

**BRISTOL ZONING BOARD OF APPEALS
MINUTES
REGULAR MEETING OF TUESDAY, JANUARY 4, 2022**

CALL TO ORDER:

By: Chairman Rafaniello

Time: 7:00 P.M.

Place: City Hall

ROLL CALL:

Chairman Rafaniello called the meeting to order at 7:00 P.M.

MEMBERS	NAME	PRESENT	ABSENT
REGULAR MEMBERS:			
	Jerald Rafaniello (Chairman)	X	
	Jeffrey Twombly (Vice Chairman)		X
	Richard Raymond	X	
	Alfred Radke, III		X
	David Pecevich (Secretary)	X	
ALTERNATE MEMBERS	Rory Ghio	X	
	Tim Adamaitis		X
	Richard Balsam	X	
	Robert Flanagan, AICP, City Planner	X	
STAFF	Edward Spyros, Zoning Enforcement Officer	X	

Chairman Rafaniello designated regular Commissioners Raymond, Pecevich and Rafaniello as voting Commissioners this evening. He also designated alternate Commissioners Ghio and Balsam to vote in place of Commissioners Twombly and Radke with their absences this evening. In addition, he reminded Board the next regular meeting of the Zoning Board of Appeals is Tuesday, February 1, 2022.

PUBLIC HEARINGS:

1. Application #3776 – Variance of minimum rear yard to construct a swimming pool at 42 Woodside Way; Map 55, Lot 29; R-25 (Single-Family Residential) zone; Robert P. Wilson, III, applicant.

The Board acknowledged receipt of the following items in their electronic packets: four photographs undated.

Robert P. Wilson, III, 42 Woodside Way, explained the request was to install a swimming pool. He explained the hardship was a utility easement on the side yard near the driveway. They want to make sure the pool was located outside the utility easement and locate it offset in the rear yard. The pool should be 15 ft. minimum from the deck and porch for safety reasons for walking around the pool and for the two rear egresses on the house. Also, this was a corner lot and it was a challenge to get to the rear of the house. He summarized they want to have the structure outside of the utility easement.

Mr. Wilson explained the existing deck, patio and porch would remain. If the pool was at a 5 ft. distance, a Variance would not be needed, but he researched if people are on the patio with furniture and a minimum of 15 ft. distance was required for a safe distance. The existing patio would be demolished, but the steps would remain. The wooded area in the photograph showed where the pool would be located into the setback. The fence would be a wire mesh fence. The pool was fiberglass so it cannot be modified and there is a seating ledge. The 12.3 ft. goes to the edge of the seating.

No one else spoke in favor of the application.

No one spoke against the application.

The hearing is closed.

By: Pechevich

Seconded: Ghio.

For: Balsam, Raymond, Ghio, Pecevich and Rafaniello.

Against: None.

Abstain: None.

The Board commented the pool may be turned a little bit, but it was a corner lot and there was not a lot of area to work with especially with the sewer easement. There was a large buffer between the rear yards. The land contoured uphill, there is a buffer with trees. The easement was the biggest concern and it was screened by the buffer, so there were no concerns.

MOTION: Move to approve Application #3776 – Variance of minimum rear yard to construct a swimming pool at 42 Woodside Way; Map 55, Lot 29; R-25 (Single-Family Residential) zone; Robert P. Wilson, III, applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Ghio.

For: Balsam, Raymond, Pecevich, Ghio and Rafaniello.

Against: None.

Abstain: None.

The application is approved.

2. Application #3777 – Variances of 1) minimum rear yard and 2) no structures permitted within 20' foot buffer; to erect ground mounted solar panels at 409 Hill Street; Map 65, Lot 1; R-25 (Single-Family Residential) zone; Chippens Hill Creamery, Inc., applicant.

Michael Balinskas of PowerHawke, Inc., 132 Scott Swamp Rd. Farmington, representing the applicant, explained the request to install solar panels on the property (south.) The Variance requests were on the minimum rear yard and the 20 ft. buffer. There is a parking lot (east); a slope (south); inland wetlands (west); and an active orchard as part of the business (north.) They tried to fit it in at the top of the slope to make this work. If they go north, some orchard trees would have to be removed. The photograph was from the paved area looking west.

Mr. Balinskas explained that there are 7 very old apple trees that would have to be removed, and the apples from the orchard are used in the applicant's products. He was unsure if the trees would survive relocation, which was not reviewed. The applicant was trying to expand the solar panels on the property (north), so the panels may not be placed in that location. The panels would be next to the trees and were 10 ft. off the ground. The extra 10 ft. for the rear setback was needed for the energy system for the year (114 panels) for the applicant's business. If they were a different configuration, to the north were the orchard trees that would have shade, but this had a clear southerly exposure.

The Board commented there were not a lot of options reviewed. They do not want to move the trees, but their use was being inhibited. The property goes up a slope about 20 ft.

Mr. Flanagan explained the zone setback is 15 ft. for the side yard in this zone and there is a 20 ft. buffer requirement for the panels, which was the Variance being requested. The applicant had a Public Hearing next week with the Zoning Commission for a Special Permit and Site Plan applications.

No one else spoke in favor of the application.

No one spoke against the application.

The hearing is closed.

By: Pecevich

Seconded: Raymond.

For: Raymond, Ghio, Pecevich, Balsam and Rafaniello.

Against: None.

Abstain: None.

The Board commented normally they would not want orchard trees cut down because they have been there a long time. The 20 ft. buffer was not a concern because of the slope of the land, street and people going on the property. The side yard was woods and there were no neighbors to object on the side yard. Two properties away has the largest amounts of solar panels. There were no concerns. They understood the logistics of the request, but there were no concerns.

MOTION: Move to approve Application #3777 – Variances of 1) minimum rear yard and 2) no structures permitted within 20' foot buffer; to erect ground mounted solar panels at 409 Hill Street; Map 65, Lot 1; R-25 (Single-Family Residential) zone; Chippens Hill Creamery, Inc., applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Raymond.

For:

Raymond, Ghio, Pecevich and Balsam.

Against: Rafaniello.

Abstain: None.

The application is approved.

3. Application #3778 – Variances of 1) minimum front yard to allow house (main structure) within the setback area and 2) to allow entry stairs to extend more than three feet into the required front yard at 86 Fifth Street; Map 38, Lot 50; R-10 (Single-Family Residential) zone; Jason Gorneault, applicant.

Charles Talmadge of Development Planning Solutions, 73 Meadow St., explained the house was recently constructed.

The applicant decided to create a buffer near the neighbors to the south of the property and to preserve some existing trees. When the survey was done at the end of the process, it was determined that the house was located so far forward that the house was went over the front setback line when the as built survey was submitted to the Building Department.

Jason Gorneault, 86 5th St., explained the decision was made to give the neighbors some extra area because the house was going to be built near their neighbor's master bedroom and he was trying to accommodate them.

The Chairman explained the plan that was submitted was near the rear property line and it was moved more than 20 ft. forward.

Mr. Gorneault thought they were in the setback, so the house was pushed forward.

The foundation contractor constructed the foundation at his direction.

Mr. Spyros explained as part of the foundation inspection, the building inspector inspects the footings and walls for correctness. No one in the Building Department was licensed to survey. He cannot determine legally if a foundation was in the correct location, but depended on the surveyor's as built map that is submitted at the end of a project.

The plan that was submitted for the building permit was in compliance, but the finished product was not. Mr. Spyros does not inspect foundations and cannot determine the location of the foundation.

The Board reviewed the original plan with the applicant.

The Board agreed to have the concern discussed with the Corporation Counsel Office.

No one else spoke in favor of the application.

The following persons spoke against the application: Kristen Tarchini, 75 Holden St.; William Tarchini, 75 Holden St; and Bruce Pinnette, 79 5th St.;

Ms. Tarchini's reviewed the minutes of the February 2, 2021 meeting and the house was shifted away from her house. The minutes stated that the building footprint was relocated a greater distance south and the stairs were revised to function as a side-load stairway. The stairs are not side facing and the house was supposed to be closer to her house. Her view was the applicant was asking for forgiveness versus asking for permission.

Mr. Pinnette had concerns with these plans; the house was too large for the lot and the lot did not meet the minimum requirements, so now there are problems with this large house on an unapproved building lot.

Mr. Tarchini's explained that he objected to this property being developed in February 2021. There were a lot of inconsistencies with these plans. The property now is a leased property and built with that intention.

Mr. Spyros explained the Building Official had issued a permanent certificate of occupancy, but it may be revoked. There was an error of signing off the Certificate of Occupancy before the As-Built plan was reviewed.

Mr. Gorneault explained the approved plan is not what they wanted and he decided to list it as a rental property instead.

MOTION: Move to continue Application #3778 – Variances of 1) minimum front yard to allow house (main structure) within the setback area and 2) to allow entry stairs to extend more than three feet into the required front yard at 86 Fifth Street; Map 38, Lot 50; R-10 (Single-Family Residential) zone; Jason Gorneault, applicant, to the regular February 1, 2022 meeting.

By: Balsam

Seconded: Pecevich.

For: Raymond, Ghio, Pecevich, Balsam and Rafaniello.

Against: None.

Abstain: None.

The application is continued.

Mr. Flanagan explained he would schedule a meeting with the Corporation Counsel Office to discuss the Board's options.

MISCELLANEOUS:

4. Approval of Minutes
 - a. May 19, 2021

Chairman Rafaniello designated regular Commissioner Rafaniello to vote on the May 19, 2021 minutes. He also designated alternate Commissioners Balsam and Ghio to vote in place of Commissioners Pecevich and Raymond with their absence at the May 19, 2021, special meeting.

MOTION: Move to approve the special minutes of the May 19, 2021, regular meeting.

By: Ghio

Seconded: Balsam.

For: Balsam, Ghio and Rafaniello.

Against: None.

Abstain: None.

- b. October 5, 2021

Chairman Rafaniello designated regular Commissioner Rafaniello and Pecevich to vote on the October 5, 2021, regular minutes. He also designated alternate Commissioners Balsam and Ghio to vote in place of Commissioners Pecevich and Raymond with their absence at the October 5, 2021, regular meeting.

MOTION: Move to approve the regular minutes of the October 5, 2021.

By: Ghio

Seconded: Balsam.

For: Balsam, Pecevich, Ghio and Rafaniello.

Against: None.

Abstain: None.

CITY PLANNER'S REPORT:

5. February 2021 Amendment to the Zoning Regulations: Section XII.G. – Created a procedure that authorizes the Zoning Enforcement Officer (ZEO) to provide assistance to persons with disabilities by allowing adjustments to the Zoning Regulations to meet the requirements of the Americans with Disabilities Act and Fair Housing Act; Initiated by: Bristol Zoning Commission. *(Note: This item is for information purposes only and is not an active application.)*

The Commission acknowledged receipt of the following item(s) in their electronic packets: A copy of the proposed revised draft of amendment entitled "AZR20-2: Proposed Amendments to The Bristol Zoning Regulations, Bristol Zoning Commission, Draft for Public Hearing: 011321 Revised Draft: 122120, Amendment #1, Section XII. – Administration G. Reasonable Accommodations for Persons with Disabilities"; a copy of the Regular Meeting of January 13, 2021 regular minutes; a page entitled, "Zoning Laws and

Reasonable Accommodation for Citizens with Disabilities, undated; and a pamphlet, entitled "A Guide to Zoning for Fair and Open Communities, dated June 2013, from Connecticut Fair Housing Center."

Mr. Flanagan reviewed the changes to the Zoning Regulations, which were done last year. He explained a few towns had implemented these amendments for accommodations with the American Disability Act. The Zoning Enforcement Officer can grant an exception to the Regulation and the homeowner publishes a legal notice. When the accommodation is not needed anymore, it is removed within 90 days.

ADJOURNMENT:

Chairman Rafaniello designated Commissioners Raymond, Ghio, Pecevich, Balsam and Rafaniello to vote on the adjournment.

MOTION: Move to adjourn at 7:55 P.M.

By: Ghio

Seconded: Balsam.

For: Raymond, Ghio, Pecevich, Balsam and Rafaniello.

Against: None.

Abstain: None.

Respectfully submitted,

Nancy King
Recording Secretary

Jerald A. Rafaniello, Chairman

David Pecevich, Secretary