

NEWINGTON ZONING BOARD OF APPEALS

Regular Meeting

August 5, 2021

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Town Clerk

I. ROLL CALL

Commissioners Present

Commissioner Willard Bechter
Commissioner Timothy Hutvagner
Commissioner Michael Karanian
Chairman Nicole Pane
Commissioner John Bechand-A
Commissioner Sharon Dunning-A

Commissioners Absent

Commissioner Audra Ekstrom
Commissioner Judith Igelski-A-Excused

Commissioner Dunning was seated for Commissioner Ekstrom.

II. PUBLIC HEARINGS

- A. Application #00-21-03: Jose Chavany of 66 Ralph Avenue is requesting a variance from two sections of the Zoning Regulations: Section 4.5 Table A of the Zoning Regulations to allow an Accessory Structure in front of the principal building and from Section 4.4.1 of the Zoning Regulations to reduce the required 20 foot front yard setback (along Meadow Street) to 7 feet. The property is in the R-12 Zone at 68 Ralph Avenue.

Chairman Pane: Jose, if you would like to speak and start off by stating your name and address, that would be great.

Jose Chavany: Sure, ladies and gentlemen, my name is Jose Chavany and am from Peru. My address is 68 Ralph Avenue. Newington, Connecticut 06111.

Chairman Pane: If you would like to speak about your variance and what you are looking to do, that would be great.

Jose Chavany: Great, first let me share with you, I am from Peru and I have been here in the United States almost three years, and my family, wife and kids live here in the states for about fourteen and we buy a new home last year and my sons didn't have a family room and I, with my wife tried to convert my garage into a family room but we have two cars and needed them in the driveway. This petition is because of the inclement weather that exists here in Connecticut, snow, rain, I need to protect the cars. This is the reason that, with my wife, tried to put this car

port in my driveway. We have three kids, (inaudible, 7 and 6 and they don't have any place in my home for playing or (inaudible.) This is my position, I hope that you understand my situation, so sorry, I apologize for my bad English. I live here almost three years but I try to learn every day. In my country I am a physician, and now I am starting the process for my license as a physician here, but in these three years I have had different work, but for me, the most important part is my family and this is the reason that I am in front of you and explain my point for requesting this variance for my home. Thank you so much.

Chairman Pane: Thank you Jose. Are there any questions from any of the members that we can ask Jose, if anyone does have any questions, any comments, anything that would like to ask at all, and if you do, if you could just please just state your name right beforehand so we can know exactly who is speaking each time.

Erik Hinckley: If I can real quick, I've been out to the site, so I might be able to answer a couple of semi-technical questions if Jose can't.

Chairman Pane: Perfect, thank you Erik.

Commissioner Bachand: I'll start. So this is not attached to the house I'm assuming?

Erik Hinckley: No, what he basically wants to do is to close in the exiting garage and abut the carport up to that.

Commissioner Bachand: So free standing or.....

Erik Hinckley: Correct.

Commissioner Bachand: And what is it constructed of? Is this going to be a frame construction?

Erik Hinckley: To my knowledge, it's just four posts with a roof, we didn't really talk about the specifics of the car port itself.

Commissioner Bachand: Because a frame construction with a gable roof is going to look like it is part of the structure basically.

Erik Hinckley: Maybe the applicant can answer that question if he has any ideas of the construction of the carport.

Jose Chavarry: About the question, the construction is three poles, two in each corner, each side, and a roof. No walls, no frame, is only three poles and the roof.

Chairman Pane: Jose, do you know what it is going to be made out of, and is it going to be the roof attached to the home? How is it going to be stabilized from any sort of wind or anything like that?

Jose Chavarry: When I talked to the construction person he said that the poles would be two feet under the land and the roof will be covered with shingles, six pieces into the roof, this is the connection, poles here, two poles in the center for the balance of the roof.

Erik Hinckley: I just wanted to point out that if you do end up approving this at some point he would have to go through building permits for the process to make sure all of the anchoring and everything would be sufficient, wind loading and all of that kind of stuff.

Chairman Pane: Any other questions, comments, anything that they would like to ask Jose or Erik?

Commissioner Dunning: I do have a question, but first I wanted to make a point that on the petitioner's letter he states in paragraph two he is not placing a carport for protection, I think you might want to strike that and say you are requesting just to make sure we are consistent. So, I didn't hear, it is going to be attached, right? It would have to be. It's going to be attached to the garage which will be turning into a room. Is that correct, Erik?

Erik Hinckley: I believe so from discussion he is going to have to have some kind of attachment to the structure, but possibly he can get what he needs by just butting it up there. That is an option, but that would be whatever building requires for wind loading and what not.

Commissioner Dunning: Are we aware of any other properties that have a similar construction, meaning the design of the home with a carport?

Erik Hinckley: There are other homes in town with carports. Typically they are on the side of the house, not in front.

Commissioner Dunning: This is in front of the house, I wasn't aware of that.

Erik Hinckley: Yes, that is part of the issue.

Commissioner Dunning: Hard to tell, okay.

Commissioner Bachand: I have one more question if no one else does. Erik, is the entire structure in the front yard? In the front yard setback?

Erik Hinckley: The car port? No, if you look at the plan now you can see the front building line on Meadow Street, so basically as you can see, just that one corner really is going to be the most encroachment into the front yard area, and again as I pointed out in the staff report,

previously the original developer came and got a variance on the front yard on that side to reduce it by an additional ten feet to get a larger house in there, in 2007 I think it was.

Commissioner Bachand: So that has already been reduced from thirty to twenty?

Erik Hinckley: Exactly.

Chairman Pane: I have a question. How far away from the property line is this going to be after the carport, if the carport is approved, will it be from the property line.

Erik Hinckley: By scaling of the plan with the dimensions that the applicant gave me, it looks like about seven to eight feet, that one corner. The other corner is much farther away, but the closest corner on Meadow Street would be probably seven or eight feet, again by scale. It may be a little more, a little less in actuality.

Chairman Pane: A little more or a little less, okay.

Erik Hinckley: That is just scaling it, once we get a building plan, again, if it gets approved it would be something different.

Chairman Pane: Any other questions?

Commissioner Bachand: I have one question. Do we have an option to table this long enough so we can go out and look at it? If I looked at the plan earlier I would have gone out earlier today just to kind of familiarize myself with it. It's a pretty significant structure in the front yard, so.....

I'm not voting tonight anyway, but I'm just saying.....

Erik Hinckley: It's really up to you if you want to table it you could. We could table it and leave the public hearing open to still discuss it in the future. We would have to do that. Then we would either have to call a special meeting or just wait until September at the regularly scheduled meeting to take action. So it would really be up to you. I do have, since this is the public hearing portion, I do have an e-mail that was sent and they would like read into the record.

Commissioner Dunning: I have another question. The staircase that is there is obviously the entrance to the front of the house. The car port would extend beyond that?

Erik Hinckley: The staircase, if you, yes, yes it would.

Commissioner Dunning: So then, does this staircase have to be altered? I'm just trying to image if you have two cars there, the carport comes out closer, wouldn't that cut off access to this stairway?

Erik Hinckley: There won't be walls there so.....

Commissioner Dunning: So this wall that is there now would be gone?

Commissioner Bachand: No, there wouldn't be walls on the carport.

Commissioner Dunning: Right, but this wall that is there now would be gone. I'm thinking when you put the carport on top of that and come out, you might have to, you would be blocking part of the stairway because you have a carport and two cars sitting there, I'm just trying to figure out how that would one, look, aesthetically and two, safety. It seems like it would be hazardous.

Erik Hinckley: That is a deep slope there now, so the actual, the side on Ralph Avenue is probably three or four feet higher than the Meadow Street side.

Commissioner Dunning: It just looks hazardous to me, and thinking that you would have two vehicles there as well, it's possibly a trip hazard, potentially.

Chairman Pane: I agree with you on that Sharon.

Commissioner Dunning: When you think about winter and ice and when you add all these things to it, it becomes a real danger zone, unless the staircase was going to come out differently. I'm just thinking for safety, it creates a hazard.

Commissioner Bachand: If I could just add, to come to his defense, it is just going to be three posts on each side, so unless the post comes right out into the middle of the stairway, it really shouldn't be an issue because you would just walk onto the pavement that is there now. You can park cars there now regardless, whether there is a car port or not, so just to play the advocate on the other side of that argument. I don't think it is a safety issue.

Erik Hinckley: It has been there since the house was built, so it has been in that same condition, obviously just without a carport.

Chairman Pane: What exactly is the hardship for the reasoning of the carport? To make your garage your family room shouldn't be an issue, but add the car port and take away a lot of that front setback, what is the hardship towards this?

Jose Chavarry: I don't understand the question? The physical situation for putting the carport here is to protect the cars. To protect the cars from any sun, snow or heavy rain. This is the principal point. You know, it is so important to me, I have two cars, the second car is not new, I need to protect from the ice, the snow, but my other point is my kids need a space for them, for play, to study, and that is the reason I want to convert this garage into a family room. That was

the point. I don't think the stairs are a problem, the stairs are at the driveway. I don't know if my answer is good for you....

Erik Hinckley: If I could just interject, when I was on site, and met with Jose and his wife, the discussion of that, and I kind of referred to in my comments, the kind of triangular shape of the whole lot and the actual size of 6,000 or 7,000 square feet which was technically an approved lot because it was so old and in that zone, currently 12,000 square feet is required, so I think part of the reason was the shape of the lot as the hardship that they discussed with me.

Chairman Pane: Thank you very much Erik and Jose.

Jose Chavarry: I appreciate you time, and I appreciate the time that you will hear me and I hope that you will allow this for me and for my family. Thank you so much.

Chairman Pane: You're welcome. Are there any other questions, comments?

Commissioner Hutvagner: What is the roof type going to be, and is there going to be any flooring put down? What kind of material is going to be used?

Chairman Pane: He said that the roof was going to be shingled, and it was going to be three posts, if I'm not mistaken and I think, I'm not sure what the posts are going to be like, but I think it is going to stay on what the driveway is.

Erik Hinckley: Correct. That was my understanding as well.

Commissioner Hutvagner: Is it going to be a flat roof, or like gabled, because I'm just worried about the window there in the front.

Chairman Pane: He stated that he was putting a post in the middle, if I'm not mistaken, so I think, I'm going to assume that it is a pitched roof.

Erik Hinckley: I would assume so too, I did not speak to his contractor. So, I'm not sure.

Chairman Pane: Any further questions before Erik is to read the e-mail?

Erik Hinckley: This is from Cindy and Andy D'Onofrio of 53 Meadow Street: "We are writing in response to a request for a variance from two sections of the zoning regulations for 68 Ralph Avenue. We feel having a carport added to the driveway of this very small lot is unsafe and do not support it. The fence, that was somehow approved causes blind areas and we feel another structure would make it worse. If you are coming down Ralph Avenue to Meadow Street, you cannot get a clear view to the left due to the fence. If you are coming off Church Street, down Meadow Street you cannot see the intersection of Ralph Avenue. It is a safety concern that the children that live here may get hit from running into the street due to the blind area or a car

accident could happen as well. Additionally, there are no other carports in this neighborhood except one that is on Amidon Street, and it is in the back of that home.”

Chairman Pane: Thank you Erik. I have a question. I think I asked you before, the engineer was going to go out there and take a look at the sight lines.

Erik Hinckley: Yes, I have an e-mail from him. I can read that as well. This is from the Town Engineer, Gary Furstenburg. “Hi Erik, I drove the site today, and the proposed carport will be behind the six foot vinyl fence. The proposed carport will not reduce sight distance any more than the six foot vinyl fence currently does.”

Chairman Pane: Thank you. Is there any other questions or anything anyone would like to add before we close the public hearing? If not, then I could like to make a motion to close the public hearing and open up the work session. The motion was seconded by Commissioner Bechter. The vote was unanimously in favor of the motion with five voting YEA.

III. PUBLIC PARTICIPATION

None

IV. WORK SESSION

Chairman Pane: Would anyone like to speak about this?

Commissioner Karanian: I don't think there is a hardship, there was a variance for the lot, the lot can't handle any more, I mean, they put more on that lot than really should be on there. I'm against it, I don't think it should be there, it's a hazard. They already had a variance and to bring it that close to the street I think it is hazardous and the lot can't handle it. It's unfortunate that it is a small lot and they want to do that, but that's the way it is with small lots.

Chairman Pane: Thank you Mike. Anyone else?

Commissioner Bachand: I hve mixed feelings about it, that's why I suggested taking a little break from that, and because it is asking a lot. I don't know if it is a safety hazard or not, I'd like to look at it myself, but it is asking a lot clearly. I think the hardship is the size of the lot as Erik pointed out and the dimensions of the lot so I'm kind of torn between to be honest with you. I don't think it would hurt, I'll go back to what I said, maybe when we have a chance we should all drive by individually and take a loot at it.

Chairman Pane: Thank you John.

Commissioner Dunning: I'm inclined to kind of lean towards what Mike was saying, that I'm concerned about the safety issue and then hearing the neighbor concerns, I think that I'm

leaning against it. I think that it could present an additional hazard in such a small area that it encroaches on, and I'm not convinced that we should do that.

Chairman Pane: Thank you Sharon. Would anyone else like to speak, or any questions, if not, I'll say something.

Commissioner Bechter: I took a ride by earlier today, and as I see that fence there really does block things off from view, anybody coming down Meadow Street towards Ralph Avenue and I can see the point that folks made on the safety issue. Suppose children run out from behind the vinyl fence there, don't hear or see the car coming, or forget to stop and look, whatever the case may be, I would hate to see something happen that didn't really have to, but anyway, I'm kind of leaning towards no, but I'm open to more information.

Chairman Pane: All right, thank you Bill. I just, myself, I don't see the valid hardship of being the corner lot and I did drive my it, and Ralph Avenue does sit a little bit higher and I can see the fence there and coming around Meadow, I can see the neighbors, how they, it's kind of a blind spot, failing to see anyone coming around there. To add a pitched roof too with add to the height from Ralph Avenue being able to see. I know that you can see over the fence a little bit but having a pitched roof there too is going to be a lot tougher to see over the fence line of any vehicles coming in the sight line, or anything. I just don't see how it would be safe. Any other questions, comments anyone would like to make?
If we could close up the work session unless there are any other questions, or anything like that.

Chairman Pane moved to close the work session and open up the minutes of May 6, 2021. The motion was seconded by Commissioner Becher. The vote was unanimously in favor of the motion, with five voting YEA.

V. MINUTES OF PREVIOUS MEETING

Chairman Pane: I looked over the minutes, I don't see an issue, but I know, if I'm not mistaken that there was someone that wasn't here for the last one that can't vote on it.

Commissioner Karanian: I can't vote, I wasn't here.

Chairman Pane: Did everyone else see the minutes, approve the minutes, fine with them, any issue?

Commissioner Bechter: They got my first name wrong, it's Willard.

Erik Hinckley: I'm sure Norine can make that correction. You can approve it with that change now, that's fine, she'll make the correction.

Chairman Pane moved to accept the minutes of the May 6, 2021 regular meeting. The motion was seconded by Commissioner Dunning. The vote was unanimously in favor of the motion, with four voting YEA. (Karanian abstain)

VI. COMMUNICATIONS AND REPORTS

Erik Hinckley: No, I have nothing. Currently we are still, at some point, depending on the status of Covid, we may go back to in person meetings, we'll cross that bridge when we come to it, so there will be more information forthcoming on that.

VII. NEW BUSINESS

- A. Application #00-21-03: Jose Chavarry of 66 Ralph Avenue is requesting a variance from two sections of the Zoning Regulations: Section 4.5 Table A of the Zoning Regulations to allow an Accessory Structure in front of the principal building and from Section 4.4.1 of the Zoning Regulations to reduce the required 20 foot front yard setback (along Meadow Street) to 7 feet. The property is in the R-12 Zone at 68 Ralph Avenue.

Chairman Pane: This is where we are going to be doing the voting. If anyone wants to make a motion or I'd be happy to make a motion for approval or denial of the application. So, I am in objection to the application, so I don't see how there is a hardship, so I'm voting as a no for this, but I'm not sure how we can go about saying something in particular for that.

Erik Hinckley: You would need a second to, for denial, and then you would vote.

Commissioner Karanian seconded the motion.

Chairman Pane: So we can vote, I'll state each person's name who is here, so, Bill Bechter, if you could vote please.

Commissioner Bechter: Vote in favor of the motion to deny.

Commissioner Dunning: I vote in favor to deny.

Commissioner Hutvagner: I vote in favor to deny.

Chairman Pane: Michael Karanian voted no, as I voted no, so that is unanimously in favor of denial. Unfortunately this application cannot be approved.

VIII. OLD BUSINESS

None

Commissioner Bachand: What is the process if anyone wanted to reapply. Are they able to reapply for the same application, or does it have to be significantly different or is there a certain period of time?

Erik Hinckley: It does have to be different, because originally on the front yard setback that was approved, they originally applied for a fifteen foot front yard and that was denied and they did come back and get the twenty. So it does have to be different. I don't know what the time frame is legally, and there may not be any. He could turn around and apply tomorrow possibly, but I can look into that and discuss it with the applicant if he chooses to do something going forward.

Commissioner Bachand: Not to give him unreasonable hope, but I'm just bring it up to point out that nothing that we decided here precludes him from trying something different in the future.

Chairman Pane: I have a question for the Commission, as well as Erik. Thinking of it, I don't think that this was a valid hardship, and I just feel that it shouldn't have come to us because I feel for safety wise and everything else that we had stated, is there a way that we would be able to refund him his money for something like this. I just don't feel that it should have gotten this far.

Commissioner Bachand: I was thinking the same thing.

Chairman Pane: I don't know Erik how that works, if it's possible.

Erik Hinckley: I can look into it, we do have staff time involved, there is advertising, I mean there is an inherent cost that we have, and the fee is just to cover that. It's like TPZ or Wetlands, if someone brings forth a valid application, have a complete application, they have the check and everything, you can't turn it away. You have to accept the application. So I can look through our by-laws, I don't have them in front of me for ZBA, and see if it discusses the potential refund or something along those lines.

Chairman Pane: That would be really good. I'm not sure if we could table something like that for the next meeting and we could figure that out, if everyone is in agreement with something like that.

Commissioner Dunning: I'm not so sure that I am. I'm concerned about a precedent. If you start to do that, others might feel that they are entitled to the same thing, I'd be concerned about something like that because normally if someone petitions for something, and they don't win the petition, that's the end. To go and try to get your money back for filing, if you start doing that and other people get wind of that, they're going to want the same thing, and there are expenses incurred for filing, processing, the office work, and administrative piece, so I don't know, I just would be very careful about going down that road.

Erik Hinckley: Because then we might be hearing five or six variances a month. It could potentially cause a problem.

Commissioner Dunning: Right, that would be my concern, and then once word got around that we did it for one, then others are going to want the same thing and we would have to come up with a rational of why we would deny others, so just be careful.

Chairman Pane: All right. If anyone has anything else?

Jose Chavarry: I want to thank you, thank you for the time. It was almost \$400.00 for the application in these difficult times. I know that if it is not approved I don't get back my money, but it was almost \$400.00 plus \$40.00 for the sign, is a lot of money. I know that it was my choice, and I want to thank you and if it is possible to return the money, I appreciate it because this is a very very challenged time for work. Thank you so much again.

Erik Hinckley: When you bring the sign back in, I'll give you back the check for the sign deposit.

Jose Chavarry: But it is almost \$400.00 so if it is possible, I would appreciate it so much.

Chairman Pane: Thank you Jose, we're very sorry that we couldn't approve this, this evening, and I hope this doesn't sway you in never trying to get a variance, or coming back with something different at some point.

IX. ADJOURN

Chairman Pane moved to adjourn the meeting. The motion was seconded by Commissioner Dunning. The meeting was adjourned at 7:50 p.m.

Respectfully submitted,



Norine Addis,
Recording Secretary