

ZONING BOARD OF APPEALS
October 1, 2008

A regularly scheduled meeting of the Zoning Board of Appeals of the Town of Trumbull was held in the Town Hall on Wednesday, October 1, 2008.

Members Present: Richard Puskar, Chairman
Michael Muir; John Savino; Joseph Vitrella and alternates
Fred Garrity; William Malmstedt and Dennis Miko

Staff Present: Richard Eigen, Acting Planning and Zoning Administrator
James Cordone, Town Attorney and Fred Bietsch, ZEO

The following is a brief summary of the hearing. The complete record is on tape, on file in the office of the Zoning Board of Appeals.

A quorum being present the Chairman called the meeting to order at 7:30 p.m.

Public Hearing

Application #08-37 – Joseph F. Ganino, 55 Gibson Avenue. Variance of Art. III, Sec. 1, with respect to insufficient minimum yard requirements to construct addition 11.7' from W/S property line.

Joseph Ganino presented plans to relocate the kitchen and create a storage area. He indicated that there would be no change to the grade of the property as a result of this project. Mr. Ganino submitted a picture of his property along with a drawing of the proposed addition. A petition with 20 signatures from neighbors in support of the application was also presented.

Application #08-38 – A.C. Richard Pinto, 237 Church Hill Road. Variance of Art. II, Sec. 1.1.2.2., with respect to permitting a 10'x16' oversized shed.

The applicant appeared and indicated that a larger storage shed is needed to sort and catalogue his deceased wife's collection of vintage clothing. The shed would be placed on the existing concrete slab. No utilities would be connected to the structure. Mr. Pinto submitted literature and a picture of the proposed shed.

Application #08-39 – Robert and Kristin Dunkle, 55 John Street. Variance of Art. II, Sec. 1, with respect to insufficient minimum yard requirements to construct an addition with two sets of stairs 46' from rear property line.

Attorney Cordone recused himself and left the room as the Dunkle's are clients of his.

Mr. and Mrs. Dunkle presented the application. The plans indicated a proposed extension of the kitchen area and a new family room on opposite sides of the dwelling. A set of

stairs would be constructed off of each room with the closest shown 46' from the rear property line. Two letters from abutting neighbors in favor of the project were submitted for the record.

Application #08-26 – Maria Celina Dias Martins, 4855 Madison Avenue
Art. VI, Sec. 1.1., Appeal of violation notice from Zoning Enforcement Officer, dated May 15, 2008, regarding fence which exceeds four feet in height. HEARING CONTINUED FROM SEPTEMBER 3, 2008.

Richard Eigen, who was the ZEO at the time the violation was issued, addressed the Commission. He relayed that the Cease and Desist was issued under the previous Zoning regulations. He quoted from the regulations, which indicated that no fence is to exceed four feet in height.

Attorney Raymond Rizio represented the applicant. He presented copies of the zoning regulations (prior and current) relative to fences along with a petition in support of the applicant. Pictures of the fence which was situated on top of what was referred to as a retaining wall were also submitted.

The Commission questioned the use of the term retaining wall as the structure appeared to be decorative in nature.

Attorney Rizio stated that the wall measured 34" in height and the fence was 3.10" in height. Mr. Rizio argued that there is no language in the regulations that prohibit a fence from being placed on top of a wall or that a fence and wall combined, must be less than 4' in height. He noted several areas in Town where a retaining wall exists with a 4' high fence on top of it.

Mr. Eigen noted that the prior regulations allowed appropriate fencing and screening to hide commercial properties from neighboring lots. He further commented that his interpretation was that walls and fences in residential areas are accumulative in height.

Armondo Martins of 4855 Madison Avenue appeared and upon inquiry stated that the Building Department indicated to him that a permit was not required for either structure.

Richard Eigen noted that walls and fences are not under the purview of the Building Department and therefore no permit would be required from them.

Public Comment

George Batsaras and Kiki Kokenos of 4847 Madison Avenue asked for and were provided with clarification, as to where their property lies in relationship to this parcel.

Application #08-40 – Celina Martins, 4855 Madison Avenue. Variance of Art. I, Sec. 5.2, with respect to permitting a 6' to 7' fence/wall on rear property line and street side (Seeley Rd.) of corner lot.

Attorney Rizio announced that the applicant wishes to withdraw her application.

At this point (9:15 p.m.), the Chairman called for a short recess. The meeting resumed at 9:20 p.m.

Application #08-33 – Joseph Vinhais/Ophelis Vinhais, 8 Prospect Ave. Lots 267 and 268 as shown on survey map dated July 23, 2008, with street address of 8 Prospect Avenue (corner of Prospect Avenue and Pine Street). Variance of Art. III, Sec. 1 and Art. III, Sec. 2, Par. C, with respect to insufficient lot area requirements (Lot 267, 10,120 sq. ft; Lot 268, 10,120 sq. ft.); insufficient road frontage requirements (Lot 267, 92'; Lot 268, 220'); insufficient minimum yard requirements on corner lot to construct dwelling (Lot 267) 20' from front property line, and 44' from rear property line and insufficient minimum yard requirements 29.7' from front property line and 44' from rear property line for existing dwelling. HEARING CONTINUED FROM SEPTEMBER 3, 2008.

Attorney Raymond Rizio represented the applicant. He began his presentation by submitting a revised Improvement Location Survey that addressed a neighbor's concerns. A row of white pines has been added along the rear property line and the driveway has been moved slightly.

The subject property was described as being pre-existing non-conforming. The record subdivision map was entered into the record. Attorney Rizio indicated that the two lots have always been taxed and assessed as two separate lots.

Mr. Rizio submitted the following: The Assessor's card, photographs of the subject property, the ownership deed for both lots, a petition from neighbors in support of the project and a picture of the home to be constructed.

The two lots would share a common driveway, which indicated an access off of Pine Street. Upon inquiry, Attorney Rizio relayed that the location of the front of the house had not as yet been determined.

The Commission questioned the concept of a common driveway, as it could be problematic and inquired if an alternative plan had been considered.

Public Comment

Genevieve Everlith, 7 Fairview Avenue, the abutter to the rear of the property came forward. Mrs. Everlith submitted a list of her concerns along with several relative photographs. Attorney Rizio indicated that the applicant would be agreeable to all of Mrs. Everlith's conditions.

Attorney Rizio then asked that the hearing be continued to give the applicant an opportunity to consult with the Town Engineer regarding an alternative driveway design and a storm water management plan. He agreed to waive any necessary statutory time requirements.

MOTION MADE (Muir), seconded (Vitrella) and unanimously carried (Puskar, Muir, Savino, Vitrella, Malmstedt) to continue Application #08-33 until the November 5, 2008 regular meeting.

This concluded the Public Hearing.

Regular Meeting

Pending Applications

Application #08-35 – Mike Henrick, 23 Alden Avenue.

Mr. Henrick was advised that a fifth Commissioner had not listened to the tape of the Public Hearing for his application. He was given the option of waiting until next month's meeting or have a vote taken with the four Commissioners who were present. Mr. Henrick asked that his application be voted on tonight.

Application #08-35 – Jeffrey & Corine Scott, 32 Pondview Avenue. Variance of Art. II, Sec. 1, Par. C(1)(a) and C(1)(b), with respect to permitting oversized 525 sq. ft. shed, 13.5' high, 4.3' from E/S property line, shed rebuilt on existing foundation.

The ZEO, Fred Bietsch appeared and asked for clarification on the conditions of approval for the oversized shed, which is being utilized as a playhouse. A copy of the approval letter and an electrical application were submitted for the record. The application submitted to the Building Department indicated placement of wiring for television, electric heat and telephone service.

The property owner Corine Scott relayed that at the Public Hearing she stated that the structure would be utilized as a playhouse. She wanted to have it heated so that it could be used year around.

At this point (9:35 p.m.) Commissioner Miko exited the meeting.

Application #08-37 – Joseph F. Ganino, 55 Gibson Avenue

MOTION MADE (Vitrella) seconded (Savino) and unanimously carried (Puskar, Muir, Savino, Vitrello, Malmstedt) to approve Application #08-37 as submitted subject to the Town's Stormwater Management Policy and the following condition.

1. The proposed project may be in a regulated area. If verified as such, a permit from the Inland Wetlands and Watercourses Commission will be required before the issuance of a building permit.

Application #08-38 – A.C. Richard Pinto, 237 Church Hill Road

MOTION MADE (Muir) seconded (Savino) and unanimously carried (Puskar, Muir, Savino, Vitrella, Malmstedt) to approve Application #08-38 as submitted subject to the Town's Stormwater Management Policy.

Application #08-39 – Robert and Kristen Dunkle, 55 John Street

MOTION MADE (Muir), seconded (Savino) and unanimously carried (Puskar, Muir, Savino, Vitrella, Malmstedt) to approve Application #08-39 as submitted subject to the Town's Stormwater Management Policy.

Application #08-36 – Maria Celina Dias Martins, 4855 Madison Avenue.

MOTION MADE (Savino) seconded (Muir) to sustain the appeal, pursuant to Art. VI; Sec. 1.1., of violation notice from Zoning Enforcement Officer (dated May 15, 2008) concerning fence which exceeds four feet in height.

Vote: In Favor: 0 - Opposed (5): Puskar, Muir, Savino, Vitrella, Malmstedt.
APPEAL DENIED

No evidence was presented to indicate that the Zoning Enforcement Officer acted improperly in issuing the violation notice.

Application #08-35 – Mike Henrick, 23 Alden Avenue

MOTION MADE (Muir), seconded (Garrity) and unanimously carried (Puskar, Muir, Garrity, Malmstedt) to approve Application #08-35 as submitted.

Application #08-24 – Jeffrey and Corine Scott, 32 Pondview Avenue

MOTION MADE (Muir), seconded (Savino) and unanimously carried (Puskar, Muir, Savino, Vitrella, Malmstedt) to clarify the installation of utilities to the subject shed as follows:

1. Electricity to be limited to not exceed 20 amps.
2. Water service to be limited not to exceed one hose bib.

MOTION MADE (Muir) seconded (Savino) to enter into Executive Session for the purpose of holding discussion on pending litigation. Commissioners Puskar, Muir, Savino, Vitrella, Malmstedt and Garrity, along with Town Attorney James Cordone, Richard Eigen and the ZBA Clerk entered into Executive Session at 9:55 p.m.

At 10:00 p.m. a motion was made (Vitrella), seconded (Muir) and unanimously carried (Puskar, Muir, Savino, Vitrella, Malmstedt) to return to the Regular Meeting.

There being no further business to discuss a motion was made by Commissioner Savino and seconded by Commission Malmstedt to adjourn. The October 1, 2008 meeting of the Zoning Board of Appeals adjourned at 10:01 p.m. with unanimous consent.

Respectfully submitted,

Helen Granskog
Clerk of the Commission

ZBA – OCTOBER 1, 2008