

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS
MEETING MINUTES**

December 17, 2018

Present were Acting Chair Callahan, Commissioners Carrier, Perry, Phillips and Alternate Commissioners Forster, Levesque and Tucker and Assistant Town Planner and Clerk. Acting Chair Callahan opened the meeting at 7:00 p.m.

Commissioner Carrier was appointed Acting Secretary for this meeting and read the legal notice into the record.

PUBLIC HEARING

Armand Fortier – 29 Bonnie Drive

Alternate Commissioner Forster was appointed to vote on behalf of Commissioner Schoenhorn. Alternate Commissioner Tucker was appointed to vote on behalf of Commissioner Llewellyn.

Application for variance to reduce side yard setback from 10 feet to 7 feet for garage addition at 29 Bonnie Drive, R20 zone. Mr. Fortier would like to add a garage and mudroom to his home. He described the addition and its proximity to the property line. Also shown was another house on the street with the same street presence as he was proposing to construct. Mr. Fortier commented on the preference for an addition as his wife has a degenerative medical issue that will likely require a special van and wheelchair access to the house in the future. They would prefer to have a ramp from the garage to the living area sheltered from the weather. Three letters of support from neighbors were submitted and noted for the record. Board members asked some clarifying questions. In response to a Board member question about an alternate location Mr. Fortier stated he considered a detached structure but the area of his property where it would need to be located is very wet and contain wetlands.

There was no public comment in favor or in opposition to the application.

The public hearing closed at 7:08 p.m.

Upon a motion made and seconded (Perry/Forster) it was unanimously

VOTED: To approve the Armand Fortier application for variance to reduce side yard setback from 10 feet to 7 feet for garage addition at 29 Bonnie Drive, R20 zone.

Members voting in support of the application felt the addition as submitted was appropriate and would not negatively alter the character of the neighborhood.

Jason Leavitt – 21 Poplar Hill Drive

Alternate Commissioner Levesque was appointed to vote on behalf of Commissioner Schoenhorn.

Alternate Commissioner Tucker was appointed to vote on behalf of Commissioner Llewellyn.

Application for variance to reduce side yard setback from 40 feet to 35 feet for garage addition at 21 Poplar Hill Drive, R80 zone. Mr. Leavitt presented his request for a variance for a garage addition. A small corner of the addition would encroach into the setback area. The location of the addition is directly behind the existing garage and maintains the same line of that wall of the house. The use of the garage is for storage of children's bicycles, typical residential lawn furniture and/or maintenance equipment and a vehicle. His hardship is the position of the house on the lot and the angular shape of the lot. The corner will encroach less than five feet into the setback. A letter from Mr. Lewis at 15 Poplar Hill Drive in support of the project was submitted for the record and a letter from Attorney Richard Marone, Co-Trustee with John Gummere of 27 Poplar Hill Drive in opposition to the project, but if approved they would like planted screening installed that would remain green year round. The Board members asked for clarification on the amount of existing planted screening between 21 and 27 Poplar Hill Drive. Mr. Leavitt explained and stated he was amenable to planting five or six arborvitae for screening.

There was no public comment in favor or in opposition to the application.

The public hearing closed at 7:28 p.m.

Upon a motion made and seconded (Carrier/Phillips) it was

VOTED: 4 in favor to 2 opposed (Levesque, Tucker) to approve the Jason Leavitt application for variance to reduce side yard setback from 40 feet to 35 feet for garage addition at 21 Poplar Hill Drive, R80 zone as submitted in plan set dated November 12, 2018 with the condition that five arborvitae be planted six feet on center. The motion passed.

Members voting in favor of the variance felt the addition as proposed would not adversely impact the neighborhood and that the applicant had sufficiently demonstrated a hardship.

APPEAL HEARING

Traci Stefanik – 21 Pinnacle Ridge Road

Commissioner Phillips recused himself from this matter.

Alternate Commissioner Forster was appointed to vote on behalf of Commissioner Schoenhorn. Alternate Commissioner Tucker was appointed to vote on behalf of Commissioner Llewellyn. Alternate Commissioner Levesque was appointed to vote on behalf of Commissioner Phillips.

Appeal from Zoning Enforcement Officer's Order regarding 21 Pinnacle Ridge Road, R40 zone. Town Planner Warner reviewed the powers and duties of the Board and that this appeal before them is to seek the reversal of the Zoning Enforcement Officer's Order for clearing trees at 21 Pinnacle Ridge Road. Hardship is not a consideration in this matter. Property is located on Rattlesnake Mountain and is located within the Town Ridgeline Protection area. On October 31, 2018 the Zoning Office received a complaint from a resident indicating trees were being cleared in front of the Pinnacle Ridge house. November 1, 2018 the violation was verified when it was discovered that extensive clear cutting had been done behind the house. November 1, 2018 the owner was contacted and told to stop all work. November 1, 2018 a formal Cease and Desist Order was issued via email and certified mail. On November 29, 2018 the owner appealed the Cease and Desist Order. The Board can uphold, reverse or modify the Cease and Desist Order.

Town Planner Warner reviewed C.G.S. § 8-1aa defining trap rock ridge and ridgeline setback areas. Included in the definition is Rattlesnake Mountain in Farmington. C.G.S. § 8-2(c) allows municipalities to have regulations establishing development restrictions on trap rock ridges and Farmington adopted Section 26 – Ridgeline Protection Zone. Uses Permitted in the zone include: 1. Emergency work necessary to protect life and property; 2. Nonconforming uses that were in existence and that were approved on or before the effective date of the regulations; and 3. Selective timbering, grazing of domesticated animals and passive recreation. Generally, prior to commencing such activities a plan shall be submitted to and approved by the Planning Department. Clear cutting means the harvest of timber in a fashion which removes all or substantially all, tree over two inches in diameter at breast height (4.5 feet above grade) from any ten square foot area. Clear cutting is allowed by special permit only. 21 Pinnacle Ridge Road does not have a special permit for clear cutting.

Attorney Michael Romano, Romano Parker & Associates, represented Traci Stefanik owner of 21 Pinnacle Ridge Road. He stated Ms. Stefanik acquired the property at the end of October 2018. Attorney Romano stated he believes the Town's Ridgeline Protection Zone Regulation is not in alignment with C.G.S. § 8-2(c). Stating that emergency work requires a permit and that the Statute does not require a plan be submitted and approved by the local planning commission. Attorney Romano provided several handouts which were all made part of the record. Included were photos of the deck on the house, report from Jason Luby, Horticulturalist/Arborist, Affidavit of Traci Stefanik, Notice filed on the Land Records regarding the Ridgeline Protection Zone, summary of the zoning regulations and definitions, letter dated November 19, 2018 to Ms. Stefanik and letter dated November 1, 2018 to Ms. Stefanik.

Assistant Town Planner Rutherford provided clarification regarding Section 26D of the Ridgeline Protection Zones permitted uses and uses allowed by special permit only. Board members asked clarifying questions.

The hearing was closed at 8:45 p.m.

Upon a motion made and seconded (Levesque/Tucker) it was unanimously

VOTED: To deny the Traci Stefanik appeal from Zoning Enforcement Officer's Order regarding 21 Pinnacle Ridge Road, R40 zone. The Cease and Desist Order remains in place.

Board members voting agreed the evidence provided shows clear cutting has taken place. Although the work may have been done in haste and that the new property owner may have been well intentioned it is a violation of the zoning regulations.

MINUTES

Upon a motion made and seconded (Carrier/Perry) it was unanimously

VOTED: To approve the November 19, 2018 meeting minutes.

The meeting adjourned at 9:01 p.m.

SJM