

**TOWN OF SOMERS
ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
TUESDAY, August 12, 2008**

I. Call to Order: Chairman Torres called the meeting to order at 7:38 pm.

II. Members Present: John Torres, Barbara Flebotte, Daniel Scully, Robert Minch and Edward Mack Sr.

Absent: Jerome Young and B.J. Ferro III

Public Hearing was opened at 7:40 P.M.

III. Public Hearing

1. 1. ZBIGNIEW DUSZAK

Legal notice was read: Zbigniew Duszak of 26 Pheasant Run, Somers, CT is seeking a variance from Somers Code Section 214-98 requirement of 40 feet for rear yard setback in order to allow for the location of a proposed in-ground swimming pool to the rear of his residence at 26 Pheasant Run, Somers, CT

Applicant Mr. Duszak was present and presented his case to the Commission. He showed the Commissioners on the lot map how the leaching field on one side of the home and the reserve field on the other side prevent the placement of the 14'X28' pool on any other area of the property. He is requesting to install the pool 12½ feet from the property line. Commissioner Torres noticed that no matter where the pool was installed on the property, a variance would be needed.

His hardship is the proximity of the leaching and reserve fields to his home that prevent closer installation of the pool on his narrow lot.

No abutter spoke for or against the application.

2. 2. Todd and Debra Whitford

Legal Notice was read: Todd and Debra Whitford of 95 Sky Ridge Drive, Somers, CT are seeking a variance from Somers Code Section 214-98 requirement for 25 foot side yard setback to allow installation of a two bay garage at their residence.

Applicant Mr. Whitford was present and presented his case to the Commission. He provided the Commission with photographs of his steep driveway and hand drawn plans of the proposed 29'X31' garage. Mr. Whitford explained that before investing in formal plans he wanted reassurance that he would be able to receive the variance. He showed the Commission on his lot map where he proposes to excavate into his hillside to build the garage and where a brook runs across the property. He is asking for his variance to allow the garage to be as close as 4 ½ feet from the property line, but expects it will be 6 ½ to 17 ½ feet from the line. Without it there is no other place on the property to construct the driveway and garage

His hardship is the steep topography of their lot. His current driveway runs up his front yard at about a 19° slope. He does not believe that under current codes this driveway could have been built. Furthermore, during the October 2005 floods, this driveway washed out as a result of the brook that runs through a culvert under the driveway.

The Whitford's have a camper that they want to keep in this garage. They also stated that there is a safety issue in the winter because the pitch of the driveway prevents parking on it, so guests must park on the street. The garage will consist of an 8-foot foundation style concrete pour with about 2 foot walls built above ground on which the roof will sit. The structure will not be visible from his neighbor's property since most of it will be below grade.

The floor was opened to comment from the abutters.

Dave Peck, 91 Sky Ridge Drive abuts the property on the north. He pointed out that there is currently an existing two bay garage under the house. He has concerns regarding the logistics of the machinery needed for the excavation work, about the under-drainage and about the pitch of the roof, which faces his property. He thinks this could divert water and winter thaw onto his land. The garage being only 4 ½ feet from his property is another concern.

Susan Peck, 91 Sky Ridge Drive, suggests that any trees that could pose future problems should be removed now, since they will not be accessible if the garage is built.

A motion was made by Commissioner Mack; seconded by Commissioner Minch and unanimously voted to adjourn the Public Hearing at 8:11 pm.

IV. Regular Meeting

The regular meeting continued at 8:11 pm.

V. Minutes Approval – April 8, 2008

The Commission reviewed the minutes of the June 10, 2008 meeting and the June 15, 2008 special meeting.

A motion was made by Commissioner Flebotte; seconded by Commissioner Scully and unanimously voted to approve the minutes of June 10, 008 as written.

Minutes of July 15, 2008 to be corrected as follows: Section III.1. Paragraph 1 line 2 – omit Mr. Ladd, replace with Chet Ladd. Same section, Paragraph 3 line 1 – omit Ms. Carson, replace with Town Planner, Patrice Carson.

A motion was made by Commissioner Scully; seconded by Commissioner Flebotte and unanimously voted to approve the minutes of July 15, 2009 with corrections as noted.

VI. Public Hearing Discussion/Decision

1. ZBIGNIEW DUSZAK

The Commission reiterated that the hardship is the location of the house and the leaching field on the lot. The configuration of the long, narrow lot with a minimal backyard was also cited as a hardship. The Commission discussed the request for a variance.

A motion was made by Mr. Mack; seconded by Commissioner Scully and unanimously voted to cease discussion and vote.

The Commission voted unanimously to approve the 12-½ variance of Somers Code §214-98 requirement of a 25-foot rear yard setback to allow the installation of the pool.

2. Todd and Debra Whitford

The Commission reviewed the photos submitted by Mr. Whitford. They recognized that there is no other place on the property to install the garage. Mr. Torres reiterated that once the Whitford's receive the variance they will need to be approved by the other Town departments for water flow disruption, and for the structure itself. However, other Commission members felt the need for the specifics regarding distance from the property line that a formal plan would provide. There is great concern about the water flow that would be diverted to the Peck property by the roof pitch. Mr. Torres stated that he would prefer to see the roof pitched toward the Whitford's driveway, so water would flow down their driveway.

A motion was made by Commissioner Minch; seconded by Commissioner Mack and unanimously voted to cease discussion and vote.

The vote was taken for a 20 ½ foot variance from the requirement of a 25-foot side yard setback. Voting against the variance: Commissioner Flebotte, Commissioner Mack and Commissioner Scully

Voting to grant the variance: Commissioner Minch and Commissioner Torres

Mr. Mack reiterated that he has concerns regarding the water flow disruption and would like to see formal plans. The Commission recommended that the Whitford's discuss the project with Town Sanitarian Steve Jacobs to help draw up plans that would meet with his satisfaction as well.

Mr. Whitford took issue with the Commission's consideration of water flow issues and not simply considering the hardship caused by the zoning regulations. The Commission pointed out that their charge is to grant a variance in harmony with the general purposes and intent of the Zoning Regulations and to ensure that it will not be detrimental to public health, safety, convenience, welfare and/or property values.

VII. Old Business:

None

VIII. New Business:

1. Chairman Torres distributed the proposed Annual Report of the Zoning Board of Appeals and asked the Commissioners to review it. The Commission had no corrections or additions for the report.

A motion was made by Commissioner Mack; seconded by Commissioner Scully and unanimously voted to approve the Annual Report as written.

2. The resignation of Commissioner Mack was acknowledged with regret. A replacement will be needed to fill his vacated position and the Board still needs another alternate.

IX. Correspondence:

Chairman Torres read a memo from the Assistant Treasurer requesting an Annual Report to be submitted.

X. Bills:

A motion was made by Commissioner Mack; seconded by Commissioner Minch and unanimously vote to pay the bills including the Journal Inquirer bill.

XI. Adjournment:

A motion was made by Commissioner Scully; seconded by Commissioner Mack and unanimously voted to adjourn the Regular Meeting of the Zoning Board of Appeals at 8:57 pm.

The meeting stood adjourned at 8:57 pm.

Respectfully Submitted,

Jeanne Reed
Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT
MEETING

Jeanne,
Here is the minutes with note corrections.

Thanks,

John Torres