

**CITY OF TORRINGTON  
ZONING BOARD OF APPEALS  
MINUTES  
November 10, 2008**

Present: David Moraghan, Chairman  
Kathleen Perrotti, Vice Chairwoman  
James Marinelli, Member  
Cynthia Vasko, Member  
Genevieve Gangi, Member  
Karen Falk, Alternate  
Marc Trivella, Alternate  
Ken Edwards, Alternate

Also Present: Mike O'Neil - Zoning Enforcement Officer

1. **Call to Order:** Chairman David Moraghan called the meeting to order at 7:18 p.m. in the City Hall Council Chambers, 140 Main Street, Torrington, CT

2. **Attendance:**

3. **Minutes:**

a. 10/14/08

MOTION by Ms. Vasko to accept the 10/14/08 minutes, seconded by Mr. Moraghan, unanimously carried.

Chairman Moraghan read the legal notice which was published in the Republican American.

4. **Hearings:**

a. Variance  
Applicant: Robert Jasonis  
Location: 10 Klug Hill Road  
Proposal: 16' front yard variance requested for proposed addition  
Proposed addition will be 35.1' from property line (50' required)  
(Public hearing continued from 10/14/08)

Chairman Moraghan announced this is a continuance of the October public hearing,

**Zoning Board of Appeals - 11/10/08**  
**Page 2**

which is still open. The notice requirements to abutting land owners needs to be verified.

Rob Jasonis appeared and submitted the neighborhood certificate of mailing receipts. Al Stokes was also present and submitted a copy of the letter sent to neighbors.

Mr. Moraghan asked the applicant to explain the hardship. Mr. Jasonis stated they have only one tiny garage under the house. The proposal is for a two bay garage, and the only viable location is what has been proposed. The rear of the house has a well and a steep grade. The north and northeast part of the house has a septic system. The extreme south is also a steep grade. He has lived in the house since January, 1980. It is a two bedroom house. Mr. Jasonis spoke of the CL&P easement and how his property line actually starts 37 feet in from Klug Hill Road, and he did not know this when he purchased the property. Mr. Jasonis had maps for review. Mr. Jasonis said the hardship is the topography of the land, it doesn't lend itself to expanding anywhere else but where they are proposing to build the addition.

Mr. Stokes stated the more the house is pushed back to make a straight line, the larger the driveway becomes, like a commercial parking lot. Site features were discussed, along with the proposed addition.

Mrs. Vasko noted the addition could be built straight across without a variance. Mr. Jasonis and Mr. Stokes spoke of a 25 foot high retaining wall that would be needed with such a design. The topography of the land is an issue.

Mr. Jasonis answered questions from the Board members.

MOTION by Ms. Perrotti to close the public hearing, seconded by Ms. Vasko, unanimously carried.

Mr. Moraghan stated he doesn't believe the Board has heard a legal hardship, it is an aesthetic hardship, it is hardship because they can't fit their plan into the regulations, but he doesn't believe anything we've heard rises to the level of a legitimate hardship. He thinks there are other ways this could be done, the right of way from utility does affect their property, as well as other properties in that area. One of the issues for a variance is does the issue affect just that property, or does it affect all properties, and if it affects all properties in that location, that is not a basis for a variance. They have a beautiful house and Mr. Moraghan applauds them for wanting to put solar panels on, but legally he does not think there is a legal basis to grant them a variance.

Ms. Vasko stated she is having a difficult time finding a hardship. (Some comments from other Board members were inaudible)

**Zoning Board of Appeals - 11/10/08**  
**Page 3**

MOTION by Ms. Vasko to DENY the variance based on the hardship, because she thinks the applicant has other alternatives on the property. Motion seconded by Ms. Falk.

Ms. Vasko voted in favor of the motion.  
Ms. Falk voted in favor of the motion.  
Mr. Edwards voted no.  
Mr. Trivella voted no  
Mr. Moraghan voted in favor of the motion.

Mr. Moraghan stated he votes in favor of the motion, so it passes 3 - 2. The variance has been DENIED.

b. Variance  
Applicant: Patricia Cahill  
Location: 135 Hayden Hill Road  
Proposal: Side yard setback variance, required 25 feet, requested: 14 feet.

MOTION by Ms. Vasko to open the public hearing, seconded by Ms. Perrotti, unanimously carried.

Mr. Moraghan stated hearing this case will be Ms. Vasko, Ms. Perrotti, Mr. Marinelli, Ms. Gangi and Mr. Moraghan.

Pat Cahill appeared and presented her neighborhood notifications. Ms. Cahill handed out information packets and had letters of support from the neighbors.

Ms. Cahill has been at her property for about 12 years, and she believes the zoning used to be R15 and the zoning has been changed to R25, and she has only 12,800 sq. ft. of land, her property is narrow and small. There is a sewer line in the front, and in the rear of the house is the well. The proposed location is the only place to put an addition.

Mr. Moraghan inquired of Mr. O'Neil if the zoning had been changed in this area. Mr. O'Neil retrieved the zoning files. Mr. O'Neil verified the zone was changed at some point, he does not know the exact date, but between 1990 and now it has been R25, and in 1979 it was R15. Ms. Cahill purchased the house in 1996.

Ms. Cahill just wants a small addition. She reviewed the material in the packets.

Ms. Cahill believes she has a hardship, as there is no other place to put this addition. Board members asked questions and answers were given by Ms. Cahill and an

**Zoning Board of Appeals - 11/10/08**  
**Page 4**

unidentified male (contractor/builder?) Site features were discussed.

There were no comments from the public.

MOTION by Ms. Vasko to close the public hearing, seconded by Ms. Perrotti, unanimously carried.

Mr. Marinelli would like to argue this on the grounds he believes there is a hardship, and that is the hardship that was inflicted on it by the Planning and Zoning. The Planning and Zoning increased the setback to such a degree that the existing house is now located within the setback according to the provided drawing. The house is legally non-conforming. Mr. Moraghan inquired if Mr. Marinelli is proposing to expand a non-conforming use, and Mr. Marinelli responded yes. The regulations say you can't make a property non-conforming, but not that a non-conforming use can't be expanded. If it says you cannot do it, then you can do it.

Ms. Perrotti noted if all other houses in that non-conforming areas stated they needed a variance for an addition, we would be setting a precedence.

Discussion followed amongst Board members how this would make a property more non-conforming. Mr. Marinelli noted the Planning and Zoning made it non-conforming, not this Board. This is a hardship created by Planning and Zoning.

Mr. Moraghan stated if that logic is followed, you could build from border to border, and go over the well. Ms. Perrotti stated that would be uncontrolled expansion.

Ms. Gangi stated this is not really a hardship at all, it is something she chooses to do, she does not have to put on an addition. It's non-conforming anyways, how dare we say it has to conform, to conform to what?

MOTION by Mr. Marinelli to approve the variance, the hardship being a strict application of these regulations will deprive the property owner of reasonable use of their property, and the relief that would be granted would be the minimum necessary to provide a reasonable use and make it more conforming with the rest of the neighborhood, motion seconded by Ms. Gangi.

Mr. Marinelli voted in favor of the motion.

Ms. Gangi voted in favor of the motion.

Ms. Vasko voted against the motion.

Ms. Perrotti voted against the motion.

Mr. Moraghan voted against the motion.

Mr. Moraghan stated he is sorry, the variance request is denied.

5. **Adjournment:**

MOTION by Ms. Vasko to adjourn, seconded by Ms. Gangi, unanimously carried.

---

Lona Kirk, Land Use Office