision on each public hearing item would be held after the public hearing on each item.

PUBLIC HEARING

The Chairman then called the Public Hearing to order in the Town Hall Board Room and read the call, as follows:

LEGAL ADVERTISEMENT

Also published in the New Canaan News Review
18A NEW CANAAN ADVERTISER, NEW CANAAN, CONN., THURSDAY, APRIL 23, 2009

STATE OF
CONNECTICUT
TOWN OF
NEW CANAAN
ZONING BOARD
OF APPEALS

NOTICE IS HEREBY

GIVEN that the ZONING
BOARD OF APPEALS of the
Town of New Canaan will
hold a Public Hearing on
Monday, May 4, 2009 in the
Board Room of the Town Hall
at 7:30 p.m. to hear the following
applications:

1. Upon application of James
G. O'Brien and Barbara Scott,
owners, 56 Woodland Road,
for a Variance of Section
3.5.E.2 to amend existing variance
from 9'1" to 7'5" side

yard setback to accommodate
bilco door, for property in the
One Third Acre Residence
Zone (Map N Block 34 Lot
51).

2. Upon application of
Wadia Associates, LLC,
Authorized Agent, for Steven
M. and Pamela P. Milunovich,
owners, 40 Stoneleigh Road,
for a Variance of Section
3.5.D.1 to allow an increase
of 48 square feet of coverage,
totaling 5,285, in lieu of the
allowed 5,237, for property in
the Two Acre Residence Zone
(Map 37 Block 592 Lot 146).

3. Upon application of Niall
J. P. Duggan, NJP Design,
Authorized Agent, for Andrew
Gottlieb and Alicia Ezpeleta,

owners, 496 Trinity Pass
Road, for variances of Section
7.1.B.2 to expand a non-conforming
building and Section
3.5.F.3 to allow a building
wing to be 3 stories in lieu
of the 2 1/2 stories allowed,
for property in the Four Acre
Zone (Map 23 Block 28 Lot
1).

**HANDICAP ACCESS
DURING MEETING:**
Please notify the Planning
& Zoning office in advance
if wheelchair accessibility is
required.

FRANK BARFUSS,
Secretary
April 17, 2009
4-23
4-30

Mr. Engel was seated for Ms. Davis.

1. Peter Tchir, owner, 226 Indian Rock Road

Upon application of George A. Risolo Enterprises, Inc., Authorized Agent, for Peter Tchir, owner, 226 Indian Rock Road, for a Variance of Section 3.5.E.3 for a reduction of yard setbacks from the required 50 feet to 15 feet and 18 feet, respectively, to construct a tennis court, for property in the Four Acre Residence Zone (Map 33 Block 34 Lot 51). (Continued from the April 13, 2009 meeting).

Attorney Raymond Ganim, representing the applicant, asked that Dean Martin, Grumman Engineering, LLC, present the modified plans for the proposed tennis court. Mr. Martin handed out copies of the revised plans and stated that the size of the tennis court had been adjusted from 120'L X 60'W to 116'L X 55'W. Mr. Martin discussed grading, retaining

walls, storm retention system, drainage and erosion control, and tree removal. Mr. Martin submitted his response to Stearns & Wheler's report regarding soil testing and stated that Herbert Lobdell, Lobdell Consultants, PC, performed a geotechnical evaluation of the soil by taking samples and found that the excavation near the proposed court site would not cause an unstable condition or slope failure. It was also determined through a drainage report that the onsite retention system would allow for a zero increase in runoff, post-development.

Attorney Gamin stated that the hardships were topographic in nature and that the proposed use was permitted under current regulations.

Attorney Ed Mellick, Mellick and Sexton, LLC, representing two of the neighboring property owners (Anne C. Cotton, 186 Indian Rock Road and Nancy M. Kozak, 212 Indian Rock Road), stated that he found the variance to be too large and that recreational use in a residential zone of the placement of a tennis court fifteen feet from a property line should not be approved. Denise Halstead, Stearns and Wheler, discussed problems that could develop on the site should the variance be granted such as violations within the fifty foot proximity of the reserve septic system to the tennis court area, the displacement of the flood limit line on the revised map, loss of buffer, settling of fill, erosion issues after removal of trees, and incomplete information with regard to the retaining walls. Peter Tchir, 226 Indian Rock Road, stated that the proposed tennis court area is currently being used as a recreational field for his three children. Mr. Engel encouraged communication between the neighbors and suggested that more time be taken to review the revisions. Attorney Mellick pointed out that this was no longer an option.

The public hearing on this item was closed.

Upon motion of Mr. Barfuss, second of Mr. Ziotas, the Board unanimously voted to deny the application without prejudice.

2. BCM Realty Partnership, owner, Lot G21 Sunrise Avenue

Upon application of James D'Alton Murphy, Gregory and Adams, P.C., Authorized Agent, for BCM Realty Partnership, owner, Lot G21 Sunrise Avenue, for a variance of Sections 3.5.D.1 and 3.5.E.2 to allow side yards of 7.3 feet and 4 feet in lieu of 15 feet required, to allow a front yard of 24 feet in lieu of the 30 feet required, and to allow coverage of 29.3% in lieu of the 25% required, for property in the A Residence Zone (Map K Block 10 Lot G21). (Continued from the April 13, 2009 meeting).

Jim Murphy, Gregory and Adams, P.C., submitted a revised survey and revised set of house plans. Mr. Murphy discussed the size of the house, letters submitted, and changes to the bay window and roof.

Mr. Murphy stated that the hardships were that the lot is half the size of a regular lot and that a two-car garage will not fit on the lot.

Mr. Murphy also stated that a special permit for coverage for the second floor will be sought from the Planning and Zoning Commission at the May 19, 2009 meeting. Mr. Engel asked if fill would be added on the downhill side of the property. Mr. Murphy responded that at this time no fill was proposed. Mr. Murphy explained that Mr. Tiani, owner, has an agreement with Tony M. Shizari, 64 Sunrise Avenue, that nothing will be built within two feet of the property line. Mr. Tiani added that the driveway is going to be cut back and graded to a curve along Mr. Shizari's property line. Mr. Shizari acknowledged his agreement with Mr. Tiani and stated that he has been trying to sell his house and that the property value had been reduced. Architect Katarzyna Kudrzycki, 78 Sunrise Avenue, asked that the house be restricted to one-and-a-half stories. Mrs. Yanicelli noted that the Board would consider the proposal exactly as submitted and that the house would not be subject to the one-and-a-half story restrictions in the regulations. Ms. Kudrzycki agreed. Attorney Murphy asked that the Board incorporate all records of prior applications into the record.

The Public Hearing was closed on this Item.

Upon motion of Mr. Barfuss, second of Mr. Engel, the Board unanimously voted to approve the application per the plans submitted.

Conditions, modifications, or restrictions are as follows:

1. Per Zoning Location Survey Prepared for BCM Realty Partnership, prepared by RKW Land Surveying dated June 19, 2006, Revised though April 24, 2009, on-file with the Planning and Zoning Department.
2. Per Basement Plan A-1, First Floor Plan and Second Floor Plan A-2, and Elevations A-3, Based on Design Provided by Kasia, Prepared by Christopher A. Hull, dated June 15, 2008, Revised through April 25, 2009, on-file with the Planning and Zoning Department.
3. Per Feasibility Plan S1 and Sections S2, Prepared by Frangione Engineering, LLC, dated September 8, 2008, Revised though April 24, 2009, on-file with the Planning and Zoning Department.
4. Per Sections S2, Prepared by Frangione Engineering , LLC, dated March 11, 2009, on-file with the Planning and Zoning Department.

3. Andrew Gottlieb and Alicia Ezpeleta, owners, 496 Trinity Pass Road

Upon application of Niall J. P. Duggan, NJP Design, Authorized Agent, for Andrew Gottlieb and Alicia Ezpeleta, owners, 496 Trinity Pass Road, for variances of Section 7.1.B.2 to expand a non-conforming building and Section 3.5.F.3 to allow a building wing to be 3 stories in lieu of the 2^{1/2} stories allowed, for property in the Four Acre Zone (Map 23 Block 28 Lot 1).

Niall J. P. Duggan, NJP Design, stated that the hardship is lot size, shape and topography. The second floor addition will not increase the footprint, which was the only concern from neighbors. Retaining walls will be built around the garage to lift the grade.

The Public Hearing was closed on this Item.

Upon motion of Mr. Barfuss, second of Mr. Ziotas, the Board unanimously voted to approve the application per the plans submitted.

Conditions, modifications, or restrictions are as follows:

1. Per Zoning Location Survey Prepared for Andrew Gottlieb, prepared by Edward A. Pirro Jr., dated March 7, 2009, on-file with the Planning and Zoning Department.
2. Per architectural drawing A-2, prepared by NJP Design, dated May 4, 2009, on-file with the Planning and Zoning Department.
3. Per architectural drawings A-1, A-2, A-3, E-1, E-2 and E-3, prepared by NJP Design, dated March 13, 2009, on-file with the Planning and Zoning Department.

4. James G. O'Brien and Barbara Scott, owners, 56 Woodland Road

Upon application of James G. O'Brien and Barbara Scott, owners, 56 Woodland Road, for a Variance of Section 3.5.E.2 to amend existing variance from 9'1" to 7'5" side yard setback to accommodate bilco door, for property in the One Third Acre Residence Zone (Map N Block 34 Lot 51).

Not opened and will be heard at the June 1, 2009 meeting.

5. Steven M. and Pamela P. Milunovich, owners, 40 Stoneleigh Road

Upon application of Wadia Associates, LLC, Authorized Agent, for Steven M. and Pamela P. Milunovich, owners, 40 Stoneleigh Road, for a Variance of Section 3.5.D.1 to allow an increase of 48 square feet of coverage, totaling 5,285, in lieu of the allowed 5,237, for property in the Two Acre Residence Zone (Map 37 Block 592 Lot 146).

Dinyar Wadia, Wadia Associates, LLC, stated that the design of the addition was done in pieces, as the previous designer did not realize that a brick veneer was not included in the coverage area. This resulted in a kitchen too small to accommodate a kitchen table. A bay window area will be expanded to make this accommodation.

The Public Hearing was closed on this Item.

Upon motion of Mr. Engel, second of Mr. Ziotas, the Board unanimously voted to approve the application per the plans submitted.

Conditions, modifications, or restrictions are as follows:

1. Per Zoning Location Map Prepared for Steven M. and Pamela P. Milunovich, prepared by RKW Land Surveying dated November 17, 1997, Revised though April 2, 2009, on-file with the Planning and Zoning Department.
2. Per Exterior Elevations @ Kitchen Bay Window, Prepared by Wadia Associates, LLC, dated March 25, 2009, on-file with the Planning and Zoning Department.

Regular Meeting

7. Approve Minutes of April 13, 2009 Meeting

The Board unanimously voted to approve the minutes of the April 13, 2009 Meeting.

8. Other matters as may properly come before the Board.

None.

9. Adjournment

There being no further business to come before the meeting, the Board unanimously voted to adjourn at 9:37 p.m.

FRANK BARFUSS, Secretary

LEGAL ADVERTISEMENT

Also published in the New Canaan News Review
8A NEW CANAAN ADVERTISER, NEW CANAAN, CONN., THURSDAY, MAY 14, 2009

TOWN OF NEW CANAAN ZONING BOARD OF APPEALS NOTICE IS HEREBY GIVEN that the ZONING BOARD OF APPEALS of the Town of New Canaan after a Special Meeting Public Hearing held on Monday, May 4, 2009 duly adopted the following resolutions. Approved applications become effective upon the filing of a copy thereof in the office of the Town Clerk.	Block 34 Lot 51) is denied. 2. RESOLVED, application of James D'Alton Murphy, Gregory and Adams, P.C., Authorized Agent, for BCM Realty Partnership, owner, Lot G21 Sunrise Avenue, for a variance of Sections 3.5.D.1 and 3.5.E.2 to allow side yards of 7.3 feet and 4 feet in lieu of 15 feet required, to allow a front yard of 24 feet in lieu of the 30 feet required, and to allow coverage of 29.3% in lieu of the 25% required, for property in the A Residence Zone (Map K Block 10 Lot G21) is approved per the plans submitted.	non-conforming building and Section 3.5.F.3 to allow a building wing to be 3 stories in lieu of the 2 1/2 stories allowed, for property in the Four Acre Zone (Map 23 Block 28 Lot 1) is approved per the plans submitted.
1. RESOLVED, application of George A. Risolo Enterprises, Inc., Authorized Agent, for Peter Tchir, owner, 226 Indian Rock Road, for a Variance of Section 3.5.E.3 for a reduction of yard setbacks from the required 50 feet to 15 feet and 18 feet, respectively, to construct a tennis court, for property in the Four Acre Residence Zone (Map 33	3. RESOLVED, application of Niall J. P. Duggan, NJP Design, Authorized Agent, for Andrew Gottlieb and Alicia Ezpeleta, owners, 496 Trinity Pass Road, for variances of Section 7.1.B.2 to expand a	4. RESOLVED, application of Wadia Associates, LLC, Authorized Agent, for Steven M. and Pamela P. Milunovich, owners, 40 Stoneleigh Road, for a Variance of Section 3.5.D.1 to allow an increase of 48 square feet of coverage, totaling 5,285, in lieu of the allowed 5,237, for property in the Two Acre Residence Zone (Map 37 Block 592 Lot 146) is approved per the plans submitted.
		FRANK BARFUSS, Secretary May 8, 2009 5-14