

**Zoning Board of Appeals
MINUTES
7:00 PM Monday, June 01, 2015
Brookfield Town Hall - Room 135**

1) Convene Meeting

Chairman C. Timmerman convened the meeting at 7:00 p.m and established a quorum of members. He then reviewed the policies and procedures that govern public hearings.

Present: Chairman C. Timmerman, Vice Chairman N. Coppola, Secretary J. Eagan, G. Meyerle, P. Murphy, Alternate L. Ruschmeyer

Absent: L. Bibbo

Also Present: Recording Secretary D. Cioffi

2) Review Minutes: 5/4/15

G. Meyerle moved to approve the Minutes of the May 4, 2015 meeting as submitted. Vice Chairman Coppola seconded the motion, and it carried, 4-0-2, with Secretary Eagan and P. Murphy abstaining.

3) Review Correspondence:

a) Minutes of other Boards and Commissions:

b) Legal Briefings for Building Inspectors:
No discussion/no motions.

4) PUBLIC HEARINGS - 7:00 p.m.

- a) 47 Mist Hill Dr #201500295: Variance requested: §242-402A - 17' structure to right side line, §242-402A - 3% of lot coverage for an attached garage (ph close date 7/5/15)
J. Boyle was present. He indicated that his neighbor just informed him that he would be opposing the application. Chairman Timmerman explained the variance procedure. Mr. Boyle advised that there is an issue at the other side due to a town right-of-way. Additional issues include expense of re-wiring and tree removal. Chairman Timmerman explained that the hardship must be associated with the land. Mr. Boyle indicated that he would like to put an attached garage in. Chairman Timmerman noted that the structure used to be a garage, but was then extended to be part of the main house, in the 1960's. He also pointed out that the zone is an R40, so the lot is pre-existing and non-conforming on both the left and right sides, as well as the fact that it has two front yards. Mr. Boyle indicated he was unsure of going forward due to the neighbor's opposition. After some discussion, he decided to go forward with the application. Chairman Timmerman advised he visited the neighborhood and reviewed what other neighbors had done with their houses. R. Noel is the neighbor opposing the application. Vice Chairman Coppola advised he wished to see a better drawing, and also indicated an A2 survey would be needed at the commencement and the conclusion of the work. There was discussion regarding the cost of the survey. Chairman Timmerman and Vice Chairman Coppola discussed the details such a survey would provide.

No one was present to speak in favor of the application, nor was anyone present to speak in opposition.

Secretary Eagan read a letter to Nina Mack from R. Chmielewski and family dated May 30, 2015, in opposition to the application.

Vice Chairman Coppola moved to close the Public Hearing re: 47 Mist Hill Dr., #201500295, Variance requested: Section 242-402A - 17' structure to right side line, Section 242-402A - 3% of lot coverage for an attached garage, at 7:14 p.m. G. Meyerle seconded the motion, and it carried unanimously.

DELIBERATIONS

**Secretary Eagan moved to approve 47 Mist Hill Dr., #201500295, as advertised. P. Murphy seconded the motion. Chairman Timmerman noted the small size of the lots in this neighborhood. Vice Chairman Coppola suggested that the applicant get a survey. P. Murphy agreed the application should not be discussed without the survey. G. Meyerle indicated that he did not believe a survey was necessary. There was discussion regarding the unreliability of the tax maps. Chairman Timmerman noted that the house used to have a garage, and the applicant is only requesting a one-car garage. There was discussion regarding the second front yard. Vice Chairman Coppola pointed out that the proposed structure will be a garage, not a living area. Chairman Timmerman noted that the homeowner now parks in an undesignated area. He further pointed out that the lot was upzoned. The narrowness of the lot was noted. Motion carried, 5-0. *Variance approved.*
Reason: Property upzoned because of pre-existing, non-conforming lot; there are two front yards; it is a narrow lot; and taking cars off of the street will improve the neighborhood.**

- b) 5 Pleasant Rise Circle #201500390: Variance requested: §242-402A - 1% of lot coverage for a new home (ph close date

7/5/15)

G. Feola, 5 Pleasant Rise Circle, the contractor, was present. He advised that a plan was approved by the Town and the house was built per the plan. He indicated he was careful not to go over the sideline and frontline setbacks. He noted that the A2 survey shows he was within inches on certain sides. There was a previous variance from July 2012 that was filed by another applicant. Mr. Feola stated that when he consulted the surveyor, he advised him that the measurements did not include the gutters and the overhang in the calculations.

Mr. Feola reviewed the plans for the approved deck. The deck does not include a staircase. There was discussion regarding the terracing done on the site. Mr. Feola advised he decreased the overhang so as to not go over on the measurements. The hardship, per Mr. Feola, relates to the difficulty of the lot. G. Meyerle pointed out that what was built does not affect the sidelines.

P. Heffernan, 23 Pleasant Rise Circle, was present, and spoke in favor of the application. M. Bevilacqua, 3 Pleasant Rise Circle, was present. She inquired regarding the overhang, and Mr. Feola and Vice Chairman Coppola explained what it was, and where, on this particular house. *No one was present to speak in opposition.* Secretary Eagan read a note from M. Fagan, indicating no opposition. *C. Juliano, the potential homeowner, was present, and spoke in favor of the application.*

P. Murphy moved to close the Public Hearing re: 5 Pleasant Rise Circle, #201500390: Variance requested: Section 242-402A - 1% of lot coverage for a new home, at 7:24 p.m. G. Meyerle seconded the motion, and it carried unanimously.

DELIBERATIONS

Secretary Eagan moved to approve 5 Pleasant Rise Circle, #201500390, as advertised. G. Meyerle seconded the motion. Chairman Timmerman noted that the application resulted from an oversight in the calculations. He further noted that the height of the building in the small lots of this size should be considered. Motion carried unanimously. Variance approved. Reason: For the same reasons as the previously approved variance in July 2012: upzoning, narrow lot and topography.

- c) 23 Pleasant Rise Circle #201500382: Variance requested: §242-402A - 22.7' structure to left side line, §242-402A - 9.2' structure to right side line, §242-402A - 25,000 sq. ft. lot area, §242-402A - 6.6% of lot coverage and §242-402A - 50' lot width for a proposed above ground pool (ph close date 7/5/15)
S. Sullivan, PE, CCA, 40 Old New Milford Rd., was present. He advised that the applicant wishes to install an above-ground pool and deck on this pre-existing, non-conforming lot. Two of the variances are pre-existing. The new variance is for building coverage. Mr. Sullivan advised that the pool meets the setback for a pool. Mr. Sullivan indicated that there are several pools like this in the neighborhood. He further advised that the shed is staying. Mr. Heffernan reported that the shed was present when he moved in to the house in 1994. Mr. Sullivan stated that the hardship is the pre-existing, non-conforming zone that the house sits in. Chairman Timmerman advised that the pre-existing, non-conforming variances will be recorded. There is no correspondence in the file. *No one was present to speak in favor of the application, nor was anyone present to speak in opposition to the application.*

Secretary Eagan moved to close the Public Hearing re: 23 Pleasant Rise Circle, #201500382: Variance requested: Section 242-402A-22.7' structure to left sideline, Section 242-402A-9.2' structure to right sideline, Section 242-402A - 25,000 sq. ft. lot area, Section 242-402A - 6.6%, Section 242-402A- 50' lot width for a proposed above ground pool, at 7:29 p.m. L. Ruschmeyer seconded the motion, and it carried unanimously.

DELIBERATIONS

Secretary Eagan moved to approve 23 Pleasant Rise Circle, #201500382, as advertised. Vice Chairman Coppola seconded the motion. Chairman Timmerman pointed out that the lot was upzoned. Vice Chairman Coppola advised that the variance for the lot coverage is for the pool and deck only. Motion carried unanimously. Variance granted. Reason: Pre-existing, non-conforming lot that has been upzoned, which makes it difficult to maintain lot coverage.

- d) 39 Candlewood Shores Rd #201500384: Variance requested: §242-402A - 4' structure to rear lot line for a balcony off of the kitchen (ph close date 7/5/15)
I. D'Oliveira, 39 Candlewood Shores Rd., was present. Chairman Timmerman noted that a variance for the deck in the rear was denied about a year ago. Mr. D'Oliveira advised that a neighbor in the rear was concerned about a deck in the back, so instead, he intends to do a balcony off of the kitchen. This will avoid a post, so it won't affect the proximity to the neighbor in the rear. The request is now for 4 feet X 10 foot deck. Chairman Timmerman pointed out that the house is tall, with 8 and 9 foot ceiling heights. He also noted the sloping of the land behind him. Vice Chairman Coppola noted that the house sits right on the setback. He advised the applicant of the need for a hardship related to the land. G. Meyerle suggested that the property owner build back to get balcony effect without being so close to the property line. Chairman Timmerman noted that the applicant has the ability to put a decent-sized house on the lot. Vice Chairman Coppola suggested installing glass doors and/or larger windows to get more light and air, and indicated he fails to see the hardship with the plan as presented.

No one was present to speak in favor of the application. L. Donovan, 42 Candlewood Shores, was present, and spoke in opposition to the application.

Secretary Eagan read a letter dated May 28, 2015, to the ZBA from N. Johnson, 29 Hickory Hill Rd., also in opposition to the variance.

Chairman Timmerman requested that it be determined whether or not Ms. Johnson got her letter. Ms. Donovan advised that hers arrived on Thursday.

Vice Chairman Coppola moved to close the Public Hearing re: 39 Candlewood Shores Rd., #201500384: Variance requested: Section 242-402A-4' structure to rear lot line for a balcony off of the kitchen, at 7:41 p.m. G. Meyerle seconded the motion, and it carried unanimously.

DELIBERATIONS

Secretary Eagan moved to approve 39 Candlewood Shores, #201500384, as advertised. P. Murphy seconded the motion. There was discussion regarding the imposition of privacy on the neighbors. Motion failed, 0-5. *Variance denied.* Reason: No hardship proven.

5) Tabled Items:

Vice Chairman Coppola moved to un-table 17 Long Meadow Hill Rd. Secretary Eagan seconded the motion, and it carried unanimously.

Secretary Eagan moved to close the Public Hearing re: 17 Long Meadow Hill Rd. at 7:43 p.m. Vice Chairman N. Coppola seconded the motion, and it carried unanimously.

DELIBERATIONS

Secretary Eagan moved to approve 17 Long Meadow Hill Rd., #201500022, as advertised. Vice Chairman Coppola seconded the motion. Chairman Timmerman suggested that the variance be denied without prejudice, to allow the applicant to re-apply after the matter is resolved before the Zoning Commission. Motion failed, 0-5. *Variance denied without prejudice.* Reason: The applicant is before the Zoning Commission, and will have to go before the Historical Commission.

6) New Business:

No discussion/no motions.

7) Informal Discussion:

Upon inquiry from G. Meyerle, there was discussion regarding the required distance for a septic to be away from the house and deck. N. Coppola discussed his experience, and suggested that the Town Sanitarian can be of assistance with issues.
No motions.

8) Adjourn

Vice Chairman Coppola moved to adjourn the meeting at 7:58 p.m. G. Meyerle seconded the motion, and it carried unanimously.