2.1 PETITION #00-19-02 Walter & Susan Wasik of 215 Audubon Avenue are requesting a variance of 9.5 feet from Section 4.5 Table A for a deck located within the rear setback leaving a 20.5 foot rear setback where 30 feet is required. 215 Audubon Avenue is located on the west side of the street and north of Taft Avenue.

Documents:
- Staff report - 215 Audubon Avenue PDF
- Site plan - 215 Audubon Avenue PDF
- Photos 1-215 Audubon Avenue PDF
- Photos 2 - 215 Audubon Avenue PDF
- Photos 3 - 215 Audubon Avenue PDF
- Photos 4 - 215 Audubon Avenue PDF
- Attachment - Handicap designation. PDF

3. Public Participation: None.

Chairman Pane: So before we begin let me explain how the meetings are run. There are two parts to the meeting, first is the public session where the petitioner will come up to the mic and give their name and address and comment on the petition and explain what their hardship is. After the petition has been heard, anyone from the public may come up to the mic and express whether they are for or against the petition. The public participation part of the meeting will then be closed. During our work session, the public may stay but not comment. If the petitioner can stay for the work session, that is fine. If not, they can call the Building Department tomorrow and they will let you know what the decision was.

Commissioner Dunning: Petition #00-19-02 Walter & Susan Wasik of 215 Audubon Avenue are requesting a variance of 9.5 feet from Section 4.5 Table A for a deck located within the rear setback leaving a 20.5 foot rear setback where 30 feet is required. 215 Audubon Avenue is located on the west side of the street and north of Taft Avenue.

Chairman Pane: Thank you very much. Would you like to come up and speak about the petition. Just state your name and address, if you could, please.
Susan Wasik and I live at 215 Audubon.
Walter Wasik: Same address.

Chairman Pane. Thank you very much.

Susan Wasik: Good evening everybody. I’m glad we were able to get together tonight. We’re here to request a zoning variance as was stated for nine and a half feet for a deck that we would like to build on the rear set back of our property. We need approximately 20.5 feet of the setback where 30 feet is needed. Just for the history, we purposely moved into Newington from a 3 story condo in Wethersfield about two years ago to reside in a ranch home that would be useful for our safety because we couldn’t do the stairs in the two story condo. It was getting to be a real handicap which wasn’t good for me. I have had a handicap status from the State of Connecticut DMV due to a disability of the left foot for approximately 20 years now. Over these years I have had several surgeries on my foot, approximately five. Four years ago I had lower back surgery and just last week I had neck surgery due to spinal cord compression disk stenosis and that went very well. We spent nearly 3 years looking for a suitable ranch to fill most of our requirements. We want to stay in the immediate area of Wethersfield, Newington, Rocky Hill, Cromwell because all of our children live in the State of Connecticut. So we were thrilled when we found this house and although we knew we did not have everything we wanted, specifically a deck, the house currently only has a very small open porch with a steep flight of stairs in the rear of the building. We knew from the day that we put our offer on the home that we would have to add a deck to have access to our back yard for personal use and to have a place to enjoy for our grandchildren outside. We really had no prior knowledge of Newington’s rear setback regulations and our real estate did not mention this to us upon the purchase of the home, knowing our desire to add a deck so I am not sure or certain of that window of that regulation because he was a real estate agent with an agency from Wethersfield, not Newington.

Chairman Pane: Do you mind if I just say one thing. Do you guys mind, we do not have the T.V. on at all, if you want to look at the pictures of what she is talking about, too, because we won’t be able to look at pictures.

Susan Wasik: I have pictures of our property line.

Chairman Pane: Yes, just so they can take a look while you are talking, sorry about that; thank you.

Mrs. Wasik: So, I personally do not have any access to our back yard because of the hilly and steep terrain of our property on both sides of the house. I can’t safely go down the hill all by myself or with a cane or with a walker or anything. Stairs are an incumbrance for me which is why we moved to the house, to this house in Newington and as indicated on the pictures we have provided, we have a steep incline on the right hand side of the house and a moderate incline on the left side. The front of the house is pretty level with the road, however the rear yard of the house is 6-8ft lower than the front of the house so that is why there is such a steep landing now on the small porch that we have. The access from the back door of the house requires that steep flight of stairs to the ground from our tiny porch. The little porch is not even large enough to put a small grill on it. It is very tiny. It is just for the purpose of an exit, an emergency exit.
While many people in our age bracket are leaving Connecticut, we chose to live in the town we love, Newington. We enjoy our neighbors, participate in town-wide events, enjoy the access to Mill Pond park, for the concerts and the events and especially the annual extravaganza festival which our family thoroughly loves because they can watch the fireworks from our back yard, which we enjoyed last year for the first time. Most of our family was outside enjoying the show from the back yard. I was often inside the house throughout the night for my own safety and I have yet to be able to go out in the back since. I rarely go back there. I'm usually up on the porch if I have to talk to somebody down in the backyard. I don't go around in my backyard. Our immediate neighbors are totally supportive and are, in fact, encouraging us to build our deck knowing we need a safe access to the outside to enjoy our surroundings. They have signed a document from us, our two immediate neighbors, the one that is to the east of us and in the rear. We have a signed document from which they indicate they are in favor of us building the deck. Again, the property is a true hardship for me and I would greatly appreciate a zoning variance to build our 12'x16' attached deck as is drawn on the deck spec's and in fact, if you look at the deck spec's, there is going to be a stairwell that goes down in back from the side, that is going to be 4 steps to a landing and another 4 steps with railings on both sides, so that I could manage those stairs and they are going to be wider than your standard stairs as well and that is noted on the spec's. So we are asking for you to please approve our request for the zoning for 9-1/2 feet within the rear setback so that we can build our deck and enjoy our backyard and really make good use of our property. Thank you very much for your time and consideration. Do you have any questions for us?

Chairman Pane: Does anyone have any questions? Thank you very much. No questions about the pictures? No. Okay, Thank you very much.

3. Public Participation

Chairman Pane: Would anyone else from the public like to speak? Sir, are you speaking or waiting for this petition? There is no vote, just to listen to everything. Perfect, thank you.

Susan Wasik: This is Francis. He lives across the street from us.

Comm. Dunning: I am trying to understand, so the deck would be off this part where the stairs are?

Comm. Karanian: Yes, there is a picture packet that shows it in highlighted areas. There is also one that will show a highlighted area. You can see it from the stairs.

Chairman Pane: You can seen on the side where it is drawn off where the stairs are going to be. Perfect. We will now make a motion to close the public participation.


Chairman Pane: All in favor? Aye unanimously.
4. WORK SESSION;

Chairman Pane: Anyone have any questions?

Comm. Dunning: The zoning is for 30 feet, is there a particular reason why 30 ft - for an emergency or anything like that?

Comm. Karanian: I can't say definitely but I would assume it would provide people space in-between where they have structures accommodating just to give people some privacy; for safety issues, you would not want to have things too close to the fence where they could catch fire.

Comm. Dunning: So making this almost 10ft adjustment, would that allow to still meet those safety concerns.

Andrew Armstrong
ZBA Administrator: I couldn't speak to any particular safety concerns; I think it won't touch the fence. Just for example, people can have sheds within 5ft of the property line, it can't be up to the property line, but it could come to be that close.

Comm. Bechtel: My thought is that they really need that particular thing to enjoy the property and may I make a motion to approve the request.

Chairman Pane: If you want to.

Comm. Bechtel: I make a motion to approve the request as long as the petitioner lives at that location and restore it back to its original condition and that means they need to remove the deck.

Andrew Armstrong, ZBA Administrator: So the Town Attorney has stated with handicapped hardships that when it is based on the handicap, then basically the variance runs with the owner.

Comm. Karanian: Would it need to be returned to the original, do they take the entire deck down or just within 30 ft.

Andrew Armstrong: Well, the only amount that is within the allowable setback at this point is about 2.5ft so the next person could go for a variance if they asked for a reduction to have some deck, but by right, they only have a few feet.

Chairman Pane: Wouldn't they be non-compliant though if the setback was going to be 20.5ft, rear setback.

Andrew Armstrong: ZBA Administrator: The way that this is - is they have 32.5 ft from their rear property line to their home, so with a 30ft setback that only leaves 2.5ft.

Chairman Pane: Okay. So basically they have to put back to what the originally was, the original stairs, basically to the original steps.
Andrew Armstrong: I believe they could go to 2-1/2 feet, by right, they took that down and again, they could apply for another variance.

Comm. Karanian: So a 9.5 variance couldn’t give them enough space to set the angles.

Andrew Armstrong: I’m sorry, I don’t understand.

Comm. Karanian: If they need a full 27.5 foot variance, it is stating it needs 9.5ft but you are saying that they are going 32ft off the property line, .

Andrew Armstrong: So they need, they are 16 ft, 12 ft out, so

Chairman Pane: So knowing that, so we have these stipulations for the land record then.

Andrew Armstrong: For the handicapped.

Chairman Pane: Does everyone want to go along with that motion or make another motion?

Andrew Armstrong
ZBA Administrator: I think this is kind of a new concept in zoning hardships.

Comm. Karanian: Have we ever done this before - I was thinking of precedent setting, because I think once you set a variance that is on the land, it is there forever.

Comm. Ekstrom: But it would be recorded on the land records as well as the property address.

Andrew Armstrong
ZBA Administrator: I’m not sure.

Comm. Ekstrom: Okay, on the land records, if somebody purchases it, let’s say, they are going to need to see that covenant, caveat, whatever.

Andrew Armstrong
ZBA Administrator: I think the variance actually does belong in the land records so in that instance it should be there. I’m sorry, what was your question?

Comm. Karanian: So if he were to sell a title searcher would pick this up and would say, by the way, this is a sale and the staff would have to ....

Andrew Armstrong
ZBA Administrator: I don’t think so. They are doing their work diligently.

Comm. Karanian: I have seen it a lot of times where things like that have been missed so, people would sell the house and the new owners would purchase the house and ‘oh, you mean I need to take my deck out?"
Andrew Armstrong
ZBA Administrator: I think that results would be filed under the land records. The person doing that work professionally, a salesman or whoever would be responsible for verifying that information.

Comm. Bechter: The reason they word it that way as I understood it, is there is a regulation requiring that, it is my understanding anyway. The reason I worded the motion the way that I did is that I understood it as a regulation requiring that could happen.

Andrew Armstrong
ZBA Administrator: That's correct. I was told by the Town attorney it runs with the person and therefore would need to be dismantled at the time they leave the property and like I said this handicapped concept is a new thing in zoning. It's opened alot of doors to future various handicaps which includes even speaking Spanish at times so it is a new concept running with property owners.

Chairman Pane: Is there anything else that we could do other than putting it on the land record additionally so that the owners now and future owners of that property if anything happened so that they do not have an issue, too, like an extra step.

Andrew Armstrong
ZBA Administrator: Internally, staff wise we could make a note in the copy file and when opened up would show a permit, so you could sign off on the permit.

Chairman Pane: That would be great.

Comm. Karanian: That is if they go for a permit, in the new owner's file.

Andrew Armstrong
ZBA Administrator: I think it's possible, but whoever is buying the house would probably check the file. I guess there is a possibility that certain people do look into it, they look at land records and certain things and pull permits and could possibly but who can say for sure.

Comm. Eckstrom: So if the searcher does their work, they'll see...

Comm. Karanian: Well, it will be under the person's name, because when you do a title search, you have the party's name, not the address. The title search only goes to the, when you go to the town clerk's records, it is by the name, not the address. So, it would be by their name.


Andrew Armstrong
ZBA Administrator: I'm not really sure.

Comm. Eckstrom: Oh now, we just want to be sure that we could run with it.
Comm. Karanian: So if co-owners are selling their house, the title searcher would go to the Town Clerk's office and look through everything and say, 'oh, there is a D file for a variance and that would pop up and then the bank would go, you know.

Comm. Ekstrom: Okay.

Chairman Pane: Unfortunately, it is the work session so we cannot have any public participation.

Comm. Hutvagner: Do we have an opportunity for questioning?

Chairman Pane: No.

Comm. Ekstrom: I think it needs to be answered.

Chairman Pane: You tell me. You know, you know more than I do. But when we close public participation we close it and that's it, work session is work session.

Andrew Armstrong
ZBA Administrator: To make a clean cut, someone would have to make a motion to open up public participation....

Comm. Dunning: Don't we have a motion already active?

Chairman Pane: Right.

Comm. Karanian: Robert's Rules: The person who made the motion; the person would be the person who seconded the motion would have to withdraw.

Comm. Hutvagner: But our job is either to approve, or not approve it, according to what laws that we have, and how it gets filed and somebody uses it that way and things do get lost sometimes but that is not our job, our job is to say "yes" or "no".

Chairman Pane: Okay. It is just an obvious stipulation and we do our due diligence to put a stipulation on the land records.

Comm. Karanian: We can't control what the Town does. We say "yes" or "no".

Comm. Bechter: I would say she definitely needs the petition to be approved, as long as the petitioner lives at that location and subsequently restore it to the original appearance if they should leave.

Comm. Karanian: I second the motion.

Chairman Pane: All in favor? Aye unanimously. The petition has been granted. So I do need to see if anyone would like to make a motion to withdraw the Lucy Robbins Welles Library petition.

Comm. Dunning: I will make the motion.


Chairman Pane: All in favor? Aye unanimously.
Chairman Pane: Did anyone read the previous minutes?

Comm. Ekstrom: My name is spelled wrong.

Chairman Pane: Okay.

Should we approve the minutes?

Comm. Karanian: I make a motion to approve the minutes as recommended.


Chairman Pane: All in favor? Aye unanimously.

6. Communications and Reports

Chairman Pane: Any communications or Reports?

Andrew Armstrong
ZBA Administrator: I do not have any communications or reports.

7. NEW BUSINESS

Chairman Pane: Any new business?

Andrew Armstrong
ZBA Administrator: Yes, it is not scheduled yet, but there is something in the pipe line. The Town Police Department is looking to install a communications tower and they are going to need a variance for height and I won't speak to exactly where and all those details yet because I don't have an application, but just keep in mind that they will be coming in for that and the second variance they may need is that there is a fall zone for the telecommunication tower and it must be a certain height I think like to the property line and it appears it would need maintenance as well, so that may be a couple of meetings out, I'm not sure.

8. OLD BUSINESS

Chairman Pane: Any old business? None.

9. ADJOURNMENT

Chairman Pane: I will make a motion to adjourn the meeting.


Chairman Pane: All in favor? Aye unanimously. The meeting adjourned at 7:25 P.M.

Respectfully submitted,

Sophie Glenn
Recording Secretary
The meeting adjourned at 7:25 P.M.