

**NEW CASTLE ZONING BOARD OF ADJUSTMENT
TUESDAY, OCTOBER 24, 2017
7:00 P.M.**

Board Members Present: Todd Baker, Chair, Rebecca Goldberg, Margaret Sofio, Ben Lannon, Mark Gardner

Board Members Absent: John Fitzpatrick

Chair Baker opened the meeting at 7:00 p.m. with a moment of silence to honor the life of longtime ZBA member, Russell Cox, who passed away on October 20, 2017 at age 90.

CASE #2017 - 07 filed by Richard and Heidi Reilly, owners of 29 Shaw Circle, Map 10 Lot 13, requesting a variance to Article 7.5, Section 7.5.1 of the Zoning Ordinance to expand a pre-existing, nonconforming structure

Chair Baker read a September 29, 2017 letter from the Building Inspector:

- indicating his denial of the Reilly's Building Permit application pending zoning relief to Article 7.5, Section 7.5.1, having determined the existing structure to be non-conforming due to its location in the 50' Wetland Buffer

- requiring the acquisition of a Conditional Use Permit from the Planning Board to perform the work per Article 9.2.5, Section 2 in the Ordinance

The ZBA will consider the issue of zoning relief.

Mr. Richard Reilly, 29 Shaw Circle, described the current structure as a 1958 ranch-style house in which they are presently residing. Working with an architect, the Reilly's have planned to expand the home, while minimizing any negative impact to the wetlands. While the addition will expand the building area in the buffer zone, it will be a second story addition which will not increase the footprint in the wetland buffer. Mr. Reilly responded to the five criteria for zoning relief:

1. The values of surrounding properties are not diminished:

The proposed plan would increase the property's value as well as the surrounding properties.

2. Substantial justice is done:

The proposed plan will improve existing conditions, update to today's building standards and increase the value of the property and those around it.

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3. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:

The zoning restriction applied to the proposed plan will interfere with reasonable use of the existing property causing an unnecessary hardship.

4. The variance will not be contrary to the public interest:

The proposed plan will improve existing conditions and increase property values.

5. The spirit of the ordinance is observed:

The home was built when the setback requirements did not exist. The proposed plan will improve the existing situation while making no change or expansion to the existing property's footprint within the wetland setbacks.

Board members questioned Mr. Reilly for clarification. The water utility is town water and waste disposal on the property is via private on-site septic system. Construction plans include new septic which will be re-located from inside the wetlands buffer to an area outside of the wetlands setback.

The existing foundation will remain. Work will involve removing the roof and building upward. A portion of a front porch addition will be inside the setback. To compensate, the back deck will be moved from partially inside to completely out of the 50' setback.

Mr. Reilly reported that re-siting the house would be cost prohibitive due to the abundance of ledge and would potentially encroach on the new septic location. The proposed building is within the allowable lot coverage area.

The ZBA has received no correspondence from the public regarding the case and the Reilly's have made no formal survey of neighbor feedback. The project will not obscure views and Mr. Reilly believed that their neighbors support the improvement of the property.

Chair Baker opened the Public Hearing at 7:16 p.m.

Neighbor, Mr. Tim Mardin, 31 Shaw Circle, indicated that he had no concerns about the proposed project.

Hearing no further comment, Chair Baker closed the Public Hearing at 7:18 p.m.

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Responding to concerns from Ms. Rebecca Goldberg and Ms. Margaret Sofio about potential wetland impacts, Chair Baker answered that typically when the wetlands footprint isn't changed, and the septic isn't overloaded, the ZBA perspective is that it presents no adverse impact.

Mr. Mark Gardner moved that applicants, Richard and Heidi Reilly, have met the five criteria as listed in their application and moved to grant the variance as requested, subject to approval from the Planning Board and Conservation Commission. Mr. Ben Lannon seconded the motion. Motion carried by unanimous vote.

Adjourn

There being no further business, *Mr. Gardner motioned to adjourn. Mrs. Sofio seconded.*

Meeting adjourned at 7:28 p.m.

Respectfully submitted by,

Anne Miller, Secretary