

WETHERSFIELD ZONING BOARD OF APPEALS
PUBLIC HEARING
February 28, 2005

The Wethersfield Zoning Board of Appeals held a public hearing on February 28, 2005 at 7:00 PM in the Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut.

PRESENT: Morris R. Borea, Chairman
Thomas J. Vaughan, Jr., Vice Chairman
Bruce T. Bockstael, Clerk
Steven F. Clarke
Gina P. DeAngelo, Alternate
Matt Cholewa, Alternate

ABSENT: Frank A. Falvo, Jr.
Craig S. Pinney, Alternate

Also Present: Brian O'Connor, Chief Building & Zoning Official
J. Claude Jean, Assistant Building & Zoning Official

Chairman Borea opened the meeting. Before the meeting started, the public was welcomed to speak regarding anything except specific cases in the past or on the night's agenda. There was no one present who wished to speak.

Chairman Borea stated for the record that this evening's hearing is not being televised as they could not gain access to the room with the equipment.

Commissioner Cholewa entered the meeting at 7:04PM.

APPLICATION NO. 5900-05 Nathan Hale #58, AHEPA, INC. seeking a variance to erect an addition which does not meet the requirements for 1) landscape buffer, 2) parking setback, 3) minimum unit size/minimum bedroom size, 4) maximum number of units per acreage, and 5) required common open space at 1532 Berlin Turnpike, east side, Special Residential Development Zone (§3.4 & §6.8).

Mr. Guy Hesketh, P.E., 6 Creamery Brook, East Granby, CT, appeared before the Board on behalf of AHEPA, INC. seeking a variance to erect an addition. Mr. Hesketh stated he came before this Board last month and the application was denied without prejudice.

Mr. Hesketh stated that they have reapplied and made several changes to the previous application to address some of the concerns that the Board had last month. He stated that they were able to increase the landscape buffer which was requested by the Board last month; however, a variance is still needed. He stated that they were able to meet the requirement along the rear; however, not along the front.

Mr. Hesketh stated that a variance is still needed for the minimum unit and bedroom size and the maximum number of units per acreage. He stated that this is HUD Program requirements and there was nothing that could be changed with regards to this.

Mr. Hesketh stated that it was brought to his attention by Town Staff that they do not meet the zoning requirements with regards to minimum amount of common open space. He stated that regulations require a minimum of 25% of common open space available to all residents. He stated that although they do have 40% of landscape area; all of this area is not available to residents. He stated that because the grade is so steep in the rear it is not feasible for this area to be accessible to the residents. He stated that they wish to keep this area as undisturbed vegetative buffers. He stated that 15% of the landscaped area is available for common open space.

Chairman Borea confirmed that he is requesting relief for this variance because of typographic constraints. Mr. Hesketh stated that this was correct. Chairman Borea confirmed that he is also requesting relief with regard to the unit and bedroom size and maximum number of units per acreage due to HUD requirements. Mr. Hesketh stated that this was also correct.

Chairman Borea questioned what the hardship was with regards to the variance needed for the landscape buffer and parking setback. Mr. Hesketh stated that the hardship for this variance is the typographic constraints of the property.

Commissioner Clarke questioned if there was anything more that could be done with regard to the common open space. He questioned if the walkway in the front could be worked around toward the back. Mr. Hesketh stated that this probably is possible; however, they feel the intent of the regulations is to provide outdoor recreation areas and given the tenants of this residence they did not think this would be used and that it may actually be more of a hazard to the residents.

Commissioner Cholewa questioned the reason for the variance for the parking set back and landscape buffer. Mr. Hesketh stated that the added buffer would require that they move all of the structure closer to the apartment complex and require additional grading. Commissioner Cholewa questioned if this was because of the design of the building and asked if there was a 15' buffer there now. Mr. Hesketh stated that there is not a 15' buffer around the existing building.

Commissioner Bockstael explained that the existing building is not going to move so the new building is going to butt up against it; so if you look at the 15' setback, the roadway and the parking they are almost tight against the back lot line so the building could not be pulled down further to increase the space in that area.

Commissioner Cholewa stated that was correct if you build that particular building.

There were no further questions or comments from the Board.

There was no one in the audience who wished to speak in favor of or in opposition to this application.

APPLICATION NO. 5901-05 Joseph & Kathleen Murphy seeking a variance to establish a building lot having less than the required frontage and buildable square requirements at 71 Thornbush Road, west side, AA Residence Zone. (§3.7.A).

Chairman Borea stated for the record that he is removing himself from hearing this application as he is an abutter and received notification of this hearing.

Attorney Peter Alter, 701 Hebron Ave., Glastonbury, CT and Mr. Paul Hallisey, Engineer, 78 Beaver Road, Wethersfield, CT appeared before the Board on behalf of Joseph and Kathleen Murphy seeking a variance to establish a building lot. Atty. Alter presented to the Board a map prepared by Mr. Hallisey which shows the two residences on the property. He stated that the smaller home, which is closer to Thornbush Road, was built in 1950 and the larger home, which is on the rear of the property, was built in 1989. This was done under the old regulations which permitted two residences on the same piece of property with certain circumstances. He stated that the proposal tonight is to seek approval to establish two separate parcels situated as shown on the plan. He stated that no additional houses or developments are being proposed. He added that this application is only to establish two separate parcels of land.

Atty. Alter stated that the reason that he is before the Board tonight is that the lot in the rear will lack the frontage required under the zoning regulations for a lot in this zone. He added that he was advised by Mr. O'Connor and Mr. Valente that under the regulations there is also a buildable square requirement which this property also does not meet.

Atty. Alter stated that Mr. O'Connor and Mr. Valente questioned that if this application were to be granted that a subdivision application would also be required. Atty. Alter submitted for the record and represented to the Board that this is a parcel that has existed in its present configuration since at least 1948 which of course predates the subdivision requirements. No division of the property has occurred since then so a split would be permitted without sub

division activity.

Atty. Alter stated that when Baneberry Lane was developed it was anticipated that an additional road would be built that would access the rear of what is now the Murphy property. He stated that the two adjacent parcels (the Staron and Nakos property) on Thornbush Road were divided in the exact same manner as he is requesting that the Murphy property be divided. He stated that once the road from Baneberry was not to be built these relatively large parcels of property were left with inadequate frontage to create more than one residential use for this area of Wethersfield. He stated that the time has passed and this roadway will never be built nor should it be built. He stated that although the Town of Wethersfield owns this property it is his understanding that it is now used for only sanitary sewer access. He stated that a variance is needed in order for the Murphy's to be able to separate their properties and in order to utilize the frontage on Thornbush since the frontage for the new roadway was never created.

Atty. Alter stated that the prior owners made a similar request in 1994 which was denied without prejudice. He stated that at the time there were concerns among neighbors that there maybe additional development in that area. He wanted to state for the record that with this application there will be no change in physical appearance of the property. There would only be the construction of a separate driveway (off Thornbush) so there would not be a shared driveway.

Atty. Alter stated that the hardship is based on Historical failure to complete the neighborhood plan which would have created frontage on public roadway for this property. He stated that having failed to do that before the development occurred has created impossibility of not creating that roadway to give them the necessary frontage anywhere but on Thornbush.

Atty. Alter stated that the granting of this variance would allow separate legal ownership, maintenance and financing of each house under a traditional lot ownership arrangement similar to that which exists on at least the properties that are adjacent to the Murphy's property. He stated that this would be consistent with the way properties are owned in the area and still leaves oversized lots. He stated that he feels that the unusual situation of un-built public roadway and the configuration of the property create an unusual hardship under the strict enforcement of the frontage requirement of the regulations. He stated that they feel that the granting of this variance does not cause any detriment to the public welfare and does not impair any integrity of the regulations nor does it impose any unusual new conditions on the neighborhood. He stated that his client is willing to agree to a condition of approval of the variance that no additional conditions of the property would be sought and that no additional dwellings under separate ownership would be permitted on the property. He submitted for the record pictures of the panoramic view of the property.

Vice Chairman Vaughn, Jr. stated that 110 feet of frontage is required and questioned how much there is. Atty. Alter stated the parcel with the smaller home would be a conforming lot and would have the proper frontage. He stated that the parcel to the rear with the larger home has inadequate frontage. He stated that it would now have 33.92 feet less than the required amount meaning that it has 77 feet of frontage along Thornbush.

Commissioner Cholewa questioned under what circumstance were two houses built on one lot. Atty. Alter stated that it is his understanding that under old Wethersfield Zoning Regulations they allowed two houses where one house was a guest house or servant house. Mr. O'Connor stated that this was correct as long as there was at least an acre of land and the accessory structure was in the rear yard or at least 100' back from the front.

Commissioner Cholewa questioned how large the guest house is. Atty. Alter stated that the guest home is 1,000 square feet.

Commissioner Bockstael questioned if what he is asking for is Parcel B, which is the rear lot, is looking for a variance on the frontage, and Parcel A, which is the front, is looking for a variance on the building square. Mr. O'Connor stated that Parcel A is fine; Parcel B needs the variance for the frontage and for the buildable square; he stated that there is not enough width at the building line on Parcel B to create the buildable square.

Commissioner Bockstael questioned if the garage would no longer become an accessory building to Parcel A. Atty. Alter stated that this was correct. Commissioner Bockstael questioned what they were going to do about a garage. Atty. Alter stated that at this time there is no plan to build a garage on Parcel A.

Commissioner Bockstael questioned what variance was sought by the Nakos property. Atty. Alter stated that the application indicates that they were seeking a variance to permit the division of a parcel of land into two building lots and permitting the continued maintenance of a single family dwelling on the lot having less than the required frontage and side yard. Commissioner Bockstael stated for the record that if his memory serves him right that variance was not for 34' but much closer to less than 10'. Mr. Hallisey stated that this was correct; there were two variances needed, one was for 10' for the frontage and the other was 4' for the side yard.

There were no further questions or comments from the Board.

There was no one in the audience who wished to speak in favor of this application.

The following audience members wished to speak in opposition to this application:

1. Marie Arcari, 74 Thornbush Road, Wethersfield, CT - she stated that she was opposed to the application in 1994 and is opposed now. She stated that she feels that granting this application will adversely affect her property value.
2. Mike Randich, 22 Baneberry Lane, Wethersfield, CT - he stated that he was concerned about the application in 1994 and this application is no different. He stated that he would consider not opposing this application if they could guarantee the paper road will not be made.

Commissioner Cholewa questioned if no additional lot could be added; how would granting this application be detrimental to the property. Ms. Arcari stated that there is no guarantee that an additional lot would not be made.

3. Helen Melonopoulos, 11 Baneberry Lane, Wethersfield, CT - she stated that she fails to see the hardship to grant this application, adding that she already has problems with drainage and if anything else were to be done on this property it may get worse. She stated that there is also no assurance that nothing further would be done to the lot or that the paper street would be abandoned.
4. Jeff Krawczyk, 90 Thornbush Road, Wethersfield, CT - he stated that he also owns a lot between 74-90 Thornbush Road. He stated he feels that the zoning regulations should be upheld in this area, adding that they knew the regulations when they bought the property.
5. Clarence Levesque, 25 Baneberry Lane, Wethersfield, CT - he stated that the 1st variance that was granted on this application states that the property was not to be separated. He stated that he would consider not opposing if there were assurances that the paper street would not be approved.
6. Rick Abraham, 30 Baneberry Lane, Wethersfield, CT - he stated that he is opposed for the same reasons as everyone else here. He stated that he feels there is no hardship as they knew what they were buying when the property was purchased. He added that he would consider not opposing if the paper street were not an option.

Commissioner Bockstael also read a letter from 100 Thornbush Road opposed to this application.

Vice Chairman Vaughn, Jr. clarified with Mr. O'Connor if this Board has the authority to abandon the paper street. Mr. O'Connor stated that this would have to go before the Planning and Zoning Commission and the Town Council.

Vice Chairman Vaughn, Jr. stated for the record that this Board does not have the authority to abandon the paper street.

Commissioner Cholewa stated that if this application were to be granted how the conditions would be enforced. Atty. Alter stated that it is possible to grant a variance with conditions and that is a reassurance to the abutting neighbors as it is not a personal variance but the variance stays with the land.

APPLICATION NO. 5902-05 Frank DiBacco seeking a variance to 1) erect a deck with pool a portion of which will be located over the rear yard set back line and 2) having more than the allowable maximum percent lot coverage at 126 Colonel Chester Drive, west side, A Residence Zone. (§3.7.A.4).

Mr. Frank DiBacco, 126 Colonel Chester Drive, Wethersfield, CT, appeared before the Board seeking a variance to

erect a deck with a pool. He stated that this is an above ground pool that is 18' x 33' for recreational use. He showed a plan of the existing plot plan and what he is proposing to do. He stated that he was told by Fire Marshall Gary Santoro that he cannot dig or blast so he would have to build on top of.

Mr. DiBacco stated that his original proposal was just for an 18' x 33' pool, however this would be put on top of the only flat area of land he has in the back yard. He stated that at this grade line there is ledge which does protrude through the grass every so often. Therefore he is also proposing to do the deck on top that would extend the level of the pool. He stated that there will also be a three season gazebo with an aluminum frame, the exterior has a green cloth cover, this would have a railing around the deck itself and the pool would be put as close to the home as possible on the flattest part of property that there is.

Commissioner Clarke questioned if he owns lot 25. Mr. DiBacco stated that he does not; however, his parents do own lot 25.

Commissioner DeAngelo questioned how much of a variance is needed. Mr. DiBacco stated that the 1st variance is for the pool being over the building line by 8' to 9'. He stated that the length of the pool itself is approximately 15' to 18'.

Mr. O'Connor stated that the variance is for 19' because of the deck.

Commissioner Cholewa questioned if this could be accomplished with putting fill or a retainer wall up near the pool. Mr. DiBacco stated that he cannot put fill up against the pool because it would rot out the aluminum body and create more drainage problems.

Commissioner DeAngelo questioned if the gazebo will be built on top of the deck. Mr. DiBacco stated that this is correct, adding that the gazebo is a pre-fabricated assembly and comes down at the end of the year.

Chairman Borea questioned if he just wanted to put a pool in and if he could blast would a variance be needed. Mr. O'Connor confirmed that no variance would be needed for that. Mr. O'Connor stated that if he were to do a pool deck not attached to the house and if he didn't make the lot coverage then that would be fine. Chairman Borea confirmed that the problem is attaching the deck to the house. Mr. O'Connor stated that that was correct and also the 25% lot coverage.

Commissioner Cholewa questioned why attaching the deck effects anything. Mr. O'Connor stated that this effects the set back. Mr. DiBacco stated that the deck could be detached but that would be very awkward because there would only be a 6" space between the deck and the pool deck.

Chairman Borea confirmed that the pool needs to go in the way it was proposed because you have ledge and you cannot blast; and the deck needs to go in because of the slope. Mr. DiBacco stated that this was correct.

Commissioner DeAngelo questioned the use of the pool. Mr. DiBacco stated that it is for recreational use.

Commissioner Bockstael read into the record a letter from Town Engineer, Mike Turner with comments and which states that he wants the Board to be aware of the following:

1. An existing drainage easement in favor of the Town of Wethersfield which supports an existing storm pipe which runs from Ridge Road to Colonel Chester along the south side of this lot.
2. The storm pipe is very shallow and was in fact damaged during construction of this home and occupancy delayed until it was repaired at the applicants' expense.
3. Every effort must be made to protect this pipe during construction. The Engineer's staff will inspect the pipe before the following construction to assure that it has not been damaged.

Chairman Borea confirmed that Mr. DiBacco is aware of this and that he is responsible if there is any damage. Mr. DiBacco stated that he is aware of this situation and that he paid for the damage the first time.

There were no further questions or comments from the Board.

There was no one in the audience who wished to speak in favor of or in opposition to this application.

WETHERSFIELD ZONING BOARD OF APPEALS
CHAIRMAN BOREA

Commissioner Bockstael, Clerk

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Matt Cholewa, Alternate

ABSENT: Frank A. Falvo, Jr.
Craig S. Pinney, Alternate

Also Present: Brian O'Connor, Chief Building & Zoning Official
J. Claude Jean, Assistant Building & Zoning Official

DECISIONS FROM PUBLIC HEARING

APPLICATION NO. 5900-05 Nathan Hale #58, AHEPA, INC. seeking a variance to erect an addition which does not meet the requirements for 1) landscape buffer, 2) parking setback, 3) minimum unit size/minimum bedroom size, 4) maximum number of units per acreage, and 5) required common open space at 1532 Berlin Turnpike, east side, Special Residential Development Zone (§3.4 & §6.8).

Upon motion made by Commissioner Bockstael, seconded by Chairman Borea and a poll of the Board it was unanimously voted that the above application **BE APPROVED** as presented.

APPLICATION NO. 5901-05 Joseph & Kathleen Murphy seeking a variance to establish a building lot having less than the required frontage and buildable square requirements at 71 Thornbush Road, west side, AA Residence Zone. (§3.7.A).

Upon motion made by Commissioner Cholewa, seconded by Commissioner Bockstael and a poll of the Board, it was voted by a vote of 2-3 that the above application be approved. Vice Chairman Vaughan, Jr., Commissioner Clarke, and Commissioner DeAngelo opposed this application and Chairman Borea abstained from this application. Therefore by a vote of 2 in favor and 3 opposed this application was **DENIED**.

APPLICATION NO. 5902-05 Frank DiBacco seeking a variance to 1) erect a deck with pool a portion of which will be located over the rear yard set back line and 2) having more than the allowable maximum percent lot coverage at 126 Colonel Chester Drive, west side, A Residence Zone. (§3.7.A.4).

Upon motion made by Commissioner Bockstael, seconded by Chairman Borea and a poll of the Board, it was voted by a vote of 2-3 that the above application be approved. Vice Chairman Vaughan, Jr., Commissioner Clarke, and

Commissioner Cholewa opposed this application. Therefore by a vote of 2 in favor and 3 opposed this application was **DENIED**.

APPROVAL OF MINUTES

Upon motion made by Commissioner Bockstael, seconded by Commissioner DeAngelo and a poll of the Board it was unanimously voted that [the minutes of December 27, 2004](#) **BE APPROVED**.

Upon motion made by Chairman Borea, seconded by Commissioner DeAngelo and a poll of the Board it was unanimously voted that [the minutes of January 24, 2005](#) **BE APPROVED**.

ADJOURNMENT

The meeting was adjourned at 8:35 PM.

WETHERSFIELD ZONING BOARD OF APPEALS
CHAIRMAN BOREA

Commissioner Bockstael, Clerk