

TOWN OF NEWINGTON
ZONING BOARD OF APPEALS
CONFERENCE ROOM L101
131 CEDAR STREET
NEWINGTON, CONNECTICUT 06111
JULY 9, 2015

I. ROLL CALL

Comm. Eckstrom: Chairman Califano

Chairman Califano: Present

Comm. Eckstrom: Comm. Plavcan

Chairman Califano: Absent

Comm. Eckstrom: Comm. Quattromani

Chairman Califano: Absent

Comm. Ekstrom: Comm. Richter

Chairman Califano: Excused.

Comm. Ekstrom: Comm. Ekstrom. Here.

Comm. Ekstrom: Comm. Igielski

Comm. Igielski: Here.

Comm. Ekstrom: Comm. Tanger

Comm. Tangier: Here

Also present:

Michael D'Amato
Zoning Enforcement Officer
and Assistant Town Planner

Chairman Califano: Before we begin the meeting, let me explain how the ZBA meetings are run. There are two parts to the meeting, the public session, the first part of the meeting we will ask the petitioner to come to the podium, give their name and address and tell us what their petition is and also what their hardship is. After all of the petitions have been heard, we will ask anybody that's here from the public and, this evening, it does not look like anybody is here, so I think we will bypass that. We would have asked them to come up to the podium and give their expressions on the petition that is being heard. When the public part of the meeting is over, we will bring that to a close and then we will have our work session. The public may stay but cannot make any comments and if the petitioner cannot stay for the work session, they will be able to call the Building Department tomorrow and they will let them know what the decision was. We only have four members of the commission this evening, we normally have five. You have your choice of having the hearing with the four of us, or you can postpone it until probably the next month when hopefully, we will have five. It is your decision. We have two of our alternates sitting in this

evening, Pat Tanger and Judy Igielski sitting in as alternates. So they will have a role in the matter. You will need a unanimous decision when we bring it to a vote, normally if there was five commissioners it would be four out of five, this evening, having only four, You will need an all four vote "for" or "against" the petition. Would you please read the first petition.

Comm. Ekstrom: A. PETITION 00-15-03 Susan Christoforakis of 371 Main Street is seeking a Variance of 5'-0" from the required 30' of the Newington Code Section 4.5 concerning front yard setbacks for corner lots in the R12 Zone. 371 Main Street is located on the westerly side of the road, approximately 400 ft. south of Millbrook Court.

Chairman Califano: Would you please step up here to the podium.

Susan Christoforakis: Okay, my name is Susan Christoforakis and I reside at 371 Main Street. I would like to request a variance for a 3 season sun room. The sun room will not extend beyond the original footprint of my home which is on a corner lot and also is disadvantaged because now I have two front yards - east and south to get to the other homes on my street. The setbacks for the second front yard is at the south side extending to the existing house but the sunroom will be attached to the rear of the house which is facing west. To shorten up the size of the room to meet setbacks we would have to use 8 feet to accommodate the existing stairs and rooms, overall size and would be very small and it would interfere with the existing windows within the house. The sun room can't be made any bigger because the driveway comes within one foot of the proposed addition Also, the house sits up on a hill at least 10 feet up from the road and will not protrude any visibility of traffic or pedestrians. The hardship as I do know in the Town of Newington is for a change in the setback. The house has been in my family for 65 years. I also had a petition signed by my immediate neighbors and they have no objection. I also have photos.

Chairman Califano: Any questions from the commissioners?

Comm. Tanger: I would like to clarify if I am reading correctly, the setback requires 35 feet.

Michael D'Amato

ZEO: 35 feet for the first front yard which is facing Main. The corner lot is a separate section.

Comm. Tanger: Is it on this chart?

Michael D'Amato

ZEO: Not on that chart, no, because corner lots are specific, obviously, because not every property is a corner lot. It is on the bottom of that chart, but her second front yard which is on Coolidge, has a 30 foot setback, that is the second front and we determine the second front yard based on the orientation of the house.

Comm. Tanger: Am I also understanding the house as it exists now is already over that line.

Mrs. Christoforakis: The house was built in 1940.

Comm. Tanger: So it's already...

Mrs. Christoforakis: Yeah, it's already, yes.

Comm. Tangier: And you're not asking about exceeding...

Mrs. Christoforakis: I'm not talking about exceeding any wider than the house is, in fact, it will probably be a foot shorter.

Chairman Califano: Now is the room going to be out here, coming out this way (points to drawing).

Mrs. Christoforakis: It will come right before the gutter.

Chairman Califano: So it is just going to be in this area, right here and then you are going to knock these two windows..

Mrs. Christoforakis: No, I'm going to keep those windows in, that's why we shortened it, it would be right there.

Chairman Califano:: Oh, I see, you are going to have the windows in the room.

Mrs. Christoforakis: In the room.

Chairman Califano: Right here, the same as this.

Mrs. Christoforakis: This is coming out and what we are going to do is make a door.

Chairman Califano: Oh, I see.

Mrs. Christoforakis: We have pictures high up on the hill.

Chairman Califano: How high is the building going to be?

Contractor Eric Madel: It will be just below the second floor.

Chairman Califano: Is that where these markings are?

Mrs. Christoforakis: No, those markings is where I had an awning.

Comm. Ekstrom: Okay, so where those markings are is pretty much the height of the...

Chairman Califano: Yeah, that is where the roof will be, is it going to be a flat roof or pitched?

Contractor Eric Madel: It is going to be pitched.

Comm. Ekstrom: You were saying it is not going to extend past the drain pipe, right? A little shorter?

Chairman Califano: Probably about where that top marking is.

ZONING BOARD OF APPEALS 4 JULY 9, 2015

Mrs. Christoforakis: It is going to be 18'x10', so I know that the awning was 18' total, probably right up to that gutter

Comm. Ekstrom: Is it going to be up to the door?

Mrs. Christoforakis: What I want is going from here, down here.

Comm. Ekstrom: Okay, so it is not going to exceed what already exists here.

Mrs. Christoforakis: No.

Comm. Ekstrom: That is what I don't know and wanted to make sure.

Comm. Igielski: Well, how are you going to get up into the room?

Mrs. Christoforakis: Well, this window is coming out and we will put a door, you are going to build it up, right?

Eric Madel: Correct.

Mrs. Christoforakis: We are going to build it up, so it will be level with the floor and we will be able to walk right out there and into the sun room.

Comm. Igielski: And what is this room?

Mrs. Christoforakis: It is 35 square feet.

Comm. Igielski: And it will come out...

Mrs. Christoforakis: It will come out, yeah, now the only thing that I can tell you right now is that we are asking for 8ft and I know you said 5ft. The reason we are asking for 8ft is I would like to put a 6 foot slider here and come down, come out this way, just in case you need to get out of the room.

Comm. Igielski: So, you would be coming out this way.

Mrs. Christoforakis: That's correct. There is an alternative with you guys; I could make a slider here to come out.

Comm. Igielski: And that's just personal preference.

Mrs. Christoforakis: That's personal preference.

Comm. Igielski: It won't be any taller.

Mrs. Christoforakis: No, no.

ZONING BOARD OF APPEALS 5 JULY 9, 2025

Comm. Ekstrom: Exactly, I was just looking at the charts, like if you are on this side of the house you won't be able to see it.

Chairman Califano: What are we doing for the foundation?

Eric Madel: It will be on piers with footers.

Chairman Califano: How high up?

Eric Madel: Piers? Four for what is going to match the existing, 4-4 so pretty much this for height and you have - like a step - that goes into the kitchen area so it is probably going to be maybe 2 feet off the ground.

Chairman Califano: And what's going to be underneath it, just plain piers, are you going to fill that in?

Eric Madel: Correct, yeah it will be latticed off.

Comm. Tangier: Did I hear correctly that you are replacing an 8 foot...

Mrs. Christoforakis: ...yeah, that's what we - when Mike and I talked, we talked 5, but I talked to him and I said, we would like to have the stairs - do you have a plot plan?

Comm. Tangier: I have a plot plan.

Mrs. Christoforakis: Good. I really would like to have this come out this way, I want a slider in front here and then come out this way.

Comm. Tangier: But you could conceivably do this.

Mrs. Christoforakis: I could, yes.

Comm. Tangier: And this is the end.

Mrs. Christoforakis: Exactly, that's exactly where this is.

Comm. Tanger: But you could actually have a slider out there, your structure wouldn't go 8 feet, you just want to be able to walk out.

Mrs. Christoforakis: The stairs, yes and I think it will accommodate the 3 feet at that line.

ZONING BOARD OF APPEALS 6 JULY 9, 2015

Michael D'Amato

ZEO: So just to clarify when we did the application the difference between where the new setback is and the building is 5 feet, so you are saying you are requesting 8 feet. Number one, that would mean you are going to go 3 feet past the house.

Mrs. Christoforakis: Yeah, for the stairs, to accommodate the stairs.

Michael D'Amato

ZEO: Not past the house.

Mrs. Christoforakis: Not past the house.

Eric Madel: The stairs wouldn't go past the house.

Mrs. Christoforakis: I could put the slider here.

Michael D'Amato

ZEO: Where are you looking to put the stairs?

Mrs. Christoforakis: I would want to put the slider here, right between the building, and then we would have to come out 3 feet for the stairs.

Chairman Califano: But that is changing the variance.

Mrs. Christoforakis: If I cannot, then I will do it the other way.

Michael D'Amato: Beneath the stairs.

Mrs. Christoforakis: Okay, then I'll have to do it this way. I just want to enjoy my sun room if I get it.

Comm. Ekstrom: Before winter?

Mrs. Christoforakis: I can't even sit outside. I have a nice patio, but the mosquitoes are terrible, they bite me like crazy.

ZEO Michael D'Amato: So we basically have to stick to the five which basically means nothing can come closer to Coolidge than the house, otherwise we are going for an additional 3 feet because what we published in the papers is the 5 foot, so theoretically, someone may have read it and said - 'five feet I'm okay with', but they might not be okay with '8', you know, that is the idea behind it, so the only thing they can approve tonight is a 5 foot variance.

Mrs. Christoforakis: All right, why don't we do that. We'll put that up and see about having a driveway.

Chairman Califano: Any other questions?

ZONING BOARD OF APPEALS 7 JULY 9, 2015

Commissioner Igielski: And underneath you are going to have lattice work underneath so that animals...

Mrs. Christoforakis: We will close it in, so no animals can get underneath there or any little children.

Comm. Tangier: Or a chipmunk will get under the house.

Mrs. Christoforakis: Someone said something about putting storage underneath there, I don't want that in the front blocking it out, I just want to block it out completely.

Comm. Igielski: I was thinking could any damage come from not having lattice work around it, I have no idea.

Chairman Califano: I don't think it would be, it shouldn't.

Comm. Igielski: It shouldn't and with the lattice that should cover it, you don't have to do a solid.

Comm. Ekstrom: You don't have like you can see the structure underneath with this nice porch on top.

Chairman Califano: Yeah, right.
Okay, I guess we are all set.

Comm. Igielski: The only change is the sliding door.

Chairman Califano: Definitely.

Mrs. Christoforakis: I did not realize it, we had talked about it and then I said to Eric, why don't we just try the 8 feet and if they don't want to go for the 8 feet, I'll do the other one - yeah, out to the driveway - if I want to get things in and out of the house it would be easier if I had a slider.

Chairman Califano: Yeah, right, well, it would be easier anyways by the driveway, you are right by the driveway, you can walk right in as opposed to going around. Any questions, Mike, anything else you can add to that?

ZEO Michael D'Amato: Yeah, I mean, I think you have all visited the site so you probably are aware that the slope exists - obviously we understand that you all understand the variance is the last resort, so we certainly go over any other pertinent alternatives that the driveway presented and the main reason why she couldn't build it and we really do not want to move her curb cuts because of her existing neighbors' properties, I don't have any additional concerns that have not been addressed. I did not require building plans. The reason you do not have a building plan for this is because building plans cost money and you don't know what you are going to be approved and you do not know what you guys are going to decide and that seems horrible to request that - I thought for this we would start with the site plan and then decide if the project was something that was necessary and an additional expense. I don't have any concerns - certainly the Building Department will require - a lot of what we talked about tonight as far what will be on piers - all that stuff will be addressed in the Building Department and they will be required to submit all of that to them.

ZONING BOARD OF APPEALS 8 JULY 9, 2015

Comm. Igielski: Will the project be inspected as it is moving along?

ZEO Michael D'Amato: They will - if the project is approved, and after the appeal period is over, they will - apply for their permit - they will have to submit a site plan, building permit and will submit a building plan so that it will be reviewed for the components of the building code and it is inspected along the way so they have - they will inspect the footings, they will inspect rough framing, and certificate of occupancy at the end of the project. CBYD is not related to the town of Newington - contractors call and a separate service comes out and marks utilities, water and everything like that you know where they are, it is a free service and the Town gets notified any time a contractor calls, we receive the notification that a CBYD has been called in and that is how we keep tabs on work that has been done.

Chairman Califano: Can we have a motion to close the public hearing.

Comm. Igielski: So moved.

Chairman Califano: All in favor? Aye unanimously.

III. WORK SESSION

PETITION 00-15-03 SUSAN CHRISTOFORAKIS 351 MAIN STREET IS SEEKING A VARIANCE OF 5' FROM THE REQUIRED 30' OF THE NEWINGTON CODE SECTION 4.5 in the R12 ZONE.

Chairman Califano: Comments from the commissioners.

Comm. Tanger: My personal feeling is that since it is not coming out any further in either direction from the house itself I have no problem.

Comm. Igielski: I agree.

ZEO Michael D'Amato: The only other thing I did not address is obviously the property is sloped so we have other parts of the regulations that address changing a slope and you can't change slopes and certain percentages and grades and so we would like to leave the main area stable so that is why we looked at another location.

Comm. Igielski: So the slope should stay the same.

ZEO Michael D'Amato: Yeah, they are not proposing any grade changes.

Chairman Califano: Can we have a motion for the petition.

Comm. Tanger: I think we should approve the variance.

Comm. Igielski: I'll second it.

Chairman Califano: All in favor. Aye unanimously. Petition is granted.

ZEO Michael D'Amato: We will be sending you a certificate of action which you file in the land record. You will have all the directions; they will come to you. We will have the published decision in the paper, so there is a 15 day waiting period, so you will have to wait two more weeks and in that time frame gets you all ready to go so that when the 15 days are up, you can apply and 15 days starts from the day of publication, so when you receive your notice and that is done I will touch base with you.

V. MINUTES OF THE PREVIOUS MEETING

Chairman Califano: Did everyone get a change to go over it and if so, will someone make a motion that we accept the minutes of the previous meeting.

Commissioner Igielski: I make a motion.

Comm. Tangier: I second the motion.

Chairman Califano: All in favor? Aye unanimously.

VI. COMMUNICATIONS AND REPORTS

ZEO Michael D'Amato: All of the stuff that was handed to you in the packet and my feeling is that we will probably have a meeting next month so that we can talk about it then and give you some more time. I did send you the draft applicants' guide which you will see, everybody knows that when they can't get what they want that they want a variance, but they do not understand the process so this is intended to be handed to an applicant who is looking to understand the procedure. It is written in such a way that someone who knows nothing about the process can get some background. So, I have copies here if you did not have a chance to print them or want to print them. You just read through it and if you see anything or you want to add something or take something out or you don't like the way something is worded, yeah - we know that needs to be addressed and at least when they come to me, they will understand the process.

Chairman Califano: I think the biggest thing is "hardship" - a lot of people do not understand what a hardship is - and prior to Mike and before Art was here, there was no explanation of what has happened and what you needed to say or do when you came up to the podium and when they got here, the person who was here before Art, I guess never let the people know at all what a hardship was and they came up here and asked what a hardship was - believe me - we had a lot more people - now, we have not had as many meetings as we used to and the reason being Art did his job and explained to the people that were coming in what a hardship was and at least they had an idea - you can't just say I need a bigger house, that does not fly, unfortunately, but since that has happened we have had a lot less people coming before the Board, we used to have meetings pretty much every month, now I think we have 4 or 5 a year.

Comm. Igielski: I noticed the house that was being torn down on Maple Hill Avenue, there has been no activity.

ZEO Michael D'Amato: The only other thing I have and will try to keep you guys up to date on it as to anything that may affect you as ZBA members, but interestingly enough a recent court case Verillo vs. the ZBA in Branford, and I can send this to you if you want to, basically what I found is that we will try to do this to move forward, if you do not state in your motion

to approve or deny the reasons for your findings, you should make your findings clear as to why you are choosing to approve it or not, so you can say 'based on the explanation of the topography or wetlands, I feel we should make a motion to whatever' because a judge found and this could be overturned tomorrow, that because the specific ZBA did not give the specific reasons for granting that then on an appeal the whole court record, the who meeting record is open for inspection by the judge. If you say, we find based on the topography of the land and based on the existence of wetlands, we choose to approve the variance, and someone appeals that, the judge is going to look at your reasons in determining whether or not you made the right decision or you were - I think everyone can understand what I am saying.

Chairman Califano: We should give the reason why we pass or deny.

ZEO Michael D'Amato: And it is not that you are incorrect if you don't, it is that if you don't give a reason the judge can then read through the entire minutes, all of the minutes and go through every testimony to make his own decision.

Comm. Ekstrom: I know that when I was on TPZ, with Craig, and Craig would actually draft the motion, so can we follow suite like that? Or is that not really necessary for us but it kind of makes us remember that we have to do that because we agree that this porch is not going to extend here, but because it is going to - you are going to change the grading of the hill, you know, you don't disagree with the fact that we want the porch, but we are not going to grant it because of the fact of the slope that it is on.

ZEO Michael D'Amato: Correct.

Comm. Ekstrom: It would be like before a motion with regards to the caption and everything and us writing it.

ZEO Michael D'Amato: So, the difference is that when they applied to TPZ they are applying for a special exception, an allowable use and we know you can have a restaurant on the Berlin Turnpike, but the TPZ has to decide so we know it is an allowable use. We can come up with a draft motion for a format so that you will read and that then we will insert your findings so that is basically what I am trying to say, you do not give your findings when you make your motion to make a decision, then upon appeal the whole record of the meeting is open for inspection and if you present your findings when you make your motion, that is the only thing that is open for inspection so the judge will say when they made their motion, they decided A, B and C and those seem reasonable and I will theoretically uphold that decision and you say, I am going to make a motion to deny and you do not give a reason why and someone appeals, the judge is going to go through it from top to bottom, the whole meeting and so that is a way for you to solidify your finding. So that is something I am working on, coming up with a much better process so that you guys understand and you are comfortable and you do not feel like you're kind of like on the seat of your pants. So this is to help the applicants and if we can come up with a draft suggested motion format so at least you know what you are reading and then add those in based on the findings. I do not know what you guys are going to determine because I do not know what they are going to present.

Comm. Ekstrom: You mean like, the findings are and then leave a whole block blank.

ZEO Michael D'Amato: Right, and that would be your work session, your work session would determine, well, I think one of the reasons should be, well, okay, and maybe we could add that to the findings.

Comm. Ekstrom: So that we can say, our findings are and like A. we agree, because of the following or we disagree, we deny it because of the following.

Chairman Califano: Yes, right, if they have to go through it, they would go straight to why we did take the petition.

ZEO Michael D'Amato: So I will work on something, it has to be done in such a way like you said, it is a little different than TPZ, it has to be done in such a way that someone who chooses to vote against, we have four here tonight, if we had three vote "for" and one vote "against" it has to be done in such a way so that the people are saying they are for it are in agreement with that, and so I have some ideas and will put some drafts together and we will bring it to the next meeting and you guys can look at it and see what you think and if that works and you like it then we will go wheels up at the next following meeting.

Chairman Califano: In that instance though, there was four tonight and if it was three to one and if the person that voted against it would have to give a reason.

ZEO Michael D'Amato: No, I think it is just the affirmative, because the decision, even though the one person voted against it, the decision of the board were going to deny because they would not have had the four affirmative votes so even though there were two different, that person essentially was a swing vote in denying the application because you would need a four..

Comm. Ekstrom: So somebody would have made a motion to approve it and that person would have denied it, so what is in the motion but findings because if we don't have a quorum with enough people to approve it, you could say that you deny it, but four other people can say that they want to approve it, no, but if there is four of us, right, if I made a motion, right, and put all of that in it, well in my mind it didn't exceed the current house and somebody else for whatever reason denied it, there is that person, because now it is going to be denied, is the person denying it have to put in...

ZEO Michael D'Amato: Yeah, I see what you are saying because essentially, technically what we should do ...

Comm. Ekstrom: One person should be recording our comments so, like, okay we all agree...

ZEO Michael D'Amato: Yeah, well, that's for the minutes, I've got to figure it out, that is why I am not sure exactly how we might be able to come up with a draft. A lot of times I think he comes up with a draft approval in denial and based on the consensus during the work session, we can come up with a motion. A lot of times like you said, they have two meetings so they understand when they leave, but sometimes he goes back to his computer and types up the motion and comes back but yeah, it would be a motion to vote. You make a motion to vote or a motion to render a decision.

ZONING BOARD OF APPEALS 12 JULY 9, 2015

And then we would see how it went from there, but I will put something together on paper and maybe what I will try to do is find a ZBA that does it that way and pull some minutes so you can see, we may be the first and only, my guess is that since this has come down and this is March and is just a couple of months old, before they start changing...

Comm. Ekstrom: ...correct it now.

ZEO Michael D'Amato: But this is new and not every ZBA meets every month, so I will look into a draft suggested motion how that might work and talk to Craig about it and it may be a little different and I do not know what they are going to say until they show up, because Craig gets the whole application and it is a little bit different, so I will put something on paper and I will bring it to the next meeting and we can go at it from there. I think it is good.

Comm. Ekstrom: Granted, the meetings are on the web site, and some people will read that but some people would rather call the office.

ZEO Michael D'Amato: When people call is when they see the person with the excavator dropped off, that is when they say, 'what is going on with my neighbor', and that is when we say well, there was a meeting and you received a notification as being an a butter and we put it in the paper twice, we published the decision, and all those things, but that is only the beginning and we did send out to all of the abutting properties, so we are working on it and working on hammering this down but I think it is a good thing to do and I do not know, maybe you guys never had an appeal.

Chairman Califano: No, I am afraid not, no.
If they came back with another petition, they changed it.

Comm. Igielski: Even though this was approved, it will be another two weeks before they get formal approval.

ZBA Michael D'Amato: Tomorrow we will do the legal notice and then the paper, I guess, Saturday, get it in the paper and 15 days from the date of publication, so the end of July.

Comm. Ekstrom: You know, the first meeting I came to there was a woman who put a small little dormer on her front door with a couple of steps, there was like no hardship and like her husband built it or something, she had no contractor, I haven't gone by the house and just thinking about the other applications that we have done together, I do not know if you have gone by the house and I wonder if they ever took it down. I was just wondering what happened like when we deny it, they have to take it down, right?

Chairman Califano: Yes, actually they do.

Comm. Ekstrom: And if they do not take it down...

Chairman Califano: Oh yeah, I do remember that.

ZEO Michael D'Amato: Assistant Planner Zoning Officer/ Blight Enforcement Officer.

VI. COMMUNICATIONS AND REPORTS

ZEO Michael D'Amato: Other than that we really don't have anything else.

VII. NEW BUSINESS

Comm. Eckstrom: I have one quick question the old discussion about raising the fees for permits.

ZEO Michael D'Amato: I am still waiting to see what that bill is doing. I did pull some of the expenditures. The Town Council raises the fees so we would have to - ultimately IU would come up with a suggestion and I would write the memo and we would go before, assuming you guys were on board, then we would say, okay the ZBA agrees with this, so then we would then put it to the Town Council and hopefully they would make the decision to accept the fees ordinance, the fees are actually made an ordinance, but we are still waiting to see whether or not we are getting any relief from a bill that is on the floor regarding publishing on line vs. in the newspaper which would cut down on our costs by hundreds of dollars so once we figure out, I haven't followed that bill and I do not know if it is dead or not, so I will check on that and report to you at the next meeting.

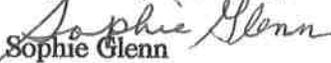
VIII. OLD BUSINESS

None.

IX. ADJOURNMENT

Commissioner Eckstrom made a motion to adjourn which was seconded by Commissioner Igielski and the motion passed unanimously.

Respectfully submitted,


Sophie Glenn
Recording Secretary