

**Borough of Fenwick
Zoning Board of Appeals
Public Hearing and Special Meeting – December 7, 2019
Minutes**

A Special Meeting of the Borough of Fenwick Zoning Board of Appeals was held on Saturday, December 7, 2019 at 9:00 a.m. at 4 Nibang Avenue.

MEMBERS PRESENT: Robert Gay, Martha Staniford, Kathy Berluti, Becki Renshaw (Alternate).

MEMBERS ABSENT: Peter Brainard, Laurie Goldsmith, Ann Pulver (Alternate).

OTHERS PRESENT: Marilyn Ozols, ZEO; Brooke Girty, Mike and Meg Reynolds, Attorney Ed Cassella, Chuck Chadwick.

1. Call to Order.

Chairman Gay called the meeting to order at 9:22 a.m. and indicated that R. Gay, K. Berluti, B. Renshaw, and M. Staniford would be the voting members for this meeting. He explained that variances required a positive vote from four members; because there were only four members present, that would mean a unanimous vote. He asked the applicants if they wished to proceed or to continue the hearing to a new date. The applicants stated that they would like to proceed but reserved the right to request that the hearing be continued rather than closed.

2. Public Hearing: ZBA 19-002. 2 Agawam Avenue, map 10, lot 8. Michael & Margaret Reynolds, owners; Brooke Girty Design, applicant; request for variance of Section 5.1.2 (15% maximum coverage, 17% proposed), 5.3.1 (30' front yard required, 27' proposed Agawam Avenue side), 4.3.11.2a (20' setback from property line to heat/ac units required, 12.2' proposed), and 8.6 (no expansion of non-conforming structure except in conformance with regulations, porch addition not in conformance with coverage and yard requirements) to permit porch addition and installation of heat pumps. Coastal Site Plan Review required.

B. Girty and Attorney E. Cassella presented.

Porch. B. Girty stated that this is Ethel Davis' old house and oriented the members to the location on the site plan – the neighbor to the west and the golf course to the south, east, and north. She stated that it is a property with drawbacks created by public exposure and the golf course; the front is eye height with the green to the south and golf balls regularly land in the yard; the front is also affected by the stop sign with vehicles waiting and by the elevated green to the east; there is a golf course easement over part of the north side of the property; there is no useable side yard on the west; the property is very exposed with no way to control how much of the world comes into the yard; many communities with a golf course as an amenity have fewer golfers and greater buffers than Fenwick; the golf course is more intrusive in Fenwick, especially for this lot which is surrounded by three holes. She displayed photos of the Goldsmith and Stokes houses (Exhibit H) which are also affected by proximity to golf course holes but have greater vegetative buffers, which cannot be added to this site. She stated that because of the golf course easement on the north side of the property, the house was pushed further south. Attorney Cassella added that the golf course utilization extends even farther into the lot than the easement pushing the house even farther south.

Mike Reynolds stated that he did not understand the full extent of the impact before the house was purchased; he removed hundreds of balls when he removed the shrubs on the north side of the property; there were at least 75 balls hit close to the house in the front just in the time that he was there this summer; they planted hydrangeas in the rear and redid the hedges in the front to help protect them from golf balls, but the hedge must be kept low to maintain the line of sight at the corner; the porch is proposed to help protect them from golf balls.

B. Girty displayed the photo of the existing house and the drawing of the proposed porch addition and described the open porch with a corner 13'x18'screened porch in the area of the existing patio and an open, stepped out, central front area that is 8 feet deep. She stated that the existing coverage is 14.6% and submitted photographs

of the house from all sides (Exhibit I) and an aerial photograph (Exhibit K) to demonstrate the location of the house.

Attorney Cassella submitted a copy of the Assessor's field card (Exhibit J) and of the golf course easement (Exhibit L) and stated that the porch conforms to setback on two sides; only the middle section bumps out in order to follow the line of the house; only the center bump out extends into the setback.

Heat Pump. Mike Reynolds stated the heating in the house needed to be fixed; they are proposing to add ac at the same time and install mini-splits that are smaller and more quiet than conventional units; they determined the best locations relative to visibility from the golf course and best locations for piping; one unit is proposed for the north side of the house and will be screened with vegetation; the other unit is proposed for the west side where space is limited; the location selected is directly opposite the neighbor's two standard ac units; the west condenser is about the size of the suitcase and serves two interior mini splits.

M. Ozols reminded the members that the reason for the regulation requiring increased setbacks was to lessen the impact on the neighbors and this concern is addressed by the fact that the neighbor's units are adjacent to the same area of the house. She added that the unit meets the regular setback but not the increased setback and that all of the abutters had received notice of the hearing.

B. Gay stated that the units are quiet, are only about 13" deep, and must be located in proximity to the rooms they are servicing; the west unit is tucked into the existing bump-out, meets the old setback requirement for mechanicals, and does not violate the spirit of the ordinance; conventional units and generators are different from this type of unit.

M. Staniford stated that P&Z may want to consider updating the regulation to include these newer, smaller units; there is a hardship in that the house is too close to the lot line; there were no comments from neighbors.

Members determined that the decibel level of the proposed unit is approximately the same as that for a refrigerator: 47 for the heat pump and 54 for a standard refrigerator.

Porch. B. Gay summarized that the easement area is included in the lot size so is not part of the hardship for coverage but is related to the front setback; this house is unique in that it is one of only two houses in the Borough with golf course in close proximity on more than two sides; they are asking for the porch to be in the front because the back is not useable for the same function; there is a safety concern; only the center section of the porch extends into the setback.

Attorney Cassella noted that they have an allowable 123 square feet of coverage under the regulations; one porch could be constructed in compliance with the regulations but it would not have the same symmetry or aesthetics of the look of the Borough; it is a sprawling, but not big house so the coverage is expanded rather than more compact as in a two story house; the house was built in 1972 after the golf course was there so was pushed forward at the time of construction.

B. Girty reminded the members that safety also plays a factor and the porch roof provides protection from flying golf balls.

B. Renshaw stated that the house is more Fenwickian with a porch and it will not encroach on any neighbors.

M. Staniford stated that they have shown a hardship and added that the bushes must be kept low so cannot provide a buffer from golf balls.

B. Gay stated that the purpose of the code relative to coverage is to lessen crowding and the open porch does not have the same impact as enclosed space; the property is unique because of the golf course on three sides; the perceived lot line from the golf course is the garage which reduces the available area and creates a bigger safety issue in the rear.

M. Ozols stated that the Board is allowed to add stipulations and they might consider stipulating that the porch never be enclosed in order to preserve the openness.

Members discussed the stipulation as mitigation for the increased coverage and asked the applicants if they would agree to such a stipulation if the variance was granted. The applicants consented to the addition of this stipulation.

K. Berluti stated that privacy is also a concern because of the location on two roads, adding that the applicants should have the right to be able to sit outside.

R. Gay asked for public comment. There was none.

R. Gay asked the applicants if they wished to continue the hearing to a later date in order to have five ZBA members present or to close the hearing with only four members able to vote.

The applicants agreed to allow the public hearing to close.

R. Gay verified that no one else wished to speak and closed the public hearing.

3. Possible decision: ZBA 19-002. 2 Agawam Avenue.

Members indicated that they had discussed hardships and any concerns during the public hearing.

Members agreed that there were no concerns relative to the mini-split unit.

Based on the discussion in and following the hearing, **B. Renshaw moved to grant a variance for ZBA19-002, 2 Agawam Avenue, of Section 4.3.11.2a (20' setback from property line to heat/ac units required, 12.2' proposed), to permit installation of heat pumps, as shown on the plans submitted. The motion was seconded by K. Berluti and approved unanimously.**

The motion carried, 4-0-0

IN FAVOR: Gay, Staniford, Berluti, Renshaw.

OPPOSED: none

ABSTAINED: none

M. Staniford clarified that the new increased setbacks for mechanicals was intended for larger, louder units plus this location created dueling ac units so any impact on either property was minimized.

Relative to the porch, B. Gay stated that the setback related to a location 27 feet rather than 30 feet from Agawam Avenue or a 3 foot encroachment relative to the center area of the porch only, and referred to the discussion relative to stipulating that this section of the porch never be converted to living space. After discussion, members agreed that it also should not be screened in order to preserve the feeling of openness. M. Staniford clarified that the two end portions could be screened; the screening stipulation applied only to the central section.

Based on the discussion in and following the hearing, **M. Staniford moved to grant a variance for ZBA19-002, 2 Agawam Avenue, of Section 5.1.2 (15% maximum coverage, 17% proposed), 5.3.1 (30' front yard required, 27' proposed Agawam Avenue side), and 8.6 (no expansion of non-conforming structure except in conformance with regulations, porch addition not in conformance with coverage and yard requirements) to permit a porch addition as shown on the plans submitted with the stipulation that the central porch area remain open and not screened or converted to living space. The motion was seconded by K. Berluti and approved unanimously.**

The motion carried, 4-0-0

IN FAVOR: Gay, Staniford, Berluti, Renshaw.

OPPOSED: none

ABSTAINED: none

M. Staniford summarized the primary reasons as safety and the uniqueness of the lot relative to the golf course.

Members agreed that no issues with the Coastal Site Plan Review had been identified during their review.

B. Renshaw moved to find application ZBA19-002, 2 Agawam Avenue, consistent with the goals and policies of the Connecticut Coastal Management Act. The motion was seconded by M. Staniford and approved unanimously.

The motion carried, 4-0-0.

IN FAVOR: Gay, Staniford, Berluti, Renshaw.

OPPOSED: none

ABSTAINED: none

The record plans are:

- *Property Survey, Land of Michael J & Margaret M Reynolds* by Robert C. Simoni dated September 1, 2019, rev. through 11/19/19
- *Reynolds Cottage, 2 Agawam Ave, Fenwick, CT* by Brooke Girty Design
 - *Proposed Plan*, dated Oct. 16, 2019, rev. Nov. 19, 2019, sheet A1
 - *Proposed Elevations*, dated Nov. 19, 2019, sheet A2

4. Approval of Minutes: July 23, 2019.

B. Renshaw moved to approve the minutes of the July 23, 2019 special meeting as submitted. M. Staniford seconded the motion and it was approved unanimously.

The motion carried, 4-0-0.

IN FAVOR: Gay, Staniford, Berluti, Renshaw.

OPPOSED: none

ABSTAINED: none

5. Other Business.

None.

6. Adjournment.

K. Berluti moved to adjourn the meeting at 10:32 a.m. M. Staniford seconded the motion and it was approved unanimously.

Respectfully submitted,
Marilyn M. Ozols
Acting Recording Secretary