

TOWN OF FARMINGTON  
ZONING BOARD OF APPEALS  
PUBLIC AND REGULAR MINUTES

September 19, 2016

Present were Chairman Mazzochi, Commissioners Callahan, Carrier, Llewellyn, Perry and Alternate Commissioners Brockelman, Forster and Schoenhorn and Assistant Town Planner and Clerk. Chairman Mazzochi opened the meeting at 7:00 p.m.

Chairman Mazzochi explained the process of the meeting.

Secretary Carrier read the legal notice into the record.

**PUBLIC HEARINGS**

Daniel Kramer – Lot 8116 Collinsville Road

Alternate Commissioner Forster was appointed to vote on behalf of Commissioner Giannaros.

Yard variance to reduce rear yard setback from 25 feet to 12.5 feet for construction of two-family house located at Lot 8116 Collinsville Road (adjacent to 223 River Road,), R12 zone. Paul Kramer presented the request to locate the two-family house 12.5 feet from the rear property line. Mr. Kramer stated the house would not require a variance from the front yard setback along Route 4. He then read and submitted a letter from Mary Kramer, 668 West Avon Road, Avon, dated September 17, 2016 in support of the application into the record. The lot was described as located between Route 4 and the rails-to-trails system which runs along the rear property line. Mr. Kramer said the hardship is that the special permit for the two-family house granted by the Town Plan & Zoning Commission on December 7, 2015 had a condition of approval that the curb cut on Route 4 be removed. Instead the new two-family house will share the existing driveway for the house at 223 River Road. There was some discussion regarding alternate layouts and whether trees would be removed. Mr. Kramer stated no trees will be removed and that they had considered other layouts but would like the house oriented so that the house faces the driveway.

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

The public hearing closed at 7:12 p.m.

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

VOTED: To grant the yard variance to reduce rear yard setback from 25 feet to 12.5 feet for construction of two-family house located at Lot 8116 Collinsville Road (adjacent to 223 River Road), R12 zone as per plan presented and on file in the Planning Office.

Members voting in favor of the application agreed the proposed location of the house would not have a negative impact on the surrounding neighborhood.

John Adorno – 71 Walnut Street

Alternate Commissioners Brockelman and Schoenhorn were appointed to vote on behalf of Commissioner Giannaros and Chairman Mazzochi.

Chairman Mazzochi recused herself from this matter and appointed Secretary Carrier as Acting-Chairman.

Variance to increase accessory building height from 15 feet to 19 feet at 71 Walnut Street, R40 zone. Mr. Adorno reviewed the history of work done on the existing house and the approval he received for the proposed accessory structure. He would like to adjust the roofline of the proposed accessory structure to match the roofline of the house. Doing this would change the average height from 15 feet to 17.5 feet. Mr. Adorno also read into the record the condition of approval placed on his special permit for the accessory structure noting the only utility permitted to this structure is electricity. When asked what the use of the building will be Mr. Adorno responded storage for his cars and scooters.

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

The public hearing closed at 7:21 p.m.

Upon a motion made and seconded (Brockelman/Schoenhorn) it was unanimously

VOTED: To grant the variance to increase accessory building height from 15 feet to 19 feet at 71 Walnut Street, R40 zone as per plan presented and on file in the Planning Office.

Members voting in favor of the application agreed the proposed roofline to maintain architectural similarity to the existing house was a reasonable request. The building will not be visible from the street or change the character of the neighborhood.

#### Martin Rizzi – 10 Winterwood Terrace

Alternate Commissioner Forster was appointed to vote on behalf of Commissioner Giannaros.

Appeal from Zoning Enforcement Officer's Order regarding 10 Winterwood Terrace. Town Planner/Zoning Enforcement Officer William Warner presented the case for the Cease & Desist Order for 10 Winterwood Terrace. The Order stated a violation to Article 1 Section 2 regarding housing pigeons and a violation to minimum side yard setback of five feet for an accessory structure per Article IV Section 2.A.5. Mr. Warner reviewed these articles of the Zoning Regulations and asked that the Order be upheld. The Board asked if the keeping of pigeons at this property created a noxious or hazardous condition. Mr. Warner responded no, the housing of the pigeons was very clean. The Board asked what evidence was on file determining the accessory structure is less than five feet from the side property line. Bruce Cyr observed the structure from 12 Winterwood Terrace and determined the structure appears to be less than five feet from the property line. There was some discussion on whether or not there were an acceptable number of pigeons to keep per the current zoning regulations. Mr. Warner explained when the office received a complaint from the neighbor approximately ninety pigeons were found. The current regulations do not specifically allow pigeons. If someone had a minimum of five acres they could apply for a special permit to raise pigeons commercially under the regulation's definition of farm. When asked for the origin of the complaint the Board was told the neighbor at 12 Winterwood Terrace complained about the pigeons flying around her house and hitting her window.

Attorney Martin Rizzi, Petroski & Rizzi, LLC, represented the property owner. Attorney Rizzi said he was prepared to stipulate that if the accessory structure is in violation of the setback requirement and the property line can be established they will move it to a conforming location. Regarding the complaint of a pigeon hitting the neighbor's window Attorney Rizzi stated the bird was of undetermined origin. He stated it is a hobby to raise pigeons and the use is incidental to a residential property. Stating the hobby does not create a nuisance and should be allowed. The number of birds has been reduced to approximately 40 to 50 pigeons. Photos were presented to show how clean the pigeon loft is kept. The Board asked if the pigeons are raced, if the accessory structure can be moved without being dismantled, if the birds can be relocated and what happens if they are moved off site. Attorney Rizzi responded yes, the pigeons are raced and the accessory structure can be moved without being dismantled. If the pigeons are moved and the structure used to house them is removed they will come back and stay in the area of location of their home. Attorney Rizzi would like the Board to make the determination that this hobby is incidental to residential use. Bob Carney, 2042 South Finch Blvd., South Windsor, spoke as a representative of a pigeon club in CT. He stated when he first visited the site there were too many birds and recommended reducing the number. All the pigeons are inoculated and are healthy. If the pigeons are moved to a new location it is called "resettling" and it works about 10% of the time for birds that are released. Breeder birds are not released and can be kept in the pigeon lodge at a new site.

Karen Fallo, 12 Winterwood Terrace, spoke in opposition to the accessory structure and the pigeons. She stated she had the shared lot line located and it appears the accessory structure is five feet over the property line into her property. Ms. Fallo commented she thought accessory structures were required to have a building permit. Town Planner Warner clarified accessory structures less than 200 sq. ft. do not require a building permit but they are required to complete a zoning registration form. This property owner has one on file for his accessory structure.

The public hearing closed at 8:27 p.m.

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

VOTED: To uphold the Cease & Desist Order issued by the Zoning Enforcement Officer regarding 10 Winterwood Terrace.

Members voting in favor of upholding the order felt the accessory building was in violation of the side yard minimum setback requirement per Article IV Section 2.A.5. Additionally, the members agreed the current use does not conform to Permitted Uses in the Zoning Regulations and Mr. Carrier commented it was more appropriate to seek a zoning text amendment to the regulations. The Board felt it would be more appropriate for the Town Plan and Zoning Commission to consider a special permitted use as it currently does with poultry.

Krzysztof Bakowski – 21 Crosswood Road

Appeal from Zoning Enforcement Officer's Order regarding 21 Crosswood Road, R400.S. zone. This matter is continued to the October 17, 2016 meeting.

### **EXECUTIVE SESSION - Pending litigation Haidinger v. Zoning Board of Appeals**

At 8:44 p.m. a motion was made and seconded (Carrier/Llewellyn) to enter into Executive Session to discuss pending litigation. Present were: ZBA members, Assistant Town Planner, ZBA clerk and Attorney Kelly C. McKeon.

At 8:50 p.m. a motion was made and seconded (Carrier/Llewellyn) to come out of Executive Session.

### **NEW BUSINESS**

Stipulated Judgment in Haidinger v. ZBA  
(Voiding a modified variance for Lot 3A White Oak Road).

Alternate Commissioner Brockelman was appointed to vote on behalf of Commissioner Giannaros.

The Board was asked to consider the Stipulated Judgment regarding Kimberly Haidinger et al. v. Zoning Board of Appeals of the Town of Farmington to settle this appeal regarding Lot 3A White Oak Road (adjacent to 14 White Oak Road). The Judgment voids the Modification granted March 17, 2014 and leaves the original variance granted March 16, 1998 in effect as recorded on the Town of Farmington Land Records in Book 1089, Page 362.

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

VOTED: To approve the Stipulated Judgment of Kimberly Haidinger et al. v. Zoning Board of Appeals of the Town of Farmington regarding Lot 3A White Oak Road (adjacent to 14 White Oak Road) as presented.

Note: Approval of the Stipulated Judgment will be the subject of a hearing before the Honorable Marshal K. Berger, Jr. on October 19, 2016 at 2:00 pm. at Hartford Superior Court, 95 Washington Street, Hartford, CT. Any interested person should report to Room 111.

### **OTHER BUSINESS**

No Other Business.

### **MINUTES**

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

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

VOTED: To approve the minutes of the July 18, 2016 meeting.

The meeting adjourned at 8:52 p.m.

*SJM*