

Killingworth Zoning Board of Appeals

August 22, 2011

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1. Call to Order and Seating of Members

The Killingworth Zoning Board of Appeals held its regular meeting on Monday, August 22, 2011, at the Killingworth Town Office Building, 323 Route 81, Killingworth, Connecticut. In attendance were Charles Martens (Acting Chairman), Les Riblet, Brian Young, Jeff Reisman (seated for D. Butler) and Mark Williams (seated for B. Dodson). Recording Secretary Judith Brown was also present. Acting Chairman Martens called the meeting to order at 7:00 PM.

2. Continued Public Hearing and Consideration of Application –

Robert & Toni Judge, owner and applicant, seeking a variance of Killingworth Zoning Regulations, Rear Yard Setback, having to do with property located at 150 Route 80, Killingworth, Connecticut (Map 33, Parcel 39).

Acting Chairman Martens noted this was a continued public hearing which was opened last month. Recording Secretary Brown read last month's Legal Notice of Public Hearing into the record. Chairman Martens explained the applicant will present the application, members of the Board will then ask questions after which the general public will then have an opportunity to speak.

Michael Harkin, Professional Engineer representing the applicant, introduced himself and Robert Judge. Mr. Harkin presented the proposal. He noted this was a residential zone. The parcel was 2.34 acres with a small amount of wetlands on the project site. They have wetlands approval.

Mr. Harkin noted the proposed project is for a 22' x 28' addition in the rear. The existing building is 54' from the back line. They are proposing the corners of the new addition to be 63' and 74' from the back line. The existing well, septic system and driveway all face Route 80.

Mr. Harkin noted the beams in the rear shed portion of the building collapsed from the snow load last winter.

Harkin reviewed pictures of the addition put on some years ago as well as the original building (pictures were retained by the applicant).

Mr. Harkin indicated there was a misconception about the existing roof. The roof on the left and right of the building will remain as is. The height on the new addition will match the height of the existing brick structure. The color of the roof will be exactly the same.

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There will be no increase in impervious surface and no increase in stormwater runoff from the site. There is an existing catch basin to handle any increase in flow attributable to the addition.

Mr. Harkin noted an application had been submitted to the Planning & Zoning Commission a couple months ago. They advised a variance from the Zoning Board of Appeals would be required before Planning & Zoning could take any action.

It was reiterated the color and material for the walls and roof would match the existing building. No landscaping had been proposed for this addition, but visual screening would be considered if necessary. There is a lot of shade in that area.

Acting Chairman Martens asked if the truck out back would be stored inside the addition. Mr. Harkin noted the plan is to move everything inside.

Acting Chairman Martens asked if the activity in that portion of the site would increase with the addition. Mr. Harkin replied no. The new door would allow for trucks to now go inside to be loaded where they can't currently.

Acting Chairman Martens noted the existing addition doesn't meet the setback for an industrial use in a residential zone. Mr. Harkin confirmed that noting the industrial setback is 80' and the existing addition already intrudes into that setback by approximately 28'. The closest point of the foundation is 54'. He further noted the front setback is 75' and there is a portion that doesn't meet that setback.

Les Riblet asked when the shed roof addition was put on. Bob Judge replied that was part of the original building.

Acting Chairman Martens asked how much higher the peak of the new roof would be from the lowest section now. Mr. Harkin replied about 12' higher.

There were no further questions for the applicant.

Acting Chairman Martens asked if anyone wished to speak in favor of the application.

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Greg Judge, Operations Manager and also a neighbor at 81 Route 80, spoke in support of the application.

Acting Chairman Martens asked if anyone wished to speak in opposition to the application.

Attorney Michael Sweeney (representing Michael Dove) noted he was given a copy of the Special Exception application at the Town Hall and questioned whether it was the correct application. Acting Chairman Martens noted there was a variance application, copy of which was given to Attorney Sweeney. He was given a few minutes to review the same.

After reviewing the application, Attorney Sweeney noted the applicant has not met the legal hardship standard as it is an economic hardship.

Michael Dove submitted and reviewed his letter to the Zoning Board of Appeals dated 8/22/2011. He was opposed to the application on the grounds of its visual and auditory impact on his property and its market value.

Attorney Sweeney reiterated the applicant knew what he was getting into when he purchased the property and economic reasons is not a legal hardship.

Michael Harkin noted the applicant would not be increasing the amount of vehicular traffic in the back. The vehicles currently in the front already go in the back. There will be no additional employees or vehicles. The addition is for material storage.

The activities in the back were reviewed. Mr. Harkin noted the shed in the back is almost unusable. They were not aware immediately that the roof had collapsed.

Mr. Dove noted his figures on the trucks noted in his letter were taken from the Killingworth property tax roles.

As there were no further questions or comments from either the Board, the applicant or the public, the public hearing was closed at 7:35 PM.

Board members went into their deliberation session. Acting Chairman Martens noted the application was for a variance of the rear setback. The setback for industrial use in a residential zone is 80'.

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Brian Young noted the existing structure is nonconforming. There are two nonconformities already and this would add a 3rd one. Messrs. Williams, Riblet and Reisman agreed.

Acting Chairman Martens noted it was difficult for him to come up with a rationale to grant the variance. It would have a huge visual impact at the back of the building by raising the roof 12'. Martens reiterated he would be hard pressed to come with a reason for granting the variance.

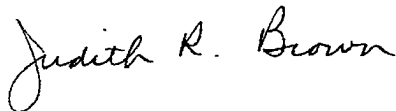
Motion by Young, second by Reisman, to deny the variance of Robert and Toni Judge because it violates Sections 500-37.A. and 500-37.B. as it is an expansion of a nonconforming use. Voting in favor – Young, Reisman, Riblet, Williams, Martens. Opposed – none. Motion Carried. Variance Denied.

3. Any Other Business – none.

4. Adjournment

There being no further business, the meeting was adjourned at 7:45 PM.

Respectfully submitted,



Judith R. Brown, Recording Secretary

Meeting September 1, 2011 at 4:40 A.M.
By Daunya M. Jones Ass't
Town Clerk