



Zoning Board of Appeals
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
Tel: 203-341-1030 Fax: 203-454-6145
www.westportct.gov

September 16, 2024

ACTION MINUTES

The following meeting of the Zoning Board of Appeals was held remotely using Zoom Technology

ZONING BOARD OF APPEALS: Tuesday, September 10, 2024

Public Meeting Started: 6:00 PM. Adjourned: 7:30 PM

Members Present:

James Ezzes - Chairman

Elizabeth Wong - Vice Chair

Joe Scordato - Secretary

Josh Newman

Sheri Rabiner-Gordan

RB Benson

Staff: Michelle Perillie, AICP CFM, Deputy Planning and Zoning Director

I. Public Hearing

- 1. DENIED (Upheld Staff 's Decision) 63 Old Hill Road:** Appeal #ZBA-24-00269 submitted by Eric Bernheim, Esq. on behalf of property owners James and Diana Coyne, for appeal of decision of the Zoning Enforcement Officer Laurie Montagna's decision to deny issuance of a zoning permit dated May 6, 2024, for a pickleball court, located in Residence AA district, PID# B11017000.

Opened with testimony on 7/23/24 and continued to 9/10/24. Testimony taken and application closed. Sheri Gordan-Rabiner made a motion to close the application and Joe Scordato seconded. Closed (5-0). Sheri Gordan made a motion to uphold staff's decision due to lack of ambiguity and longstanding interpretation as well as the language in the deed. Liz Wong seconded.

Action: Denied (Upheld Staff 's Decision)

Motion to Deny the Application: Sheri Rabiner-Gordon (2nd Liz Wong)

Vote: In favor (5-0-0): Wong, Newman, Scordato, Rabiner-Gordan, Benson

See attached resolution

- 2. 21 Norwalk Avenue:** #ZBA-24-00339 submitted by Cindy Tyminski, Moon Gardens LLC, on behalf of property owner Steve Warren, for variance of the Zoning Regulations: §6-2.1.6 (New Construction), §13-4 (Setbacks), and §13-6 (Building and Total Coverage), for

construction of entry stairs within the Setback and an addition all over allowable Building and Total Coverage, located in the Residence A district, PID# D03150000.

Opened without testimony on 8/13/24 and continued to 9/9/24. No testimony taken. Application further continued to 10/8/24.

- 3. 715 Post Road East: #ZBA-24-00234** submitted by William W. Taylor, property owner, for a variance of the Zoning Regulations §35-2-2.1 (Front Landscape), §24-8 (Floor Area), §31-3, 5-2 (Fence, Wall), for construction of a 4,220 SF office building with 20 parking spaces after DOT condemnation, located in General Business District, PID# E09186000.

Application opened, testimony taken, and application closed. Jim Ezzes made a motion to close the application and Liz Wong seconded. Closed (5-0)

Action: Granted

Motion to Grant the Application: Jim Ezzes (2nd Joe Scordato)

Vote: In favor (5-0-0): Ezzes, Wong, Newman, Scordato, Benson

See attached resolution

- 4. GRANTED 30 Surf Rd: #ZBA-24-00386** submitted by Charles Mills, PE, for property owned by Steve Kohn, for a variance of the Zoning Regulations §13-4 (Front and Side Setbacks in Res. A), §32-8.3.2 (Allow for Grading within 5' of Lot Line), to permit installation of an electric transformer in the front and side setbacks and to permit grading with 5' of the lot line for transformer installation in flood zone AE 13, in Res. A zone, located in Residence A district, PID# A02045000.

Application opened, testimony taken and application closed. Jim Ezzes made a motion to close the application and Liz Wong seconded. Closed (5-0)

Action: Granted

Motion to Grant the Application: Jim Ezzes (2nd Joe Scordato)

Vote: In favor (5-0-0): Ezzes, Wong, Newman, Scordato, Benson

See attached resolution

II. Work Session

- **New Business - None**
- **Old Business**
- **Other ZBA Business – None**

A copy of the Agenda for the Zoning Board of Appeals Public Hearing on April 11, 2024, is available on-line at www.westportct.gov on the Planning and Zoning Department web page under "Planning & Zoning Department".

It is the policy of the Town of Westport that all Town-sponsored public meetings and events are accessible to people with disabilities. If you need assistance in participating in a meeting or event due to a disability as defined under the Americans with Disabilities Act, please contact Westport's ADA Coordinator at 203-341-1043 or eflug@westportct.gov at least three (3) business days prior to the scheduled meeting or event to request an accommodation.

Dated at Westport, Connecticut on this 16th September 2024, James Ezzes, Chairman, Zoning Board of Appeals.



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September 13, 2024

Eric Bernheim, Esq.
FLB Law
315 Post Road West
Westport, CT 06880

RE: CASE # ZBA-24-00269
ADDRESS: 63 Old Hill Road
OWNER OF PROPERTY: James and Diane Coyne

Dear Attorney Bernheim,

This is to certify that at the work session of the Zoning Board of Appeals held on September 10, 2024, it was moved by Ms. Rabiner-Gordon and seconded by Mr. Scordato to adopt the following resolution:

RESOLVED: 63 Old Hill Road: Appeal #ZBA-24-00269 submitted by Eric Bernheim, Esq. on behalf of property owners James and Diana Coyne, for appeal of decision of the Zoning Enforcement Officer Laurie Montagna's decision to deny issuance of a zoning permit dated May 6, 2024, for a pickleball court is hereby **DENIED**, and the action of the Zoning Officer is upheld, for property located in Residence AA, PID# B11017000.

This appeal was denied because the Zoning Board of Appeals weighed the evidence and found that the staff correctly interpreted the Front Setback to be measured from the edge of the road right-of-way as stated in the definition of Front Lot Line which states,

"The property line(s) dividing the lot from the right of way of a street or streets. In the case of a rear lot, the front lot line shall be considered the line or lines most nearly parallel to and closest to a street or streets providing lot frontage."

The Zoning Board of Appeals found the regulation is not ambiguous, has been consistently interpreted by Planning and Zoning staff for over 20 years and there was credible evidence to support the decision.

The appellant failed to persuasively prove that the Front Setback should be measured from the pavement of Side Hill Road.

VOTE:

AYES	-5-	{Wong, Newman, Scordato, Benson, Rabiner-Gordon}
NAYS	-0-	
ABSTENTIONS	-0-	

Yours Truly,



Elizabeth Wong, Vice Chairwoman
Westport Zoning Board of Appeals



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September 13, 2024

William W. Taylor
1071 Post Road East, Suite 206
Westport, CT 06880

RE: CASE # ZBA-24-00234
ADDRESS: 715 Post Road East
OWNER OF PROPERTY: William W. Taylor

Dear Mr. Taylor,

This is to certify that at the work session of the Zoning Board of Appeals held on September , 2024, it was moved by Mr. Ezzes and seconded by Mr. Scordato to adopt the following resolution:

RESOLVED: 715 Post Road East: #ZBA-24-00234 submitted by William W. Taylor, property owner, for a variance of the Zoning Regulations §35-2-2.1 (Front Landscape), §24-8 (Floor Area), §31-3, 5-2 (Fence, Wall), for construction of a 4,220 SF office building with 20 parking spaces after DOT condemnation is hereby **GRANTED** for property located in General Business District, PID# E09186000.

The Zoning Board of Appeals found the following unique and specific hardship from the application of the regulations to the subject property:

1. Two Fronts

The lot has frontage on both Post Road East and Roseville Road.

2. State Taking of Property

The existing size of the lot is 15,589 sf. The DOT proposes to take 152 SF, reducing the lot area to 15,437 SF, which is the revised gross lot area. There are 84 SF of steep slopes on the lot, so 80% of the slopes are deducted (67 SF), bringing the net lot area to 15,368 SF.

3. Public Safety

The wall over 8 foot is required for public safety for pedestrians on the sidewalk on Roseville Road.

VOTE:

AYES	-5-	{Ezzes, Wong, Newman, Scordato, Benson}
NAYS	-0-	
ABSTENTIONS	-0-	

The above has been **GRANTED** in accordance with the plans submitted with the application: Existing Conditions Survey, prepared by Neal K. Jain L.S., dated 6/27/10; Proposed Site Plan, prepared by Redniss and Mead, dated 12/1/17, revised 6/18/24. Said plans are stamped "APPROVED" by the Zoning Board of Appeals on September 10, 2024.

Effective Date: Contingent upon applicant filing this resolution with the Town Clerk.

Prior to the issuance of a zoning permit this variance must be filed with the Town Clerk.

Subsequent to recording the variance with the Town Clerk you will need to obtain a Zoning Permit. You may also require a Building Permit, and you should contact the Building Department at 203-341-5025 for further information.

Yours Truly,

James Ezzes, Chairman
Westport Zoning Board of Appeals



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September 13, 2024

Charles Mills, P.E.
 68 Canterbury Lane
 Wilton, CT 06897

RE: CASE # ZBA-24-00386
ADDRESS: 30 Surf Road
OWNER OF PROPERTY: Steven Kohn

Dear Mr. Mills,

This is to certify that at the work session of the Zoning Board of Appeals held on September 10, 2024, it was moved by Mr. Ezzes and seconded by Mr. Scordato to adopt the following resolution:

RESOLVED: 30 Surf Rd: #ZBA-24-00386 submitted by Charles Mills, PE, for property owned by Steve Kohn, for a variance of the Zoning Regulations §13-4 (Front and Side Setbacks in Res. A), §32-8.3.2 (Allow for Grading within 5' of Lot Line), to permit installation of an electric transformer in the front and side setbacks and to permit grading within 5' of the lot line for transformer installation in flood zone AE 13 is hereby **GRANTED** for property located in Res. A zone, located in Residence A district, PID# A02045000.

The Zoning Board of Appeals found the following unique and specific hardship from the application of the regulations to the subject property:

1. Flood Zone

The lot is in the AE 13 flood zone and the concrete slab the transformer will sit on must be elevated to 14 MSL to prevent flood damage.

2. Utility Provider Requirements

As the transformer is planned to be used by both 28 and 30 Surf Road, it must also be located so as to allow both houses to be within an acceptable distance from the transformer to allow for the appropriate amperage to be delivered. The location shown meets the maximum distance requirements provided by the utility provider.

3. Steep Slopes/Wetlands

Approximately 1,768 SF, approximately 7%, of the lot contains Steep Slopes and Wetlands. 30 Surf Road has a gross Lot Area of approx. 0.569 acres, or 24,780 SF, but after the

mandatory deduction is taken for the Steep Slopes, a base Lot Area of 0.536 acres, or 23,366 SF, remains.

VOTE:

AYES	-5-	{Ezzes, Wong, Newman, Scordato, Benson}
NAYS	-0-	
ABSTENTIONS	-0-	

The above has been **GRANTED** in accordance with the plans submitted with the application: Existing Conditions Survey, prepared Walter H. Skidd L.S., dated 12/19/22, revised 4/4/23; Proposed Site Plan, prepared by Charles A. Mills, dated 9/20/23, revised 4/5/24. Said plans are stamped "APPROVED" by the Zoning Board of Appeals on September 10, 2024.

Effective Date: Contingent upon applicant filing this resolution with the Town Clerk.

Prior to the issuance of a zoning permit this variance must be filed with the Town Clerk.

Subsequent to recording the variance with the Town Clerk you will need to obtain a Zoning Permit. You may also require a Building Permit, and you should contact the Building Department at 203-341-5025 for further information.

Yours Truly,

James Ezzes, Chairman

Westport Zoning Board of Appeals