

1. Call to order: Introductory; Roll Call

Present: Jeffrey Brake, Craig Wilson, Charles Denault, III, April Timko, Judy Spiller, Louis Leontakianakos, Barry Fitzpatrick

Staff Present: Robert Marchi, Code Enforcement Officer

2. Pledge of Allegiance

3. Agenda Amendment and Adoption

None.

4. Executive Session

None.

5. Public Hearings

- a. Charles & Carol Berounsky, 66 Wilson Road, Map 54 Lot 17, Residential – Rural R-RL zone, requesting Miscellaneous Variation Request to construct a 12' x 24' addition, going no closer to the front property line than existing dwelling.

As Secretary, Ms. Timko affirmed the Board has the power and duty to hear this item based on Title 16.6.4.3 - Miscellaneous Variation Request.

Testimony

Mr. Marchi reported the property is a nonconforming lot due to frontage, front setback and lot size. The lot is approx. .4 acres with a frontage of 123 feet and 150 feet is the requirement. He added there are no violations on the property. The applicant has confirmed that they can meet the side setback and the addition will not be further than the existing structure.

Vice Chair Spiller questioned the black lines on the satellite map. Mr. Marchi explained the property lines shown on this map are inaccurate because of the GIS.

Mrs. Berounsky explained the reason of adding the structure is to increase living space and the addition will be no further from the existing structure and will be to the side of the property and going upward.

The Chair opened the public hearing. There being none, the Chair closed the public hearing.

Mr. Wilson asked Mr. Marchi if there is an actual side setback. Mr. Marchi explained the side setback will need to have field verification and he pointed out the distance to the abutting property is 40 feet and to the abutting building it is 60 feet. He added the proposed side setback will be 28 feet where 20 feet is required. Mr. Wilson commented the maximum building coverage appears to be is less than 15% and requested the Code Office to determine the percentage before a permit is granted.

Mr. Fitzpatrick moved to accept the proposal from Charles & Carol Berounsky, 66 Wilson Road, Map 54 Lot 17, for a Miscellaneous Variation Request to construct a 12' x 24' addition.

Mr. Leontakianakos seconded the motion.

The motion carried 7-0-0.

Chair Brake explained this approval is not the granting of a building/regulated activity permit, and any aggrieved party may appeal this decision to Superior Court within 45 days.

FINDINGS OF FACT

- Charles & Carol Berounsky are the owners of property at 66 Wilson Road, Map 54, Lot 17 in the Residential - Rural R-RL Zone.
- The applicants are requesting a Miscellaneous Variation Request to construct an addition to their home.
- The applicant has represented the addition will be no closer to the front property line than the existing dwelling.
- This is a nonconforming lot and as to frontage there is 123 feet where 150 feet is required, a front setback that is nonconforming to the building at 25 feet where 40 feet is required, and lot size is nonconforming where 40,000 sq. feet is the standard and the lot is .4 acres.
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Mr. Wilson moved to accept the Findings of Fact as amended.

Vice Chair Spiller seconded the motion.

The motion carried 7-0-0.

CONCLUSIONS OF LAW

The application meets the requirements for a Miscellaneous Variance request as set forth in Code 16.6.4.3 subsection A - Nonconformance - as described in Article 3, Chapter 16.7

because the lot is Nonconforming as to the front setback. The Board has heard and granted the appeal based on Code 16.7.3.3.2.

Mr. Wilson moved to accept the Conclusions of Law as presented.
Vice Chair Spiller seconded the motion.

The motion carried 7-0-0.

- b. Shelley Nicholson, 51 Old Post Road, Map 8 Lot 5, Commercial-3 C-3 zone, requesting Miscellaneous Variation Request to replace an existing shed with a 16' x 28' garage, going no closer to the property lines than existing structure.

As Secretary, Ms. Timko affirmed the Board has the power and duty to hear this item based on Title 16.6.4.3 - Miscellaneous Variation Requests.

Testimony

Mr. Marchi explained photographs of the property which shows a flexible covered carport. He added there are no permits on record for that structure, which is not uncommon. The last permit was given in 1988. Mr. Marchi explained the applicant would like to add a garage where the carport is now. He also explained it is hard to determine if the carport is illegal and the applicant will address this issue. He added the intention is that the new structure will not go closer than the existing structure. The residence is in a commercial zone and he recommended relying on Code 16.7.3.3.2.

Shelley Nicholson, the applicant, explained she has lived at the property since 1984 and there was a shed which was torn down and they added a carport in its place. She explained she would like to build a garage because to the neighbor's trees have damaged her automobiles and a carport does not provide enough protection.

The Chair opened the public hearing. There being none, the Chair closed the public hearing.

Mr. Fitzpatrick expressed his concern that the application has a statement to replace an existing shed which is in the back of the house not in the driveway. The applicant explained the carport is sitting on gravel and not concrete.

Mr. Wilson agreed with Mr. Fitzpatrick that the Board is being asked to replace an unpermitted car shed which cannot be grandfathered. To be grandfathered, they need evidence from the

testimony that the shed was torn down in 1984 to prove its existence. Mr. Marchi provided documents from 1988 showing two sheds existing on the property.

Ms. Timko pointed out the proposed garage appears to be substantially larger than what was preexisting which would increase the nonconformance. Ms. Nicholson explained she added the largest dimensions that she could. Mr. Wilson pointed out the question is the relevance of an existing shed. He added the commercial zone allows for side and rear setbacks to be 30 feet. The Board reviewed the dimensions on the graph from 1988 to determine what the applicant is grandfathered for. Discussion of setback standards ensued, and Mr. Wilson referred to Page 82 of the Code.

Mr. Fitzpatrick commented that his understanding is the Board is supposed to act on proposals as listed on the application and this proposal states a shed. He suggested tabling this item, so the applicant can do the research and return to the Board. Board members agreed.

Mr. Wilson moved to continue the application of Shelley Nicholson, 51 Old Post Road, Map 8 Lot 5, Commercial-3 C-3 zone, requesting Miscellaneous Variation Request be continued to a date uncertain.

Mr. Fitzpatrick seconded the motion.

Ms. Nicholson commented she did go to the Code office and thought she had provided the information correctly. Mr. Fitzpatrick listed the requirements for the applicant.

The motion carried 7-0-0.

6. Unfinished Business – None.

7. New Business – None

8. Acceptance of Previous Minutes - None

9. Board Member or CEO Issues or Comment

Board members discussed the correct procedure for approving minutes from the information they received from a recent workshop. Because Board of Appeal meetings do not occur on a regular basis and there is a time limit for decisions, the Board has been approving minutes via email. Options of certifying the Minutes were discussed including using the meeting stream and the Board would like to know the longevity of recordings. The Board was in consensus to have one of the Board officers sign the decisions which contain the Findings of Fact and Conclusions of Law.

Mr. Wilson moved to have the Findings of Fact and Conclusions of Law of public hearings and decisions signed by either the Chair, Vice Chair or Secretary.

Mr. Leontakianakos seconded the motion.

The motion carried 7-0-0.

Mr. Wilson explained the main reason for the workshop was to provide clarification of variance appeals and members discussed what information helped them the most including beneficial uses permitted and the attorney's recommendations regarding precedence.

10. Adjournment

Mr. Fitzpatrick move to adjourn the meeting at 7:40 pm.

Mr. Wilson seconded the motion.

The motion carried 7-0-0.

Submitted by Mary Mancini, recording secretary.