

Town of Trumbull
CONNECTICUT

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ZONING BOARD OF APPEALS

WEDNESDAY, MAY 3, 2023 MINUTES

A regularly scheduled meeting of the Zoning Board of Appeals of the Town of Trumbull was held at Trumbull Town Hall Council Chambers on Wednesday, May 3, 2023.

MEMBERS PRESENT: Steve Elbaum – Chairman
Rob Saunders – Vice Chairman
Matthew Reale
Brian Reilly - Alternate
Joseph Rescsanski - Alternate

MEMBERS ABSENT: Richard Mayo – Secretary
Catherine Creager

ALSO PRESENT: Brian Fitzgerald – Zoning Enforcement Officer
Attorney James Cordone – Town Attorney
Gia Mentillo – ZBA Clerk
Trumbull Community Television

A quorum being present, Chairman Elbaum called the meeting to order at 7:02 p.m.

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES:

MOTION MADE (Reale), seconded (Rescsanski) to approve the March 1, 2023 minutes. *Chairman Elbaum abstained as he was not present for said meeting.*

Vote: 4-0 Motion Carried

MOTION MADE (Reale), seconded (Rescsanski) to approve the April 12, 2023 minutes. *Commissioner Saunders abstained as he was not present for said meeting.*

Vote: 4-0 Motion Carried

Attorney Cordone announced that **Application # 23-21** (18 Tashua Parkway, Mark Chandler) was withdrawn.

PUBLIC HEARING and WORK SESSION:

Chairman Elbaum stated the basic rules of the meeting.

Application # 23-10 – 110 Porters Hill Road
Atty. Chris Russo for John Vitorino

The applicant is requesting to subdivide an existing 4.87-acre lot into three buildable lots, two of which require size variances, under Article III, sections 9.4, 9.5, 9.6, and 9.8 of the Trumbull zoning regulations, and a variance to increase the length of the driveway to said interior lots from the regulated limit of 400' to 515' under Article III, section 9.3 of the Trumbull zoning regulations in a Residential Zone AA.

Atty. Rizio, of Russo & Rizio LLC, introduced himself as the representative of John Vitorino of 110 Porters Hill Road, a property which presents a clear hardship. The 6.75-acre property is 240' wide x 900' deep which is an odd shape that does not lend itself to a traditional subdivision. Atty. Rizio noted that an essential element of hardship, as explained in the Trumbull Zoning Regulations, is based on size, shape, and topography of a lot. The requested subdivision is similar to several other subdivisions which have occurred on the road and resulted in interior lots. This is a common occurrence as the original neighborhood was home to many lots of limited width and substantial depth. Atty. Rizio stated there to be a misconception that the applicant is requesting a variance in order to obtain an extra lot than that which is allowed through the subdivision process under the Trumbull Zoning Regulations, but this is not the case. He informed that if the property owner were to implement a roadway and cul-de-sac along the northern side of 110 Porters Hill Road, then they would be entitled to a traditional three lot subdivision as there would be no interior lots in that case. However, the applicant is seeking variances so that they may approach the subdivision in a way that is less impactful to the neighborhood and more aligned with other properties in the area by creating two interior lots and one regular lot with elongated driveways as opposed to implementing a road way and creating three regular lots. The proposed approach results in three slightly larger lots, but the two interior lots would be subject to larger setback requirements. Atty. Rizio provided several sets photographs which exemplified similar lots in the area, the overall character of the neighborhood, and other elongated driveways to interior lots (these were saved to the record). He also provided a GIS aerial image showing interior lots with elongated driveways along all sides of 110 Porters Hill Road (on record), noting that there are many lots of this nature in the neighborhood which have been previously approved for variances through this Board.

The Chairman asked for clarification as to why variances are being requested if there is another possible approach that does not necessitate variances. Atty. Rizio stated that the applicant is hoping to minimize the impact on the neighborhood by creating interior lots with elongated driveways as opposed to putting in a roadway and three regular lots. Because the regulations only allow for the creation of one interior lot through subdivision, a variance is being sought to create two interior lots both of which require size variances. Also necessitates variance for an additional 100' of driveway length for accessing said lot. The proposed approach necessitates additional buffering from neighboring properties through larger setback requirements, and the applicant is willing to agree to conditions of approval requiring implementation of additional property screening. Atty. Rizio stated that the proposed subdivision does not request any additional density than that which is allowed and has no negative impact on the neighboring properties. He noted the possibility of creating one shared driveway for all three property as opposed to three which would limit the amount of curb cuts. The Chairman asked whether these requests were based on an economic hardship. Atty. Rizio stated the hardship to be based on the odd shape the lot in question, noting that the proposed approach would actually be less economically advantageous than creating a roadway with three lots. Atty. Rizio noted

that if a traditional subdivision process were used and a roadway created, then the Town would ultimately be responsible for its maintenance and upkeep. He noted the petition of support for the application signed by approximately 20 neighbors and variance approval for 102 Porters Hill Road which were submitted with the application. This approval exemplifies that the requested variances are not unique to the area. Commissioner Reale asked that Atty. Rizio submit for the record a copy of the alternate subdivision map exemplifying the allowed three lot subdivision with the inclusion of a roadway which the Board took a moment to review. The Commissioners clarified that the January 12, 2023 map is that which requires zoning relief from the ZBA and the February 8, 2023 map is the proposed subdivision map. Both maps show three lots, the January map simply has driveways going to each individual lot whereas the February map has a col-de-sac that accesses three lots off the public road, and the two rear lots shown on both respective maps differ in size and setback requirements.

Public Comment: The Chairman read into the record a letter of opposition submitted by Eileen Baird of 98 Porters Hill Road with is on file in the P&Z office.

Kelsey Gangnath, 122 Porters Hill Road, stated her opposition to the application and summarized the comments included on the letter submitted by her and several other neighbors prior to the meeting which was included with the agenda materials for this meeting.

Lisa Gangnath, 120 Porters Hill Road, stated opposition to the application. She stated there to be minimal open space left in the neighborhood in question and that allowing the creation of three lots as opposed to two lots from 110 Porters Hill Road would result in unnecessary overdevelopment of the land. She stated the historical intended use of the property to be for two homes. The Chairman clarified that the applicant's presentation states that there is no question of two versus three lots being created but rather how those lots are created.

Robin Cornell, 118 Porters Hill Road, stated opposition to the application, noting that she too was under the impression that the applicant was seeking variances to create three lots as opposed to two and asked whether there was anyway to prevent the creation of a third lot. She stated that she and neighbors intend to appeal any decisions which allow three lots to be placed here. Ms. Cornell stated concerns for neighborhood building congestion and traffic issues.

Atty. Rizio suggested continuing the application to the next regularly scheduled meeting of the Trumbull Zoning Board of appeals so that he may work to meet with concerned neighbors to clarify the request at hand, work to alleviate some of their concerns, and pose options for safeguards / conditions of approval that may reduce the impact of the request. He stated a willingness to waive any stator time frames associated with the continuance of the application. Commissioner Reale supported this suggestion, noting that he would like to time to review the newly submitted alternate subdivision map dated February 8, 2023. Town Attorney Cordone, confirmed that this would be permissible given the waiver of statutory time frames.

Work Session: None.

Engineering comments: Prior to lot development, applicant must show compliance with the Administrative Policy for Stormwater Management and Drainage Design Standards.

Motion Made (Reilly), Seconded (Rescsanski), to continue **Application # 23-10 – 110 Porters Hill Road, Atty. Chris Russo for John Vitorino** to the next regularly scheduled meeting, waiving the statutory time frame requirements.

Vote: 5-0 Motion Carried

Application # 23-12 – 366 Edison Road
Erika Formanek

The applicant is requesting a side lot setback variance of 11.8', where 20' is required and 8.2' is proposed, and a front lot setback variance of 16.7', where 50' is required and 33.3' is proposed, in the Residential Zone A under Article III of the Trumbull zoning regulations to construct a carport.

Erika Formanek, owner of 366 Church Hill Road, stated she is seeking front and side yard setback variances to construct a protective single car carport on the northeast side of her home (where the existing driveway is) to house an electric vehicle and charging station. She stated the property to be a non-conforming lot with the dwelling situated largely outside the side setback limits of the property. Ms. Formanek noted that having a charging station without a carport and subsequent protection from natural elements could pose a hazard to her, future residents, and neighbors.

Public Comment: None.

Work Session: Commissioner Reale noted the lot to be substantially non-conforming.

Engineering comments: None.

Motion Made (Saunders), Seconded (Reale), to approve **Application # 23-12 – 366 Edison Road, Erika Formanek.**

Vote: 5-0 Motion Carried

Application # 23-19 – 40 Meadow Road
Alexander Mejia for Pablo Schroder

The applicant is requesting a front lot setback variance of 6', where 50' is required and 44' is proposed, in the Residential Zone A under Article III of the Trumbull zoning regulations to construct a front porch.

Pablo Schroder, owner of 40 Meadow Road, stated his request for a variance to construct a covered front porch as a replacement to the cement stairs which currently exist at his front door.

Commissioner Reale asked for confirmation that the current steps are pre-existing non-conforming structure, which Mr. Schroder confirmed to be true. Commissioner Saunders stated the existing dwelling to lie directly along the 50' setback requirement. Commissioner Reilly asked for confirmation that the proposed porch does not encroach any further into said setbacks than the existing stairway rather simply expands along the front of the home. Mr. Schroder confirmed this to be true.

Public Comment: Carl Ornowski, owner of 50 Meadow Road and neighbor directly across from 40 Meadow Road, stated his support for the application. He stated that Mr. Schroder has done a wonderful job of improving his home which will only increase the value of the neighborhood.

Marcus Marshall, owner of 91 Stonehouse Road and executor of 97 Stonehouse Road, stated his opposition to the application, noting he represents two of the four properties abutting 40 Meadow Road. He stated that the dwelling on the property in question to have essentially undergone a complete tear down and rebuild separate the building foundation as the entire home has been renovated and nearly doubled in size. During this process, Mr. Marshall stated the owner to have had plenty opportunity to move the dwelling further from the front lot line to afford room to construct a front porch conforming with setback requirements. For this reason, he stated there to be no hardship for basis to grant the requested variance. Furthermore, the dwelling has already been renovated to the extent that it is no longer in harmony with the rest of the neighborhood which is comprised of single-story ranch style homes and the proposed porch would only enhance this disharmony. Mr. Marshall also stated that the existing non-conforming stairs should not be approved to extension into a full front porch as that would increase the non-conformity of the property.

Commissioner Reale asked when the home was built, and Mr. Fitzgerald stated the home was built in 1957. The Chairman asked how much further the proposed porch would encroach on the front setback requirements compared to the existing stairs. Mr. Schroder stated there would be no additional encroachment. Commissioner Reale asked whether the existing steps were on the property when Mr. Schroder purchased it which Mr. Schroder confirmed to be true, adding the opposing neighbor does not live on Meadow Road and therefore the request would have very minimal impact on him. Commissioner Reale asked whether all the proper permitting processes were followed for all work done of the property thus far which Mr. Schroder confirmed to be true.

Work Session: The Chairman voiced understanding for the opposition to the application but noted that the requested variance does not result in any additional encroachment to front yard setback requirements that that which already exists. Commissioner Reilly and Reale voiced agreement.

Engineering comments: Prior to engineering approval, applicant must make an application to The Inland Wetlands and Watercourses Commission, show compliance with the Administrative Policy for Stormwater Management and Drainage Design Standards, and obtain a driveway permit.

Motion Made (Saunders), Seconded (Rescsanski), to approve with conditions **Application # 23-19 – 40 Meadow Road, Alexander Mejia for Pablo Schroder.**

Vote: 5-0

Motion Carried

Application # 23-20 – 544 Booth Hill Road

David Eisenman administrator of Karl Eisenman Estate

The applicant is requesting a variance to subdivide an existing conforming 1.34 acre lot, into two non-conforming lots of .55 acres and .71 acres in Residential Zone AA under article III, section 1 of the Trumbull zoning regulations.

Commissioner Rescsanski recused himself from this portion of the meeting due to an existing conflict with this application.

The Chairman informed the applicant that they may choose to continue their application to the next regularly scheduled meeting of the Trumbull Zoning Board of Appeals due to the fact that there were only four Board members present to vote on their application, necessitating a unanimous vote of approval for the variance to pass.

Atty. Thomas Lynch of Lynch, Trembicki, and Boynton introduced himself as the representative of David Eisenman, administrator of the Karl Eisenman Estate which owns 544 Booth Hill Road, and stated that he understood the need for a unanimous vote and that he wished to continue with the application. He provided the Board with the following documents which were added to the record: First Cut Lot Division map of 544 Booth Hill Road dated January 1, 2022, the original property deed and associated map entitled "Lot Layout in the Triangle Property of Peter Davey" dated March 15, 1939, and a list of properties in close proximity to 544 Booth Hill Road with the associated lot sizes. Atty. Lynch stated the lot in question to be 1.34 acres in size in an AA zone which requires a minimum lot size of 1-acre. The variance being sought is to divide 544 Booth Hill Road into two parcels through a lot line adjustment as shown on the survey dated January 1, 2022. The attorney explained that 544 Booth Hill Road is currently comprised of two legal, conforming building lots. The lot line adjustment and associated variances are being sought in an effort to keep the dwelling which exists on the property and was built in 1946 straddling the lot line which currently divides the two buildable parcels. The proposed lot line adjustment would result in one .55 acre lot and another .71 acre lot, requiring a variance to minimum lot sizes. Atty. Lynch referenced the provided list of seven nearby properties with lots of similar sizes to that which is proposed to exemplify that the request is in harmony with the neighborhood.

Public Comment: Charles Vreeland, 15 Sweetbriar Road, stated his opposition to the application for the following reasons: there is no hardship for the property, the application requests are to resolve self-inflicted issues and avoid the economic hardship of removing the existing dwelling, the existing dwelling is in pore condition, the requested lots are not in conformity with the neighborhood, traffic congestion concerns, and safety concerns associated with placement of driveways for the proposed lots in relation to the existing school across the street and associated crosswalks.

Steven Lopez, 555 Booth Hill Road, stated his opposition to the application for the same reasons as those mention by Mr. Vreeland. Mr. Lopez stated he chose to move to the area because he fell in love with the neighborhood whose character he feels is now being threatened. He stated concerns for the fact that many Booth Hill Road lots are just over 1 acre and that approval of the proposed application would set a president leading many other people to subdivide their lots, further altering neighborhood's character.

Diane Rivers, 14 Sweetbriar Road, stated her opposition based primarily on traffic and safety concerns related to the configuration of the driveways associated with the proposed lots. She stated that there have been past attempts to obtain variances for subdivisions of other properties in the area which have been denied. Ms. Rivers stated the area is zoned for one acre lots and this requirement should be upheld.

Terri Vreeland, 15 Sweetbriar Road, stated her opposition to the application based on the fact that it would create lots non-conforming with the other 1 acre lots in the area and would negatively impact the Sweetbrier Road neighborhood.

Troy Lloyd, 25 Sweetbriar Road, stated his opposition, supporting all the comments of the other residents in opposition.

Commissioner Saunders asked Atty. Lynch whether the applicant intends to build a home on the second lot in question. Atty. Lynch confirmed stated the applicant was still weighing their option in terms of how to use the lot. The Chairman questioned why the applicant was before the ZBA as opposed to PZC for this lot line request. Atty. Lynch clarified that the Trumbull P&Z and Town Attorney directed them to take this approach as the requested lot line revisions results in non-conforming lots. Commissioner Reale asked for clarification as to whether two homes could be placed on the existing lots comprising 544 Booth Hill Road which Atty. Lynch confirmed to be true, referencing the subdivision map dated January 1, 2022.

Work Session: Commissioner Saunders stating concern for approving the requested variance as it would result in the creation of a lot with a small, odd shaped buildable area which would likely result in future variances being requested. The Chairman noted that the two existing lots are also under 1 acre in size. Commissioner Reilly supported Commission Saunders concerns regarding the creation of a lot that will ultimately have issues with buildable space.

Commissioner Reale stated those to be valid concerns. He stated that the property currently has a legal right to two lots as-is based on the original subdivision map for the area. He noted that the only issue with these lots is that there was a home build straddling the lot line. The Chairman voiced concern for this fact, adding that someone placed the structure as-is knowing the impact it would have on both parcels.

Commissioner Reale asked whether there was a merger issue related to the property. Town Attorney Cordone referred to Article 4.12 of the Trumbull Zoning Regulations that states two non-conforming lots are considered to have been merged if a dwelling is built over the shared lot line, with the exception of lots created through a formally approved subdivision. Because the lots in question came about from an approval of a subdivision, whether or not to consider these lots as one is in question which is why Town staff is hesitant to sign off on any lot line revisions or other plans for this property. Atty. Cordone further clarified that it is under the purview of the Board to consider the fact that approval of the proposed application would create an oddly shaped lot. Commissioner Reale stated that they Board does not have the ability to reverse an approved subdivision and the lots have not been merged according to current regulations.

Commissioner Reilly agreed with this, adding that a .5 acre lot at the end of Sweetbrier is not ideal and difficult to build upon. The Chairman stated it to be a reasonable assumption that this lot ultimately is sold and requires a slue of variances in order to build a dwelling, adding that the Board would then be in a position of having created hardship for which said variances are based on. Commissioner Reale asked whether the Board should consider requesting that the newly proposed lot line be moved closer to the existing 544 Booth Hill Road dwelling to effectively increase the size of the proposed corner lot. The Chairman stated that to be a possibility but was speculative at this point.

Engineering comments: Prior to Lot 1 development, applicant must show compliance with Administrative Policy for Stormwater Management and Drainage Design Standards.

Motion Made (Saunders), Seconded (Reale), to approve with conditions **Application # 23-20 – 544 Booth Hill Road, David Eisenman administrator of Karl Eisenman Estate.**
Vote: 1-3 (Elbaum, Saunders, Reilly) Motion Failed

Application # 23-21 – 18 Tashua Parkway
Mark Chandler

The applicant is requesting a front lot setback variance of 16.3', where 50' is required and 33.7' is proposed, in the Residential Zone AAA under Article III of the Trumbull zoning regulations to construct a shed dormer. **WITHDRAWN.**

Application # 23-22 – 5 Chestnut Street
Jenice Powell

The applicant is requesting a front lot setback variance of 30.2', where 50' is required and 19.8' is proposed, in the Residential Zone A under Article III of the Trumbull zoning regulations to construct a kitchen addition.

Jenice Powell, owner of 5 Chestnut Street, stated she is seeking a front lot line setback variance for a kitchen expansion in a home built in 1939. She explained the proposed home reconfiguration, noting that such changes are needed to accommodate her growing family.

Public Comment: None.

Work Session: Commissioner Reale stated the dwelling in question to be a pre-existing non-conformity creating configuration challenges due to the fact that it was built prior to the current zoning regulation.

Engineering comments: None.

Motion Made (Reale), Seconded (Reilly), to approve **Application 23-22 – 5 Chestnut Street, Jenice Powell.**
Vote: 5-0 Motion Carried

Chairman Elbaum asked for a motion to adjourn, motion made (Rescsanski) and seconded (Saunders). The May 3, 2023 meeting of the Zoning Board of Appeals adjourned at 8:36 p.m. with unanimous consent.

Dated at Trumbull, CT this 10th day of May, 2023.
By: Gia Mentillo, ZBA Clerk