

NEWINGTON ZONING BOARD OF APPEALS

Regular Meeting

September 2, 2021

I. ROLL CALL

Commissioners Present

Commissioner Bechter
Commissioner Hutvagner
Commissioner Karanian
Chairman Pane
Commissioner Dunning
Commissioner Igelski

Commissioners Absent

Commissioner Ekstrom
Commissioner Bachand

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IN NEWINGTON, CT
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Town Clerk

Commissioner Igelski was seated for Commissioner Ekstrom

II. PUBLIC HEARINGS

- A. Petition 00-21-04: Ronald Bartenstein, Owner of the property at 55-57 Dartmouth Place is seeking a variance from Section 4.5 Table A to allow a staircase to encroach into the required 35' front yard setback. He is requesting a variance of 17 feet from the required 35 feet which would reduce the required setback to 18 feet.

Ronald Bartenstein, 21 U Street, West Hartford Ct: What we would like to do is to build a set of stairs going to the second floor porch as an alternative emergency exit in case of fire.

Chairman Pane: Okay, is there anything else that you would like to talk about, or that's it?

Ronald Bartenstein: I don't know if you have the picture, the diagram that, there is a red line that shows the area of the sewer drainage pipes. The proximity to the porch is very close so it wouldn't be a viable option to either dig or build anything above that. If there was a leakage and they had to dig up that area, to have stairs over that side of the porch, so our only viable option would be to built them to the side of the porch that would affect the setback area.

Kimberly: I don't know that this photo totally illustrates our purpose here, but the biggest piece of it is that existing structure already falls within the setback area which of course includes the existing structure, the existing porch, so the trouble that we are having is due to the location of the sewer drainage pipes. The proposed location of this staircase, coming off of the front side of the property is the only viable option just because of where these pipes are located underground. Just to kind of further illustrate the point, the staircase when it exceeds the

existing structure, so where you have this photo illustrated here, it would come off the side of the porch, which is illustrated next to those dotted lines and the stairs would just all toward the front of the property, but again not exceeding that existing building. I guess the struggle that we are having is the existing home sits within that 35 foot setback, we are just requesting to add an exterior staircase. That's all.

Chairman Pane. Thank you. Does anyone have any questions for the petitioner? If so, just state your name before you do ask the question:

Commissioner Igelski: Would anything have to be done to the pipes?

Kimberly: That's a great question but the reason we are requesting to have the stairs come off the front side of the porch is because it would not have any bearing on the existing drainage pipes that are underground. We have no other solution because if it came off the side it would affect, if it came of the back it would affect those pipes but coming off the front where we are requesting the variance for, it would have no bearing on the sewer drainage pipes. That is why we are here this evening.

Ronald Bartenstein: Basically that is our only viable option because of the location of the sewer drainage pipes.

Chairman Pane: You can't go to the side a little bit, it looks like the sewer drainage pipes aren't right next to where that is, it looks like it is kind of bumped out about six to eight feet or so after that, after the steps.

Kimberly: You are absolutely right, but where the supports would go for the stairs would impede upon the location of those pipes, that is why we are requesting out to the front where they don't lay underground anywhere near that area.

Ronald Bertenstein: Again, if there was a leakage and they had to dig up that area with a backhoe, they have a set of stairs in that location, it would be not feasible option, and they may say, we can't do anything, you need to take those stairs down, we can't get into that area.

Chairman Pane: All right. Any other questions from anyone?

Commissioner Igelski: Has MDC offered any other option for you?

Ronald Bertenstein: They have not, I mean, again, you can see that those pipes are on the side of the side of the porch, and there was nothing that would impede building, or digging a hole going through the area where we want to have the stairs built. The only area where there is nothing impeding the digging or worrying about something that is under that area that could possibly have to be dug up.

Commissioner Igelski: What did you mention about the red line?

Ronald Bertenstein: The red line is from them, that shows where the sewer drainage pipes are in proximity to the porch, how close they are to the porch.

Commissioner Karanian: This is an existing two family? You have two separate egresses because you mentioned you need this for a fire egress?

Ronald Bertenstein: As an alternative in case of a fire, yes. An alternative emergency exit.

Commissioner Karanian: But you should have two as it is standing, correct?

Kimberly: There are two technically yes, but this would have one be forward facing toward the property and then one towards the back.

Commissioner Karanian: So that should not be considered a hardship, it's just something you want to add to the property.

Ronald Bertenstein: But the hardship is the fact that the existing building is already encroached into the setback area and again, to build something on the side, over drainage pipe, wouldn't be a viable option.

Commissioner Igelski: Where are the two egresses now?

Ronald Bertenstein: When you say two egresses, do you mean the fact that 55-57 Dartmouth Place? I don't understand.

Erik Hinckley: They are talking about your points of egress, so if somebody needs to leave the house during an emergency what currently are your town points of egress from the house. You have a front door obviously for each unit, I would assume, or is there one shared entrance?

Ronald Bertenstein: Well, the first floor has two exits.....

Kimberly: There are basically two exits from the second floor, on the side of the property, towards the rear of the property, so the reason that we are here requesting a variance is so that there would be one forward facing from the property which would give a secondary exit closer to the front of the property from the second floor. It's just a safety thing. We have provided stairs, not stairs, a ladder that you could put out the window, but we really want to make sure our bases are covered in case of an instance of a fire there would be two clear indications of an exit, one facing the back, one facing the front. The first floor is more distinct in that effort, and we are just trying to adhere to those same standards for the second level.

Chairman Pane: Thank you. Any other questions for the petitioner?

Commissioner Dunning: I don't understand, I don't think I understand the egress for the upstairs. How are they entering and exiting at two points on the second level?

Kimberly: So there is one exit towards the rear of the property, one of the doors, and then within the basement there is a secondary set of stairs that takes you to the first level outside and then to a door outside of the property towards the side of the property.

Commissioner Igelski: But they would have to go from the second floor to the basement, correct?

Commissioner Igelski: But they would have to go from the second floor to the basement, correct?

Kimberly: Exactly, which is why we are requesting the staircase so they have two distinct emergency exits.

Chairman Pane: What year was the house built? Is it a newer home?

Ronald Bartenstein: No, it's an older home. I don't know the exact year, maybe 1917, 1912, I'm not really sure.

Erik Hinckley: I believe it is circa early 20's, late teens. It may even be in my staff report.

Commissioner Dunning: I have one other question. The numbers on the house, is it three buildings? It looked like, from the address, 55-57.

Ronald Bartenstein: No, the lower floor is 55.....

Commissioner Dunning: It's just two apartments?

Ronald Bartenstein: Yeah, and the floor above is 57.

Commissioner Karanian: How long has that been a two family house?

Ronald Bartenstein: I believe five years.

Commissioner Karanian: So when it was converted to a two family house they never suggested putting a set of stairs in from the upstairs?

Ronald Bartenstein: Well, this was my father-in-law's house, and we always liked it, we purchased the house because we wanted to keep it in the family, and the house needed a lot of work. We invested a lot of time, effort and money into the house. It wasn't very profitable for a long time, now there is a little bit of profit and we just figured this was the right thing to do for the tenants and for our peace of mind.

Commissioner Karanian: I understand that, the question was, were you ever asked to put a set of stairs in when it was approved for a two family.

Ronald Bartenstein: Oh no, no idea, never.

Chairman Pane: Was it always a two family since it was two addresses?

Kimberly: It was technically, but because it was sort of family owned for quite some time that, the two family component never came into play and as convoluted a response that is, if that makes sense?

Chairman Pane: Was it because it was family and it was.....

Chairman Pane: It was two different residences technically because it was 55 and 57, just because it was family it didn't matter and now because you do have tenants, you think.....

Kimberly: Exactly. Yes.

Chairman Pane: Does anyone else have any questions for the petitioners? Erik, is there anything you wish to add to this?

Erik Hinckley: No, I don't think so, my staff report is there, the only issue that you are aware of is that there is no survey, but we have that little plot plan I created to show there is a front yard and the encroachment of the existing building there.

Chairman Pane: Okay, perfect.

- B. Petition 00-21-05: Adrian Costa of 44 Homecrest Street is seeking a variance from Section 4.5 Table A to allow an air conditioning condenser unit to encroach into the required 10 feet side yard setback. He is requesting a variance of 3 feet from the required 10 feet which would reduce the required setback to 7 feet.

Erik Hinckley: He does not seem to be here.

Chairman Pane: Do you want to try to give him a call really quick.

Erik Hincley: He will be logging on in the next couple of minutes.

Commissioner Igelski: The first petition is still open, right?

Chairman Pane: Is there something you want to ask?

Erik Hinckley: They have logged off.

Commissioner Igelski: I have the feeling that they have one way of fixing it and that's it.

Commissioner Dunning: I have a question also, that means that they would be going 17 feet into the setback and does that create a problem of hardship for like equipment getting between structures, or between buildings because of the loss of 17 feet?

Erik Hinckley: It's not directly in the front of the house, no.

Chairman Pane: Should we read the petition over again? I think so.

- A. Petition 00-21-05: Adrian Costa of 44 Homecrest Street is seeking a variance from Section 4.5 Table A to allow an air conditioning condenser unit to encroach into the required 10 feet side yard setback. He is requesting a variance of 3 feet from the required 10 feet which would reduce the required setback to 7 feet.

Adrian Costa, 44 Homecrest, Newington: As of right now, what I'm looking to do is that I would like to put air conditioning in the house, and I wanted to set up, get everything all done, and

where the electrical unit and everything that controls the house as far as gas, plumbing, where that room is located, I was trying to have the air condenser outside of that room next to all of the circuits and the electrical to keep everything configured to the house there.

Chairman Pane: Thank you. Do any of the Commissioners have any questions?

Commissioner Igelski: I have an observation. I drove by the home this afternoon and I saw a cement bed, I guess, and I took it to be something that you would put the condenser on so it doesn't sit on the dirt.

Adrian Costa: Correct, it would set on a concrete base.

Commissioners Igelski: And it would be very close to all of the mechanicals that you need.

Adrian Costa: Correct.

Chairman Pane: Anyone else have any questions, or comments or anything they would like to say?

Commissioner Karanian: What is on the other side of the house preventing you from putting it there?

Adrian Costa: the other side of the house, it just puts everything, my driveway, I have a barn to the house where all of the lawn mower and stuff goes in, a set of stairs there. If I put a unit there, it's kind of random there and also I would have to end up putting all of the electrical, I would have to wire everything to the opposite side of the house. It would cost quite a bit of money to get that electrical to the other side.

Commissioner Karanian: Where did the town suggest you put it? My understanding is that they usually tell you where you can put it.

Adrian Costa: They didn't really have a recommendation of where to put it. They were just basically mentioning as far as what the rules are right now, and if I was going to wrap it around to the back of the house, I have a patio there that I had put in this past summer.

Commissioner Karanian: Okay, thank you.

Commissioner Igelski: Is it also a heating unit too, or is it just AC?

Adrian Costa: Just for central air.

Commissioner Igelski: Just for central air, okay, it's not a heat pump?

Adrian Costa: No.

Erik Hinckley: When the applicant came in, like he stated, we had a discussion about the setback on that side yard, I believe he has discussed other options of where he could go, and I

said, the other side of the house, behind the house, we could avoid the variance process, and this is the option that he chose to take.

Chairman Pane: Any other questions for the petitioner? Now we will move to Public Participation. If there is anyone from the public that would like to speak, for or against either of the two petitions, just state your name and address prior to speaking.

III. PUBLIC PARTICIPATION

None

IV. WORK SESSION

Chairman Pane: Anyone have any thoughts on either of the petitions? We will probably vote under New Business, but if there is anything that we want to chat about here?

Commissioner Karanian: I was just going to mention on the stairs, on the first petition I would believe that five years ago when they applied to have it changed to a two family, they would have been told if they needed to have that so to me, it's not a hardship and they are saying they are not going to encroach any farther but they are still going to encroach and I just believe if it is a two family it's up to code, so I just don't believe that they need it. It's something they want, not need.

Erik Hinckley: I'm not even sure they went through the process to do a conversion to a two family.

Chairman Pane: It seems like in the beginning it was a two family, it was just family.

Erik Hinckley: Right, and those are allowed, but if you have a two family when you are renting it out I believe you are supposed to get a special permit for that.

Chairman Pane: Yes, but you don't think that they did that?

Erik Hinckley: I'm not positive, I'd have to research it, I didn't really know that it was going to be an issue, or if it is an issue for you.

Chairman Pane: I just think if they asked for a permit for that, to do that, then they probably would have requested this five years ago when they decided.....

Erik Hinckley: That makes sense to me, yes.

Chairman Pane: And now all of a sudden it's changed for the five years that they have had tenants in there. Any other questions, comments? My only question, or comment for the second petition, I personally don't see any issue. We did just grant a variance like this if I'm not mistaken, two meetings ago, on New Britain Avenue, the same kind of situation, and the air

conditioning condensers are actually a lot quieter these days and not as loud as they used to be, and not as big either. I don't see an issue with it, but whatever everyone else thinks as well, but we'll vote later on.

Commissioner Igelski: I tend to agree with you. They are quieter. We have a heat pump and an AC unit and it was quieter than when we first looked at them. You have to have it at one end of the house and if you have to do it through your garage and your family room, it's, can make it not worth getting it. The other thing with the stairs, personally for safety, I want to see two separate entrances.

Commissioner Bechter: The petitioner for the air conditioning, I see no problem with that because even I wouldn't want something like that based on putting it else where, and the huge increase in the expense of getting it done. On the first one, it does not increase the encroachment, the house was built right on the line to start with, and it's not going to go beyond that line, it's just going to be right next to what is already there. Personally I don't see why there is any problem with that.

Chairman Pane: All right, thank you Bill. Any further questions, comments about both of them during the work session?

V. MINUTES OF PREVIOUS MEETING

Commissioner Karanian moved to approve the minutes of August 5, 2021. The motion was seconded by Commissioner Slater. The vote was in favor of the motion with one abstention (Igelski)

VI. COMMUNICATIONS AND REPORTS

Erik Hinckley: No, but if you feel as a body that we are getting too many of these air conditioning ones, you can request TPZ to look into changing the regulation for AC units so we can do it by zoning permit, reduce that setback to seven feet, whatever you are comfortable with, and then we can avoid some of these at this level. Something for you to consider.

Chairman Pane: All right, yes that is something to consider. Is that something we would have to do at a meeting at some point, going over exactly what the parameters would be?

Erik Hinckley: Yes, you could discuss the parameters, we could put it on for discussion at our next scheduled meeting under Communications, we could work that in, make it an agenda item.

Chairman Pane: Is everyone okay with that, looking into parameters and seeing what we can do if we get a lot more of these?

Erik Hinckley: This is something that would have to be like a text amendment to the zoning regulations at the TPZ level. So you could verbally request it, I can pass that along to the Planner and we can get it to TPZ and they can look into it.

Chairman Pane: And that would be for only air conditioning units, correct?

Erik Hinckley: Correct, and you can say air conditioning units, or types of household mechanics, however, whatever you think. On the older homes they are already close to the ten yard setback line.

Commissioner Igelski: You may also have a heat pump, AC unit combination.

Chairman Pane: At the next meeting maybe we should put some time into just going over that to see how we feel on that, collectively everyone can make a decision if they are, or are not.

VII. NEW BUSINESS

- A. Petition 00-21-04: Ronald Bartenstein, Owner of the property at 55-57 Dartmouth Place is seeking a variance from Section 4.5 Table A to allow a staircase to encroach into the required 35' front yard setback. He is requesting a variance of 17 feet from the required 35 feet which would reduce the required setback to 18 feet.

Commissioner Karanian moved to deny Petition 00-21-04. The motion was seconded by Commissioner Hutvagner. After a roll call vote the Petition was denied with four voting to deny and one to approve. (Bechter)

- B. Petition 00-21-05: Adrian Costa of 44 Homecrest Street is seeking a variance from Section 4.5 Table A to allow an air conditioning condenser unit to encroach into the required 10 feet side yard setback. He is requesting a variance of 3 feet from the required 10 feet which would reduce the required setback to 7 feet.

Chairman Pane moved to approve Petition 00-21-05. The motion was seconded by Commissioner Bechter. The vote was unanimously in favor of the motion, with five voting YES.

VIII. OLD BUSINESS

None

IX. ADJOURN

Commissioner Bechter: I have a question. On the first one regarding the stairs, it did not encroach any further than it already does, what was the reason for opposing it?

Chairman Pane: Would anyone like to answer that.

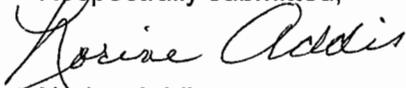
Commissioner Karanian: I'll give you my reason. My belief, and I believe when it was changed to a two family if it's legal two family they should be up to code for everything, and it's not needed. There is no need to bring more property closer to the street, not closer, but in front of the house, and I don't believe it is a legal two family and that should be looked into before we approve some more work done to it.

Chairman Pane: I agree with everything that Mike has said, there is sort of a non-conformity as it is, so I didn't feel like making something more non-conforming and not honestly hearing a valid hardship for it.

Commissioner Bechter: Okay, now I get it. Thank you.

Chairman Pane moved to adjourn the meeting. The motion was seconded by Commissioner Igelski. The meeting was adjourned at 7:40 p. m.

Respectfully submitted,



Norine Addis,
Recording Secretary