

**Town of Southeast
Zoning Board of Appeals
Minutes of February 19, 2020**

Timothy Froessel, Chairman	Present
Paul Vink, Vice Chairman	Present
Roderick Cassidy	Present
Greg Wunner	Present
John McNeill	Present
Steve Corozine	Present
Andres Gil	Present
Willis Stephens, Jr., Town Attorney	Absent
Victoria Desidero, Secretary	Present

Work Session:

Regular Session:

Chairman Froessel: We have a shortened Agenda tonight. Item #1 DC3 Holdings, aka Fast Lane Quick Lube has been Continued to next month while they await the result of FOIL request to with the DMV so the two items that remain are Item #2 UB Brewster, LLC aka Lakeview Plaza and Item #3 Allview Avenue aka Mazzotta Subdivision.

1. DC3 Holdings, LLC, aka Fast Lane Quick Lube and Car Wash, Inc. 1559 Route 22, Tax Map ID 46.-1-6 THIS WAS BEEN CONTINUED TO MARCH 16, 2020 AT THE APPLICANT'S REQUEST. Continued Public Hearing to review an application for a Use Variance to add Motor Vehicle Service Station Use to a property in a Zone that does not permit this use. The property has an existing Special Permit for Quick Lube and Car Wash in the SR-22 Zone.

2. Joseph & Melissa Gileno 33 Reynwood Drive, Tax Map ID 69.-1-1.2 -- Public Hearing to review an application for two proposed accessory structures and an existing shed that requires the following variances: For the pool: 61.5 ft. north side yard setback where 38.5 ft. is proposed and 100 ft. is required; 10.8 ft. west rear yard setback where 89.2 ft. is proposed and 100 ft. is required. For the existing shed: 45.8 ft. west rear yard setback where 54.2 ft. exists and 100 ft. is required. For future pavilion: 69.1 ft. where 30.9 is proposed and 100 ft. is required; 35.2 ft. west rear yard setback where 64.8 is proposed and 100 ft. is required.

Dean Pushlar, Architect, was sworn in.

Mr. Pushlar: Just really brief: the lot was constructed and the home was built in 2000. The Zoning change happened in 2008 so the lot was created previous to the current regulations. The setbacks when the house was built were 30 ft. from each side and 50 ft. from the rear. With the current regulations it's 100 ft. from the side and 100 ft. from the rear. It is pre-existing, non-conforming. The shape of the lot is a hardship. The location of the house is a hardship. What the client wants to do is build an 18x36 swimming pool as shown in SA-1 that would include a patio. There is an existing shed that we're going to also need to have a variance for where it is located as existing. The setbacks are all on the plan. The variances: I can go through the... The Building Inspector said we'll need five variances. For the pool for the side yard it's 61.5 ft. variance; the setback will be 38.5 ft. The rear yard is 10.8 ft. for the variance. For the shed we need 45.8 ft. variance. The future pavilion for the rear yard is 69.1

ft. and the side yard 35.2 ft. The Zone is R160. The lot is 3.151 acres. The lot does meet the coverage requirements and that's about it.

Boardmember Vink: It's a wooded lot?

Mr. Pushlar: Yes, so this area here is wooded and this area here is wooded. The septic system is down here. This is barely open.

Chairman Froessel: The pavilion, is that a covered structure?

Ms. Pushlar: Yes, so that would look like... I have a pretty picture of what he wants. This is kind of what we were thinking: the pool would be at the same elevation as the first floor of the house. This is the back of the house. The pool will be at that elevation there. So, the grade rises up on that elevation to the back. This is a view of the backyard looking at the neighbor's property to the north; that's the neighbor's house on the north side. There's existing spruce trees that will stay and we're going to add additional trees.

Boardmember Corozine: Is that the shed?

Mr. Pushlar: I have a picture of the shed here.

Chairman Froessel: What are the dimensions of that shed?

Mr. Pushlar: It's 12 x 14.

Boardmember Corozine: What are the other structures?

Mr. Pushlar: That's the neighbor's house. This is the owner's house on the left and that's the neighbor's house.

Chairman Froessel: Victoria, I assume the mailings are in order on this?

Secretary Desidero: Yes.

Mr. Pushlar: There's really no other location for a pool that meets the setbacks.

Chairman Froessel: No, it doesn't look like there is. I don't know if I've ever seen a lot this big that is that small.

Mr. Pushlar: It's a really odd shaped lot.

Boardmember Vink: The neighbor's property I could tell dropped off with that wall on that side that they have on their property. When you drive into the neighbor's driveway along that wall on that side going to the back of their house, there's actually a raised wall on this side. I've been up and down that driveway a number of times and never even noticed the house so I can tell you that from personal experience.

Chairman Froessel: Is that the teacher from Brewster High School?

Boardmember Vink: Yes.

Mr. Pushlar: There's the septic tank here... (multiple people talking).

Chairman Froessel: You don't really have any building envelope except over there. You can't go toward the front of the house as that would violate the Ordinance.

Mr. Pushlar: No, right. What we tried to do is put the pool to meet the original setbacks.

Chairman Froessel: Is there anyone in the audience that has any comments on this application? I'll take that as a no.

(Board talking.)

Boardmember Wunner: Is that an abandoned house to the north?

Mr. Pushlar: I'm not sure.

Boardmember Vink: Is that the one that never got finished up on the hill?

Boardmember Wunner: Yes, like right up in here somewhere.

Mr. Pushlar: There's a cul-de-sac here and there are a couple of driveways. You can't see up them.

Boardmember Vink: It rings a bell but I can't picture in my head how far north it is.

Mr. Pushlar: Oh, on Joe's Hill.

Chairman Froessel: I know Ed Colello is...

Boardmember McNeill: Yeah, he's over the hill.

Boardmember Wunner: It's reasonably level in here?

Mr. Pushlar: From Reynwood Drive it slopes up to the back corner of the property.

Boardmember Wunner: Right, but this area where you are proposing a pool?

Mr. Pushlar: Yes, you can see there's definitely a grade change. There's a little retaining wall on the back side of the pool so there is probably a 3 ft. grade change from here to here and another grade change here so it's probably 5 ft. from here to there. It's right out the back patio; it's just kind of the perfect little nook.

Boardmember Cassidy: Do you have a picture of the front of the house?

Mr. Pushlar: No.

(multiple people talking)

Boardmember Vink: Their driveway comes up this way, kind of along the wall but really more on this side; I think it's farther away from the wall. Like I said in the times I've driven up there I have never even seen the house.

(multiple people talking)

Boardmember Vink: ...but the uncompleted house is actually up that way.

(multiple people talking)

Boardmember Vink: Right here along the wall... it goes way past getting to their house.

Boardmember Wunner: Doesn't look like they're impacted visually.

Boardmember Vink: Nope, they're fairly far off. There's a tree line and this is their driveway.

Boardmember Wunner: And the abandoned one is down this way.

(multiple people talking)

Chairman Froessel: Is everyone comfortable voting on this tonight?

Boardmember Vink: Yes.

Boardmember Corozine: Can I see that picture with the neighbor's house in the background?

Mr. Pushlar: Sure.

Boardmember Corozine: So that's looking...

Mr. Pushlar: That's the north side. It's basically right on the crest of that, that slope there.

(multiple people talking)

Mr. Pushlar: The pavilion would probably be the next useable structure.

Chairman Froessel: Does anyone have any additional questions for the applicant? No?

Down this way, does anyone have any additional questions for the applicant?

Board replied no.

Chairman Froessel: OK, thank you. Before we close the Public Hearing, do you have any final comments you'd like to make in support of the application before we close the hearing and vote?

Mr. Pushlar: No, I think I've said everything I need to.

Chairman Froessel: OK, do you feel you've been given a fair and adequate opportunity to present your application?

Mr. Pushlar: Yes.

Chairman Froessel: Very good, thank you. We will close the Public Hearing. I will entertain any deliberation from anyone. My view on this is given the extremely small building envelope on this lot there is no way this applicant could put in a pool without a variance. I think the way it's designed makes sense for this piece of property.

Boardmember Vink: It's also in keeping with the character of the neighborhood.

Chairman Froessel: I agree. So, unless anyone else has any comments I will entertain any motion that anyone would care to make on this application.

The motion to grant the applicant a 62 ft variance north side setback for the pool, an 11 ft. variance from the west rear yard setback for the pool, a 46 ft. variance for the west rear yard setback for the existing shed, a 70 ft. variance on the north side yard for the pavilion, and a 36 ft. variance on the west rear yard setback for the purpose of the pavilion was introduced by Boardmember Vink, seconded by Boardmember Wunner. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.
No, I believe that this would be entirely in keeping with the character of the neighborhood and I see no detriment to the nearby properties.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No, it cannot because the building envelope on this property with the wooded sections and the way the property is laid out, I don't think there's any way to do this without a variance and this really fits in with the requirements from before the Zoning Code change.
3. Whether the requested variance is substantial.
Yes, these variances are substantial, however because of the nature of the property and the fact that they are still relatively large setbacks, it lessens the impact of the substantial nature of the requests.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
There is no evidence that it will.
5. Whether or not the alleged difficulty was self-created.
No, I don't believe it was. It was created by the up zoning especially for the existing shed but also for any changes made to the house.

Roll Call Vote:

G. Wunner	In Favor
J. McNeill	In Favor
P. Vink	In Favor
R. Cassidy	In Favor
S. Corozine	In Favor
A. Gil	In Favor
T. Froessel	In Favor

The motion to grant the variances as stated in the motion passed by a vote of 7 to 0.

3. Matthew Huntington and Sarah Varachi 7 Maple Lane, Tax Map ID 79.-1-40.-38 -- Public Hearing to review an application for the proposed reconstruction of a single-family home that requires the following variances: 15 ft. east front yard setback where 35 ft. is proposed and 50 ft. is required; 10 ft. north side setback where 15 ft. is proposed and 25 ft. is required; 3.33 ft. south side yard setback where 21.67 ft. is proposed and 25 ft. is required;

33.33 ft. total side setback where 36.67 ft. is proposed and 70 ft. is required; and 8.5 west rear yard setback where 41.5 ft. is proposed and 50 ft. is required.

Matthew Huntington and Sarah Varachi were sworn in and the mailings were verified to be in order.

Mr Huntington: OK, so we just bought a house in Vail's Grove Co-Op and we want to demo and re-do a new one. We got the approval from Vail's and we are looking at variances for front, side and rear for the new structure.

Boardmember Cassidy: While they're looking at the plans let me ask you a silly question: compared to the house now is it staying on the same footprint or is it bigger?

Mr. Huntington: As far as width it's a little bit smaller and a little bit deeper, but pretty close to the same footprint. We're moving it back a little bit further from the road from where it was, about 5 ft. This is going to be 35 ft. back from the road, 23 ft. on the one side and 15 ft. on the other.

Boardmember Vink: You're centering it a little bit more on the property?

Mr. Huntington: Yes.

Chairman Froessel: I was going to say, looking at the survey it looks like you are pretty much centering it as much as you can.

Mr. Huntington: Yes, we're trying to go a little bit further back from the road. As far as Vail's, their requirements are set 10 ft. from the property line on the sides and 25 ft. from the front.

Chairman Froessel: Yes, we have a lot of experience with people seeking variances in Vail's Grove. You can't do anything there without a variance. This is the first one we've seen in a while where Richard Vail wasn't the architect.

(Board talking)

Chairman Froessel: Three bedrooms upstairs, two bathrooms...

Boardmember Wunner: This is a total teardown?

Mr. Huntington: Yes, it will be a teardown.

Boardmember Vink: We actually don't see many of those either. We see a lot of expansions.

Mr. Huntington: There is just no foundation underneath the house. It was one of those old lake homes held up by cinderblocks.

Chairman Froessel: Anyone in the audience have any questions or comments on this application. No? OK, thank you. I'm looking at the survey I think there's a shed that's partially on your neighbor's property.

Mr. Huntington: That's Co-Op property. That was existing.

Chairman Froessel: OK. Is the Co-Op going to make you take that down?

Mr. Huntington: They haven't said that we have to. I'm not sure.

Chairman Froessel: Any motion that anyone makes on this they should make a point of noting that they are not legalizing the shed that's on the property.

Boardmember Gil: When are you hoping to break ground?

Mr. Huntington: As soon as possible.

Boardmember Gil: I think it's going to look really nice. It's a nice floorplan.

Mr. Huntington: I actually grew up... it used to be my parents house.

Boardmember Gil: Really? Oh wow.

Boardmember Cassidy: Was it their full-time house or their summer house?

Mr. Huntington: It was their full-time house; it's where I grew up.

Boardmember Gil: Are you keeping any part of it to put in the new house?

Mr. Huntington: No.

Boardmember Gil: Nothing, not a fireplace?

Boardmember Vink: Not even a cinderblock?

Mr. Huntington: Starting fresh.

Boardmember Gil: Usually you see like a mantle from the fireplace or like a door or something.

Boardmember Vink: I think they're keeping the shed and the fireplace in the backyard, right?

Mr. Huntington: We didn't decide about that yet.

Chairman Froessel: Anyone else have any other questions of the applicant? No? Is the Board comfortable with voting on this tonight?

Board: Yes.

Chairman Froessel: OK, before I close the Public Hearing do you have any final comments you'd like to make in support of your application?

Mr. Huntington: No.

Chairman Froessel: Do you feel you've been given a fair and adequate opportunity to present your application?

Mr. Huntington: Yes.

Chairman Froessel: OK, very good. We will close the Public Hearing. I don't think there needs to be a lot of deliberation on this. As we all know, anything you do with Vail's Grove is going to require a variance and actually looking at the variances requested, these dimensions are pretty good because some that we've seen in the past have been extreme. It looks like they've centered the proposed house pretty much as they can and kept the exact same setback on the north side and reduced the setback on the south side a little bit so honestly, I think this is a pretty well-done plan. Unless anyone has any comments, I'll entertain any motion anyone would care to make on this application.

The motion to grant the variances in the application as stated: that being a 15 ft. variance on the east front side; the north side of 10 ft., the south side of 3.3 ft.; total side of 33.33 ft. and a west side of 8.5 ft. noting that there is not a variance applying to the existing shed on the property that is alleged to be the common area of the Vail's Grove Cooperative was introduced by Boardmember Gil, seconded by Boardmember Cassidy. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.
I do believe that, if anything, this will create a desirable change to the neighborhood looking at the evidence provided with the photograph of the pre-existing structure vs. the floor plan and site survey of the proposed structure that will replace the existing structure. If anything, I do believe that it is going to provide an increase in the property value in the area.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
I don't believe so. In essence, if anything, as the Chairman stated that the side variances are very similar with almost the same footprint except moving it back a little bit on the property without changing the rear variance so I believe it met that criteria.
3. Whether the requested variance is substantial.
In that it relates to criteria number two, it's not substantial in the sense that it's not substantial to what already exists on the property itself. In essence, with the size of the lot any type of structure built on that property is going to require a variance.

4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.

I think this criteria relates to the previously three stated criteria in the sense that, if anything, it's going to have a positive impact on the neighborhood because they will be replacing an old, existing structure and all of the issues that go along with that existing structure with state of the art technology.

5. Whether or not the alleged difficulty was self-created.

I don't necessarily believe that the difficulty was self created in the sense that the property size is the property size from the way that the area was divided pre-Code and with that any structure that is produced on the property will require a variance so that the property can maintain a fair market value and the community as a whole can grow and prosper. With that said, I do believe that the variances should be granted with respect to as I said: front variance of 15 ft. where 50 ft. is required and 35 ft. is proposed; the north side 10 ft. variance where 25 ft. is required and 15 ft. is proposed; the south side variance of 25 ft. where the proposed is 21.67 ft. and requiring a variance of 3.33 ft.; total side requires a 70 ft. variance with proposed being 36.67 ft.; and the west rear where it requires 50 ft. by Code and the proposed is 41.5 ft. and a variance required of 8.5 ft.

Roll Call Vote:

G. Wunner	In Favor
J. McNeill	In Favor
P. Vink	In Favor
R. Cassidy	In Favor
S. Corozine	In Favor
A. Gil	In Favor
T. Froessel	In Favor

The motion to grant the variances as stated in the motion passed by a vote of 7 to 0.

Ms. Desidero: Do you want me to try to write on here anywhere something about the shed because it says, "approved as submitted to Zoning Board" or "approved with the following changes."

Chairman Froessel: Just put on there "variance does not apply to existing shed."

The motion to approve the Meeting Minutes of January 15, 2020 was introduced by Boardmember Vink, seconded by Chairman Froessel and passed all in favor.

The motion to adjourn the meeting was introduced by Chairman Froessel, seconded by Boardmember Cassidy and passed all in favor.

Respectfully submitted,
Cathy Chiudina
Victoria Desidero

FULL AUDIO RECORDING OF THIS MEETING AVAILABLE AT:

<https://www.southeast-ny.gov/335/Zoning-Board-of-Appeals-Audio-Files>