

TOWN OF FARMINGTON
ZONING BOARD OF APPEALS
MEETING

November 14, 2022

Present for the online web conference meeting was Chair Callahan, Commissioners Cloud, Nadim, Schoenhorn, Walsh and Alternate Commissioners Healy, Marsh (out at 9:02pm), Wiener. Town Planner Rutherford, Assistant Town Planner Daigle and Clerk Michaud were also present. The meeting was called to order at 7:01 p.m.

Present in the Development Conference Room were Town Planner Rutherford, Assistant Town Planner Daigle and Clerk Michaud. All others were present online.

Secretary Schoenhorn read the legal notice into the record.

PUBLIC HEARING

Nicole DiTommaso – 3 Harvest Lane

Alternate Commissioner Healey was appointed to vote in place of absent Commissioner Llewellyn for this matter.

Application for variance to reduce rear yard setback from 25 feet to 17 feet for addition to house located at 3 Harvest Lane, R20 zone. Continued from the October 17, 2022 meeting. Chris Taylor presented the request to add onto the rear of the house to create more area for their future family. During the presentation of photos of the site, Mr. Taylor added they were planning to renovate the house but discovered rot and water damage throughout the home and had to remove the existing house. Board members asked for clarification on the existing square footage of the house, the size of the proposed addition, and the distance of the proposed addition to the property line. Mr. Taylor responded the existing home was approximately 1,100 sq. ft. and they would increase the home to between 1,800 and 1,900 sq. ft. Town Planner Rutherford used the site plan to show a portion of the proposed addition will be 17 feet from the property line, reducing the setback from 25 feet to 17 feet. There was some discussion about why not widen the home instead of expanding to the rear. Mr. Taylor responded it was less expensive to expand the rear of the home. The Board asked for confirmation the buffer of evergreen trees along the property line will not be removed. Mr. Taylor responded no trees will be removed. Sebastian DiTommaso, 17 Judson Lane, provided additional clarification on the size of the addition.

Written correspondence was received for the record from Donna and Deane Williams, 6 Harvest Lane and Roy Mathers, 5 Harvest Lane, in support of the application.

Written correspondence was received for the record from Douglas Leal, 26 Wells Drive, opposed to the application.

The public hearing closed at 7:28 p.m.

Upon a motion made and seconded (Callahan/Schoenhorn) it was

VOTED: 4 in favor (Cloud, Callahan, Healey, Walsh) to 2 opposed (Nadim, Schoenhorn) to approve the Nicole DiTommaso application for variance to reduce rear yard setback from 25 feet to 17 feet for addition to house located at 3 Harvest Land, R20 zone as presented and on file in the Planning Office.

Board members in favor of the application felt the configuration and slope of the lot demonstrated sufficient hardship.

Jennifer Rivera – 39 West Meath Lane

Commissioner Marsh was appointed to vote in place of absent Commissioner Llewellyn.

Application for variance to reduce rear yard setback from 25' to 15' and to reduce side yard setback from 10' to 9' for location of aboveground pool located at 39 West Meath Lane, R20 zone. The applicant was not able to participate in this online meeting and the matter was continued.

Upon a motion made and seconded (Callahan/Walsh) it was unanimously

VOTED: To continue the Jennifer Rivera application for variance to reduce rear yard setback from 25' to 15' and to reduce side yard setback from 10' to 9' for location of aboveground pool located at 39 West Meath Lane, R20 zone to the December 19, 2022 meeting at 7:00 p.m. via Zoom.

APPEAL HEARING

Harold Mark Wilson – 61 Ely Road

Appeal from Zoning Enforcement Officer's Order regarding 61 Ely Road, R80 zone. Assistant Town Planner Daigle provided the history of events regarding the Cease & Desist Order. A complaint was received by the Planning Office of cutting done along the ridgeline. An initial site inspection was conducted September 26, 2022 from the road and driveway. Staff made contact with the property owner, and it was confirmed cutting had occurred. Staff was granted permission to inspect the work done. September 27, 2022 staff performed an inspection of the clearing area, documented visible stumps and photographed remaining brush and trees. September 29, 2022 a formal Cease and Desist Order was issued via certified mail and regular mail. The sections of the Zoning Regulations relevant to this matter were reviewed in detail and it is the Town's position that the work conducted 1) did not meet the exemptions under CGS 8-2(c) for emergency work necessary to protect life or property and 2) did not meet the exemptions for "Selective clear-cutting" as defined in the Regulations for Zoning. Aerial photos dated October 20, 2021, and September 9, 2022, were used to show the area of cutting. Mr. Wilson admitted trees were cut down but he was not aware he needed permission from the Town prior to doing the work. He proceeded to provide the background of when he purchased the property, and the process he went through to construct a new home. Mr. Wilson provided photos of the view of his property when he purchased it. Since 2020 he stated he has cut over 50 diseased or dead trees in the front, side and rear yards. In August 2022 Mr. Wilson stated he hired a tree expert to remove dead/dying trees to maintain the view he had when he purchased his property. The Board members asked for clarification on Mr. Wilson's position that he doesn't disagree that he cut trees without permission. Mr. Wilson agreed but stated he does not believe he had done anything wrong except didn't receive permission. Mr. Wilson was asked for the name of the tree company hired to cut the trees but Mr. Wilson could not recall the name. There was discussion with staff regarding whether the trees were dead or dying and approximately how many were greater than 10 inches in diameter. Assistant Town Planner Daigle responded it would be difficult to give an accurate number, as some were further down the embankment beyond reach – 14 stumps were measured and shared for the record. Assistant Town Planner Daigle reviewed photos of the down trees which had been stacked on the property – the evergreens appeared to still be green and the deciduous trees

appeared fully leafed out; however the leaves were dried and curling as a result of being cut down. Mr. Wilson does not feel he needs to submit a restoration plan as he was simply maintaining the view he purchased in 2001. Chair Callahan asked staff for clarification if the next step is to submit a restoration plan for the Town Plan & Zoning Commission to consider. Town Planner Rutherford responded yes. He also asked for confirmation that a decision of the Town Plan & Zoning Commission is appealable through the Superior Court if Mr. Wilson did not agree with their decision about his restoration plan. Town Planner Rutherford responded yes.

Upon a motion made and seconded (Schoenhorn/Nadim) it was

VOTED: 4 in favor (Cloud, Nadim, Schoenhorn, Walsh) to 2 opposed (Callahan, Wiener) to uphold the Cease & Desist Order of the Zoning Enforcement Officer regarding 61 Ely Road, R80 zone, and the property owner is instructed to submit a restoration plan for consideration with the Town Plan & Zoning Commission. If a restoration plan is not submitted within ten (10) days fines of \$150/day will be imposed until the restoration is submitted and approved. The Order remains in place.

Board members opposed to this motion as made only agreed with upholding the Cease & Desist Order and preferred to leave the remaining items with Town Staff.

NEW BUSINESS

2023 Meeting Schedule

Upon a motion made and seconded (Nadim/Walsh) it was unanimously

VOTED: To adopt the 2023 meeting schedule as submitted.

MINUTES

Meeting Minutes

Upon a motion made and seconded (Walsh/Nadim) it was unanimously

VOTED: To approve the October 17, 2022 Zoning Board of Appeals meeting minutes.

The meeting adjourned at 9:17 p.m.

SJM