

**Town of Killingworth**

**Zoning Board of Appeals**

**Minutes of February 27, 2023**

**1. Call to Order and Seating of members**

Chairman Bruce Dodson called the meeting to order at 7:25 PM. ZBA members present and seated were Dodson, Martens, Charney, Young and Judge. Absent were Vecchitto, Warren and Perry.

**2. Public Hearing and Consideration of Application**

**Bonnie Lynne Patten (owner), 17 Chestnut Hill Road, Killingworth, Map 26, Parcel 20-A, for variance of Section 500-19 (A) for Setback (Front), 500-36 (B) for Change to a Non-Conformity, 500-37 (B) Extension or Expansion, 500-13 (Buildings), 500-14 (Improvements) and 500-15 (Changes) in order to remove a 1940s circa addition on the north side of the existing ca. 1800 farmhouse and replace it with a modestly larger addition that will better conform to the period aesthetic and style of the original home.**

Recording Secretary Brown read the Notice of Public Hearing into the record. Said Notice was published in The Hartford Courant on 2/15/23 and 2/23/23.

Joe Wren introduced himself as the applicant's representative. Copies of the certified mailings were made part of the record. Letters submitted and read into the record were Regional Water Authority, Dan Perkins and CRAD Health District.

Bonnie Patten thanked ZBA members for their service. She noted they have lived in town for more than 25 years and raised their 3 children here. They have done a lot of improvements to their property over the years and been respectful to the town and community.

Joe Wren noted this property is within the watershed area. Regional Water Authority sent a letter saying the proposed renovation is off the public supply watershed and they have no problem. He also noted the CRAD Health District has approved the 100B Application.

Mr. Wren reviewed the application indicating there are a lot of items considered mostly expansion and change within the 40 yard front setback. Variance sections required are 500-19A Front Setback, 500-36B Change to a Non-Conformity, 500-37B Extension or Expansion, 500-13 Buildings, 500-14 Improvements and 500-15 Changes. The reason for the request is to remove the 1940 circa addition on the north side of the existing 1800's farmhouse and to replace it with a modestly larger addition that will better conform to the period aesthetic and style of the original house. Strict adherence to the regulations would not allow for the addition to be built. The existing farmhouse cannot be expanded to the north, east or south without a variance.

Any expansion to the rear of the existing house would adversely affect a 72-inch diameter legacy maple tree that is at least as old as the farmhouse. Granting of the variances would not change the character of the neighborhood, but would actually improve the aesthetic along Chestnut Hill Road which is a State designated scenic roadway.

Documents shared on the screen and reviewed in detail: Application for Hearing, Certified Mailings, Location Map, Site Plan, Property/Topographic Survey, Regional Water Authority letter, CRAD Health District 100B Application, Architectural Drawings including Cover Sheet with Perspective Renderings, Existing and Historic Photo Images, Floor Plan-Main Level Existing Conditions and Demolitions, Floor Plan-Upper Level Existing Conditions and New Construction, Exterior Elevations (East and North) Existing Conditions and Demolition, Exterior Elevations (West and South) Existing Conditions and Demolition, Exterior Elevations (East and North) Existing Conditions and New Construction, Exterior Elevations (West and South) Existing Conditions and New Construction.

The following was noted –

- The A2 Survey Map showed the detached garage, main house 1940's addition and the original farmhouse. The detached garage has a paved driveway with turnaround area.
- There is 3.7 acres from Inland Wetlands to the back. Everything well beyond the 100', probably 200'.
- There are other smaller outbuildings on the property.
- This addition will be removed and a new one built in the same location.
- No changes to the garage or the stone driveway.
- Maintaining existing L-shaped portion of the farmhouse.
- Reviewed area of new foundation and addition, large tree location which is at least 200 years old and is in excellent condition with a great canopy. Also a 42" Maple. Everything was designed around the trees and done so as not to interfere with the trees.
- Existing paved driveway will be removed.

Stu Lathers showed and reviewed pictures of the property from 1770, 1820 and the late 40's and 50's. He noted the garage addition will be demolished. The area of the 72" legacy maple and the 42" maple was reviewed. He also noted the front edge of that addition is about 10' from the front edge of the 20's portion. That line will be maintained with the new work. The proposed driveway to be removed was reviewed. It was noted the proposed addition will allow access to aged parents handicap accessible bath and residential elevator as well as a ramp concealed from the street. The location of the second floor elevator was reviewed along with the shape of the 2<sup>nd</sup> story addition.

Mr. Lathers next reviewed elevations of existing conditions, west rear addition to be removed, south oldest section doesn't reflect any change, new addition one story shed addition, rear of the house showing portion in the back and ramp on the west and door allowing ramp access.

Two views from Chestnut Hill were reviewed showing existing portions of the house and the new addition. Lathers noted he has known George and Bonnie for almost the full 25 years and helped them with several small projects. They have done this work by themselves mostly. He reviewed the area of the roof and how it connects to the old addition lines. He noted the windows were 6 of 6 double hung sash and this will work with the existing house. The 42" maple and stone wall conceals the ramp.

Joe Wren noted the road got closer to the house rather than the house getting closer to the road. The house is pre-1800's and the 1957 Regulations has a 40' setback. The 1940's/1950's addition was also within the front yard setback. They tried to maintain or make better that what is there today. The 5.5' from the street line is much closer than what is being proposed.

The Zoning Data Table was reviewed. There was discussion regarding the front yard setback as it relates to the steps. It was noted this will be more conforming as to the structure from the street line. It will be slightly improved with the new addition.

Chairman Dodson noted the variance issue was highlighted which is the 17.1' from the property line. The current house addition to be removed is 13.4' from the front property line. This would not be making the encroachment more severe.

There was a question regarding square footage of the existing addition and the proposed addition. Mr. Lathers will determine the square footage.

Martens asked what the square footage was of the existing 1940's circa addition. How does that figure compare to the proposed addition in square footage. The Commission would like to compare what is being taken down and what is going to be put up. Young asked about the square footage of the bump out towards the attached garage. Why can't that be with the patio. Mr. Lathers noted their concern was maintaining the distance between the 2 maple trees, making it minimal and one story. Joe Wren noted the driveway at that location will be going away. He reviewed the main access and handicap accessibility.

The existing septic tank location was reviewed. A new septic tank of appropriate size will be installed and relocated a minimum of 10' from the house. The leaching system will be down hill from the tank.

Mr. Brencher reviewed elevations. He noted there is quite an elevation change from the front to the back of the house. The patio is lower than the level of the house.

Young noted the property should not be more nonconforming. It looks like there is another option that would not require a variance. It was noted the existing 1940's addition was a garage or carport. It is still a garage with breezeway. Chairman Dodson agreed with Young and didn't think this is making a noncompliant situation worse. Because the property drops off in the back, there is a basis for a hardship. The footprint of the parking area and garage was

reviewed. It was noted they are not making the nonconformity worse. The net area is equivalent to the nonconforming area.

Mr. Lathers noted the two story addition is 2' longer than existing. The front line matches what is there now. Martens asked how much larger is the footprint of the proposed addition as opposed to the 1940's addition. Lathers noted existing footprint is 840 square feet. Existing addition to be demolished. New footprint including one story is 1,215 square feet. Second floor addition is smaller than the first because building steps in – 900 square feet. There was additional discussion regarding square footage. Lathers noted the existing conditions drawing only covers the garage. The square footage for the modest addition with two floors was – proposed 1,215 on the main level and 9960 on upper level for a total of 2,175. Existing is 800 square feet. Brencher noted part of the expansion of the size is behind the setback. With a second story it makes it much larger. Martens noted calling it a modest addition is misleading.

Joe Wren noted the structure is more conforming than the existing structure relative to the distance to the property line. Young asked if the Commission should just consider the 17' from the road relative to what they are asking for, or do we also consider the bump out from attached garage. Also, going up second story. We are not to allow nonconforming structures to expand. Dodson noted he was not sure of the implications of a second story.

Martens noted no use of any land or improvement having a nonconforming characteristic shall be enlarged, increased in height or expanded except in conformity of these Regulations. We have to determine the extension in height and enlarging overall of the building.

Young asked if the back property not being useable because steep in the back are reasons for a variance. If the back portion of the house cannot be built on that, would that allow us to give a variance based on the property itself. Martens noted Section 500-37 states no conforming use or characteristic of any land or improvement shall be enlarged, extended or expanded. This is a difficult exception.

Joe Wren noted this is an existing nonconforming house built before Zoning Regulations. The entire house is within the front setback. Mostly anything you want to do requires a variance. He reviewed the location of the 2 Maple trees and location of the septic tank and leaching system. Another thing to be considered as a trade off is increased distance from the street line, added volume of second story and use of a new driveway increases safety by not making people back out. If it's a betterment or reduction of nonconformity, the decision can be based on that betterment or conformity, increased safety, increased distance to front street line, reduction of impervious base area. Wren further noted all of these things are consistent with the Plan of Development.

Judge asked if there was any residential sprinkler system in the proposed expansion. Lathers noted not to this point. It isn't required by code but it could be entertained.

Brencher noted the elevator is required because elderly parents need mechanical assistance to walk.

The question was asked what is the net area of what we save vs. what we add. The area of the steps (3') will be taken off. Another question was how much volume going into the setback vs. what is being taken out. Lathers noted the area of the raised section of the front porch being removed is 42 s.f. The one story addition piece on the north 10 x 25 = 250 s.f. gross area. Steps in front being removed 42 s.f. Paved area 160 s.f. of added footprint. Impervious area would be reduced.

Dodson noted in his mind paving on ground level structures don't matter. Anything less than 8' isn't considered a building.

Joe Wren noted they have heard some varying opinions. A variance requires 4 out of 5 votes for approval. He asked if there were any additional questions.

Dodson asked if any other Board members wished to speak and if not, we can close the hearing and start deliberations.

Young asked Martens to read the Regulations on Nonconformity. Martens read Section 500-37 covering Expansion or Extension, Sections A, B and C. He noted it could be interpreted that what they have proposed is in conformity with the Regulations. It doesn't allow for any exceptions.

Joe Wren noted this request is very common in these situations in all towns we work in. You can't expand any nonconforming structure unless within the Regulations. It was noted there was a footprint that you could've built an addition on and you could have had a modest addition. The proposal goes up two stories.

Chairman Dodson noted he would like to contact Attorney Branse regarding some issues that have been brought up. He also noted that without objection the meeting should be continued to next month where a decision can be made. The applicant should supply Commission members with the numbers for current existing footprint and proposed and what areas are not in the setback area.

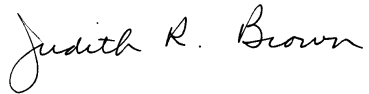
Young noted he would like to see the s.f. of property useable living area before and after. The question arose if this wasn't an addition replacing something, would the location of the trees be considered a hardship of the property.

**Motion by Martens, second by Charney, to table this application until next month. PASSED UNANIMOUSLY.**

**3. Any Other Business** – none.

**4. Adjournment** – meeting adjourned at 8:50 PM.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith R. Brown".

Judith R. Brown, Recording Secretary