

Town of Southeast
Zoning Board of Appeals
Minutes of August 18, 2008

Edward Colello, Chairman	Present
Thomas Costello, Vice Chairman	Present
Timothy Froessel	Absent
Joseph Castellano	Present
Kevin Sheil	Absent
Paul Vink	Present
Roderick Cassidy	Present
Willis Stephens, Town Attorney	Present
Mary Rhuda, Admin	Present

Regular Meeting:

Dunmore Corporation, 3633 Danbury Road – This application is a continuation and the public hearing is still open. Once again representing the applicant is, Jennifer Reinke, Keane & Beane; Theresa Ryan, Insite Engineering; and Tim Carroll of Dunmore. Ms. Reinke, went over the application and reminded the Board that the applicant is seeking 3 variances, maximum lot coverage, building coverage and open space. It was stated that the variances requested are not substantial and will have no negative impact on the area. This property is pre-existing, non-conforming

The landscaping plans and a list of chemical and supplies used at this property were reviewed. The Board was advised again, that whether or not the variances are granted, the chemicals used and the amounts used, will not change. The former Chair, of this Board, Jon Anthony is a chemist and reviewed the list of chemicals. He feels that all chemicals used can be controlled and managed appropriately. Dunmore has met safety standards per recent inspections.

Section 138-11D of the Town Zoning Code was discussed regarding these variances. This code is the improvement of a non-conforming use. It was suggested that this limited change in the site plan could be approved by the Planning Board. This Board believes they have the jurisdiction to granted or not grant these variances.

An audience member asked if the color of the outside of the building would be changed during the ARB process. It was questioned whether the applicant can come before the board every year and get more variances. It is agreed that the

variances requested are small, but if they come back for small variances every year, before you know it, the building would be quite large. The applicant stated that this is the first time in 20 years that they have requested any variances. The Attorney for the applicant stated that if the variances are not approved, the business might not be able to stay in Southeast. The Public Hearing was closed

Motion introduced by E. Colello to grant the following 3 variances:

21.7% maximum building coverage (1.3% change)

51.5% maximum lot coverage (1.2% change)

48.5% minimum open space (1.2% change)

Seconded by P. Vink.

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.
No.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No. Impossible, anything would need a variance
3. Where the requested variance is substantial.
No.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.
No.
5. Whether the alleged difficulty was self-created.
No. Applicant needs to expand business

Roll Call Vote

P. Vink	In favor
R. Cassidy	In favor
J. Castellano	In favor
T. Costello	In favor
E. Colello	In favor

Variance granted by a vote of 5-0.

John Tomassetti, 12 Elmwood Drive – Mr. Tomassetti was representing himself and was reminded that he was still under oath. This applicant is requesting a variance for pre-existing shed. He needs a 9ft north/rear side and a 16ft east side yard variance. The shed is 12ft x 14ft which is used for storage. The height on the shed is approximately 11ft. The property is 100ft wide x 150ft front to back. Tonight Mr. Tomassetti presented a letter to the Board from a neighbor at 8 Elmwood stating they have no problem with the shed. Mr. O'Hearn, 18 Elmwood again addressed the Board with is opposition to the shed and to the conditions of the property. He again asked about the applicant running a business out of his home. Per C. Tessmer, Zoning Enforcement Officer, he has not addressed this question, and this is not what the applicant is in front of the Board requesting. It was advised that Mr. Tomassetti is working to clean up all violations and at this time, he has no open violations. If the variance is granted, he will store lumber, tools and equipment in the shed. He advised again, that he works for a maintenance company and he brings home leftover materials to store from different jobs. Public hearing closed. Mr. Colello reminded the board that they are voting only for the variance on the shed, not the other issues raised by the neighbor or prior zoning violations

Motion introduced by P. Vink to DENY 9ft north side variance and the 16ft. east side variance.

Seconded by T. Costello

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.
Yes. Very close to the next-door property.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
Not sure if shed can be moved.
3. Where the requested variance is substantial.
Yes.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.
No.
5. Whether the alleged difficulty was self-created.
Yes.

Roll Call Vote:

R. Cassidy	In Favor
J. Castellano	In Favor
T. Costello	In Favor
P. Vink	In Favor
E. Colello	In favor

Variance DENIED by a vote of 5-0.

Federal National Mortgage, 14 South Drive – Mr. Anthony Aquilia, the listing real estate agent was sworn in. Mailings were checked and are in order. This home is in foreclosure and has been vacant for over 1 year. The variance requested is for an existing recreation room. The survey presented is 19 years old, and has the room in question on the survey. Since the survey shows room, the Town Attorney questioned who stated that there is a violation on this home? The home has been sold once, if not twice, in the past 10 years without this title problem before. This issue was found in a municipal search. Public hearing closed.

Motion introduced by T. Costello to grant a 7ft. west side and a 4ft. total side yard variances
Seconded by J. Castellano.

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.
No.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No.
3. Where the requested variance is substantial.
No.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.
No.
5. Whether the alleged difficulty was self-created.
No.

Roll Call Vote:

P. Vink	In favor
R. Cassidy	In favor
J. Castellano	In favor
T. Costello	In favor
E. Colello	In favor

Variance granted by a vote of 5-0

John Petrillo, 573 N. Main Street – Mr. Petrillo and Paul Lynch were sworn in and the mailings were checked and are in order. At that time, Mr. Petrillo asked for the hearing to be held over until next month. Since the public hearing was already opened, it was suggested that the applicant give a quick presentation and take questions from the audience. The applicant wants a variance to open batting cages. The hours of operation will depend on the season and the need, but will close by 11:00 every evening. It will operate from April to October. Audience members questioned the noise of the balls hitting the bats may be very loud to stay open that late. Mr. Petrillo said he would get a sound test done to check out the noise factor. Public hearing to remain open.

T. Costello made a motion to accept the minutes of 7-20-08 as presented.

P. Vink seconded. All in favor.