

**CITY OF TORRINGTON  
ZONING BOARD OF APPEALS  
MINUTES  
June 14, 2010**

Present: David Moraghan, Chairman  
Kathleen Perrotti, Vice Chairwoman  
Jenn Healy, Member  
Karen Falk, Alternate  
Mark Trivella, Alternate

Also Present: Martin Connor, AICP, City Planner

Not Present: James Marinelli, Member  
Genevieve Gangi, Member  
Ken Edwards, Member

1. **Call to Order:** 7:10 p.m. in the City Hall Council Chambers, Room 218,  
140 Main Street, Torrington, CT

Chairman Moraghan announced before we begin, on the Kulesza matter, one of the Board members will be recusing herself from the hearing. You can go forward with four members, but you would need all four to vote in favor in order to prevail on the application. You can continue it to the next meeting if you would rather do it that way, that way you would have five members voting, you could get one negative vote that way and prevail. Tonight all four members would have to agree. Mr. Kulesza stated he would go forward this evening.

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

2. **Attendance:**

Mr. Moraghan stated hearing the matters tonight will be himself, Kathleen Perrotti, Karen Falk, Jenn Healy and Mark Trivella. Ms. Falk will recuse herself from the Kulesza matter. Also present is City Planner Martin Connor.

3. **Minutes:**

- a. 5/10/10

MOTION by Ms. Perrotti to accept the minutes, there was no second on the motion. Mr. Moraghan recused himself from voting as he was not present at that meeting. Motion carried.

**4. Hearings:**

- a. Appeal  
Appellant: Attorney Gregory T. Nolan for Robert and Joseph Capuano  
Location: 191 Winthrop Street  
Proposal: Appeal from Zoning Enforcement Officer Mike O'Neil's decision in Cease and Desist Order dated February 5, 2010.  
(Public hearing continued)

Attorney Gregory Nolan appeared before the Commission. Ms. Falk was not at the original meeting, and she has been given a disc of that hearing that did not work. She has a new disc tonight. The public hearing will be closed tonight, and the Board will deliberate this matter at the next meeting.

Mr. Nolan stated he was going to respond to Zoning Officer Mike O'Neil's argument, and he does not see Mr. O'Neil present tonight. He doesn't have a lot to add, but can answer any questions on the brief if there are any. Mr. Moraghan responded the Zoning Officer will not be here tonight to speak.

Mr. Nolan stated he would consent to close the public hearing.

MOTION by Ms. Perrotti to close the public hearing, seconded by Mr. Trivella, motion unanimously carried. Mr. Moraghan stated Ms. Falk will listen to the disc of the hearing, and the Board will deliberate at the next meeting.

- b. Variance  
Applicant: Raymond and Jennie Dziedzic  
Location: 721 Brandy Hill Road, R60 zone  
Proposal: Section 4.3, 50' front yard setback required; a 24' variance requested to allow a 25' front yard setback for pool.

City Planner Martin Connor passed out copies of GIS maps of the neighborhood.

Mr. Ray Dziedzic appeared before the Board and presented the certificate of mailings to abutting land owners. He stated it is not feasible to put the pool anywhere else on the property. To the west is all maple sugar trees, mature trees that should not be cut. There is a steep slope on the property, and the map shows where the existing septic and reserve septic system are located. Mr. Dziedzic presented a print and pointed to various areas on the map and discussed his property with the Board.

Mr. Dziedzic presented photographs and discussed them with the Board. Site features were discussed. Seven photographs were presented as exhibits. The proposal is for an inground pool.

Mr. Moraghan noted there are areas on the property that could be used for the pool, without acquiring a variance. It might be inconvenient or far from the house, Mr. Moraghan pointed out a spot on the map that could accommodate the pool. Mr. Dziedzic replied a great deal of site work would be needed to put the pool in that spot.

Mr. Trivella and Mr. Dziedzic discussed the topography of the site.

Mr. James Wheeler of 568 University Drive appeared in favor of the proposal. There are no fire hydrants in this area, and it would be great for a fire truck to back up there and start pumping water.

Mr. Bob Bond appeared, next door neighbor down the hill from Ray and family. He has lived in the area since 1972. He is a retired real estate broker, and this will enhance the property value. There is a view of the valley from the pool area. It will not be attractive to the neighborhood if it is down the hill. He hopes for a vote in favor of the application.

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

Mr. Moraghan repeated that Ms. Perrotti noted this application does not meet the definition of a hardship.

Mr. Moraghan outlined the guidelines for defining a hardship. There are a couple locations on this property where it would appear the proposal could be done. He agrees it would be a shame to cut these beautiful trees, but there is an alternative location on this property for a pool.

Mr. Trivella noted having a pool 150 feet away from the house is a safety issue, that is too far away to watch the pool. A pool is not permanent and can be filled in by the next owner or change of mind or liability issue, the pool could always disappear. Mr. Trivella does not believe it is a strong argument that the pool is an enhancement to the property value, as the next owner may not want a pool.

Ms. Perrotti noted technically this does not meet the hardship definition, the house is already non-conforming, and this pool would make it more non-conforming.

Mr. Dziedzic responded and Mr. Moraghan noted the public hearing is closed now.

Mr. Trivella discussed hardship issues, it is a different type of hardship. There is room on the property for many pools. Mr. Moraghan noted ease of siting does not define actual hardship.

Ms. Falk noted she is emotional about the trees, but she does have other options.

MOTION by Mr. Moraghan to deny the application as there is not a hardship evidenced on the property, seconded by Ms. Falk.

Mr. Moraghan voted in favor of the motion.

Ms. Falk voted in favor of the motion.

Ms. Perrotti voted in favor of the motion.

Ms. Healy voted in favor of the motion.

Mr. Trivella voted in favor of the motion.

Mr. Moraghan stated unfortunately because there are other locations and there is not a hardship with the property, the Board cannot grant the variance. The Board is limited by the law as to what they can and cannot do, and it is a very rare occurrence that the Board is supposed to grant a variance. Mr. Moraghan apologized and said it is great they are not cutting the trees, but their hands are somewhat tied here. The application for variance is denied.

c. Variance

Applicant: John Kulesza and Gisella Kulesza

Location: 486 University Drive, R60 zone

Proposal: Section 4.3, 100' rear yard setback required; a 53'7" variance requested to allow a 46'3" rear yard setback for house addition.

Mr. Moraghan asked the applicant if they wish to continue this matter to next month, and it will not hurt the applicant or prejudice them in any way.

Mr. Kulesza wished to proceed.

MOTION by Ms. Perrotti to go into public session, all Board members in favor. (Ms. Falk recused herself from this application).

Mr. Kulesza explained the proposal for an addition to his house. The land area is non-conforming, the zone R60 with 100 feet setback. Building on the north side would result in an awkward looking house and would require drilling a new well. There are steep slopes on the south side there are steep slopes as well as a driveway and a septic system. He has had plans drawn up three times, and it is down to the smallest possible size.

Board members reviewed the proposed map/plans.

Mr. Connor inquired of Mr. Kulesza if he placed his addition in the alternative locations, would he have 100 feet to the rear and 50 feet to the front. Discussed followed referred and pointing to the map regarding setbacks. Mr. Connor noted on the map the steep areas and the well.

Mr. Moraghan noted this house is currently non-conforming, and this would be an expansion of the non-conforming use. Mr. Connor agreed.

James Wheeler of 568 University Drive appeared before the Board, spoke in support of the proposal.

No further comments from the public.

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

Mr. Trivella stated there is no where else to go. Even if the well were moved elsewhere it may interfere with the septic system. The foundation is not strong enough to support a second story. This is a well thought out and attractive design.

Ms. Perrotti saw no possible other options.

MOTION by Mr. Moraghan to GRANT the variance because of the unusual shape and topography of the land, the location of the existing home which is non-conforming could not be expanded in any way other than granting this proposal. The is not simply a financial issue. The relief granted is the minimum amount necessary for him to have reasonable use of the property, and it will not have a negative impact on the public welfare. Motion seconded by Mr. Trivella, unanimously carried.

Mr. Moraghan announced this application is granted.

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Mr. Moraghan informed members of the Board that Mr. Mike O'Neil is no longer employed by the City. He was laid off in a budget matter. Mr. Moraghan stated Mr. O'Neil was invaluable to this Board and a very, very hard worker, and it is an absolute shame that he has been terminated. It will have an impact on the zoning office and it will have an impact on all the zoning boards here in the City and Mr. Moraghan personally believes this is a mistake and he wishes Mr. O'Neil nothing but the best. All board members present agreed with this statement.

Mr. Connor thanked the Chairman, and it means a lot. The Zoning Office is devastated, and he appreciates Mr. Moraghan's comments.

**5. Adjournment:**

MOTION by Mr. Trivella to adjourn, seconded by Mr. Moraghan, motion unanimously carried.

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Lona Kirk, Secretary  
Land Use Office