



Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

Website: www.colchesterct.gov

**COLCHESTER
ZONING BOARD OF APPEALS
MEETING MINUTES**

TUESDAY, AUGUST 20, 2019

**Town Hall, 127 Norwich Avenue, Colchester, Connecticut
MEETING 7:00 P.M.**

RECEIVED
COLCHESTER, CT
2019 AUG 22 PM 3:14
Daphne Schaub
CLERK

MEMBERS PRESENT: Chairman Laurie Robinson; Patrick Reading; Michael Solis, and Jason Radachy; Stan Soby, Board of Selectman Liaison; Staff: Daphne Schaub, Assistant Planner/Zoning Enforcement Officer, and Kamey Cavanaugh, Clerk. **Members of the Public.**

MEMBERS ABSENT: Bob Setschinsky

1. CALL MEETING TO ORDER

Chair Robinson called this meeting to order at 7:07PM

2. LEGAL NOTICE D. Schaub read the legal notice into the record.

3. APPLICATIONS/PUBLIC HEARINGS

- A. Application No. 19-001ZBA of Cynthia A. Baribeault (Applicant/Owner), 167 Christy Lane, for a variance of Section No. 4.4.1 of the Colchester Land Development Regulations, to reduce the minimum side yard setback requirement from 20' (effective 9/1/19: 15') to 11'(+/-) (Tax Map 4W-03/Lot 001-18A) in the SU Zone;

Ms. Baribeault, was before the board requesting a side yard setback to construct a garage and stated the reason for her hard ship is due to the shape of the cul-de-sac and her home being place off center to the back on the property. Also stating concern with the location of the electrical meter and the basement window.

D. Schaub reported to the board of the recent amendment to the regulation scheduled to go into effect on 9/1, which will reduce the side yard setback from 20' to 15'. Ms. Baribeault does not feel even with that new setback it will allow her the room she needs to build the garage where she would like to. Mr. Radachy asked if the applicant would consider reducing the garage by 4' to fall within the current setback. Ms. Baribeault said that would not be consistent with the other garages on the street and doesn't feel a smaller garage would allow her the room to have 2 cars and storage. Mr. Radachy asked to place it farther back on the property in order to be within the setback. Ms. Baribeault didn't feel it would aesthetically look appropriate. Mr. Reading understands there would be enough room to place the garage on the other side of the home, however Mr. Baribeault would have added expenses to move the electric meter and basement window.

Chair Robinson asked if anyone was present to speak in favor or in opposition of this application; hearing none,

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Ms. Baribeault submitted into the record a letter with 6 signatures from neighbors stating they are in support of the application before the board. (Can be found in the file at the Planning and Zoning office)

Chair Robinson explained to the applicant due to the board being short one member the applicant has the option to continue this public hearing until the next regular scheduled meeting to have all members present. Ms. Baribeault requested the public hearing remain open and be continued to the next meeting scheduled for September 17, 2019.

P. Reading made a motion to continue Application No. 19-001ZBA of Cynthia A. Baribeault (Applicant/Owner), 167 Christy Lane, for a variance of Section No. 4.4.1 of the Colchester Land Development Regulations, to reduce the minimum side yard setback requirement from 20' (effective 9/1/19: 15') to 11'(+/-) (Tax Map 4W-03/Lot 001-18A) in the SU Zone; until the next regular scheduled meeting. Motion was seconded by J. Radachy. Motion carried unanimously.

B. Application No. 19-002ZBA of Robert Keefe (Applicant/Owner), 54 Lebanon Avenue, for a variance of Section No. 3.4.1.C of the Colchester Land Development Regulations, to reduce the minimum lot frontage on an arterial street requirement from 300' to 280.74' (+/-) (Tax Map 06-02/Lot 002-000) in the RU Zone

D. Schaub reported on the application before the Board which is both an appeal of her decision to deny an application for a 2-lot subdivision of previously developed land. The subject parcel is a 65 Ac parcel with an existing single-family home. A 61 Ac Easement has been filed in the Land Records by the Colchester Land Trust and the U.S. Department of Agriculture.

Unfortunately, the applicant relied on the advice of his attorney and the Land Trust, as well as their attorney, none of whom brought Easement maps or the proposed subdivision to the Planning and Zoning Department prior to filing this Easement. Subsequently, the 4 Ac parcel which was intentionally "Unencumbered" by the Easement is unable to be subdivided and transferred to the heir of the property. The Easement prohibits any lot line adjustments within the boundary of the Easement. It also precludes the transfer of land. Ms. Schaub stating the findings for the hardship are the following;

1. The hardship is peculiar to this property alone. No other property in this district will find themselves in this position.
2. The Owner of the property relied upon professionals for guidance. At the very least those professionals knew that the subdivision and Easement should have been reviewed by Planning and Zoning prior to recording the Easement.
3. The hardship is not financial. As it stands currently the property is un-transferable.
4. The hardship relates specifically to the real property in question.

Mr. Radachy asked for an explanation from staff how the conservation easement is frustrating the applicant's plans. Without the easement a lot line adjustment could be moved to comply with the regulations.

Mr. Keefe was before the board to discuss the successful family horse operation in town. Mr. Keefes family had several developers approach them to purchase the property, however the

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family wanted the property to remain agricultural. At that time the family reached out to Lisa Hageman, Colchester's Land Trust Co-President and offered them the land with the 4 acre lot being intentional cut out for the family to remain on the farm. At no fault of the Keefe family, the easement was recorded by the professionals hired, however, the professionals did not bring the plan to the Planning and Zoning office only to find out now the cut does not meet the frontage required to subdivide.

Mr. Radachy asked Mr. Keefe if at the time when the conservation easement was drawn up, he was represented by an attorney. Mr. Keefe was represented by an attorney at that time.

Mr. Reading asked what the reason behind the location of the conservation easement. Mr. Keefe stated to keep the bulk of the land in agriculture in perpetuity.

Lisa Hageman, Colchester Land Trust Co-President stated Mr. Keefe has the ability to transfer the 65 acre parcel; however subsequent owner would have to abide by the terms of the easement. The easement is only on the 61 acres, the parcel in complete is 65 acres.

Mr. Radachy asked to receive a copy of the Conservation Easement for review.

Lisa Hageman, Colchester Land Trust Co-President voiced her complete support of the variance for Mr. Keefe. Ms. Hageman stated when they first met with the Keefes it was known their full intent of the property was to preserve it and have comfort knowing that in 100 years it would remain protected.

John Barnowski, 55 Loomis Road, Land Trust member, supports the application.

Art Shilosky, Stanavage Road, reported on the meeting that took place in regards to trying to resolve this without a variance and it was made very clear from the attorneys this was the only option that there is to resolve the mistake made by the professionals hired to help Mr. Keefe.

Lisa Sivek, 322 Bulkely Hill Road, Land Trust member, and a resident of the town, feels this variance should be approved to keep the character of the town.

Kevin Byrne, 29 Jolin Lane, supports the variance request.

Leslie Curtis, 110 Cato Corner, Land Trust board member, stated this was a completely honest mistake of the professionals that did not clearly understand the levels of our zoning department and is in full support of granting this variance.

Dan Albert, 10 Founders Way, is concerned if the variance is not granted, word would get out that the Land Trust cannot be trusted. As a farmer, why would you consider a conservation easement when this happened?

Kathy Shae, Co-President of the Land Trust, said Mr. Keefe has preserved more than 60 acres of beautiful farm land and in light of that speaks in favor of granting this variance.

David Lavine, 283 Bulkeley Hill Road, supports this variance.

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D. Schaub stated the Zoning Board of Appeals regulations clearly state after you consider this to be a true hardship, variances may be granted if in harmony with the general purpose and intent of these regulations with due consideration for conserving public health, convenience, safety, welfare and property values.

Mr. Radachy is concerned any hardship present is the applicants own doing as they agreed to the conservation easement and feels the proper remedy would be to contact the attorneys who represented the applicant. Mr. Radachy is also concerned of setting a precedence in granting this variance it will open the door for willful ignorance and backdoor around zoning regulations.

Chair Robinson said she has been on the Zoning Board of Appeals for 24 years and has never had someone request a variance based on such a collection of errors.

M. Solis feels the intent is visible by all parties.

John Barnowski, questioned given that the nature of the lots, the size, dimensions, is this variance that significant, other than on principle? D. Schaub responded, in order for the Planning and Zoning commission to approve the subdivision this variance would need to be granted.

Lisa Hageman wanted to remind the board the property has an existing home placed on the lot and no additional construction will be taking place, this is simply fixing an error that has been made.

The members of the Zoning Board of Appeals would like to have the opportunity to review the easement that is in place.

P. Reading made a motion to continue application No. 19-002ZBA of Robert Keefe (Applicant/Owner), 54 Lebanon Avenue, for a variance of Section No. 3.4.1.C of the Colchester Land Development Regulations, to reduce the minimum lot frontage on an arterial street requirement from 300' to 280.74'(+/-) (Tax Map 06-02/Lot 002-000) in the RU Zone. Motion was seconded by J. Radachy. Motion carried unanimously.

4. MINUTES OF PREVIOUS MEETING - Minutes of Workshop Meeting, January 15, 2019

P. Reading moved, and J. Radachy second to approve the minutes of January 15, 2019. Motion carried unanimously

5. OLD BUSINESS None

6. NEW BUSINESS None

7. CORRESPONDENCE None

8. ADJOURNMENT

P. Reading made a motion and J. Radachy seconded to adjourn the August 20, 2019 Zoning Board of Appeals meeting at 9:55p.m. The motion carried unanimously.

Respectfully Submitted, *Kamey Cavanaugh*, Clerk

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