

MINUTES OF THE NEW CASTLE ZONING BOARD OF ADJUSTMENT
Tuesday, May 18th, 2021 – 7:00 p.m. (via Zoom)

Members Present: Todd Baker, Chair; John Fitzpatrick; Mark Gardner; Rebecca Goldberg; Margaret Sofio; Alyson Tanguay; Matt Taylor.

Members Absent: Ben Lannon.

Others Present: Kate Fitzpatrick.

Chair Baker called the meeting to order at 7:05 p.m. Voting members of the Board are Ms. Sofio, Ms. Goldberg, Ms. Tanguay, Mr. Gardner and Mr. Taylor. Chair Baker is an alternate. Mr. Fitzpatrick recused himself, as he is the Applicant this evening.

1. Overview of Zoom Meeting checklist.

Chair Baker informed attendees that the public body is holding an emergency meeting electronically pursuant to Executive Order 2020-04, Section 8, and Emergency Order #12, Section 3.

2. Case 2021-03. The Katherine M. Fitzpatrick Revocable Trust of 2019, owner of 48 Spring Hill Road (Map 4 Lot 24), has applied for a variance from Article 4.2.1 Sections 3 and Article 7 Section 7.5~5.1 in order to permit a deck which will increase lot coverage to an existing non-conforming lot.

Chair Baker disclosed that he is friends with John and Kate Fitzpatrick, but does not feel that this will affect his decision making in any way. Ms. Goldberg disclosed that she lives in the Spring Hill Road/Lavenger Lane neighborhood, but is not a direct abutter to the Fitzpatricks and does not see this being an issue.

Mr. Fitzpatrick presented the application for a 300 square foot outdoor deck at the left rear section of the house, which currently has no deck, patio or other outdoor seating area. The deck would be slightly irregular, with one large rectangle measuring 264 square feet and a smaller rectangle measuring 36 square feet. The deck would increase the lot coverage by 2.7% for a total lot coverage of 27.3%, where 20% is permitted. The variances requested are for lot coverage and increasing an existing nonconformity.

Mr. Fitzpatrick explained the irregularities of the lot, namely that the shape is triangular rather than rectangular, and there is a steep front to back grade. The hypotenuse abuts Abigale Lane, and although there are no direct abutters on Abigale Lane, the Fitzpatricks still reached out to people on that street about the proposal. They also spoke with all direct abutters, none of whom had any objection.

The deck will not go into any setbacks and would not be enclosed. It would be approximately nine feet above ground, with the entrance coming out from the first floor addition. There would be no exterior staircase.

Mr. Fitzpatrick went through the five criteria for zoning relief.

1. *The variance will not be contrary to the public interest; and*
2. *The spirit of the ordinance is observed:*

The proposed deck would not alter the character of the neighborhood, as decks and patios are quite common in the neighborhood. The property will continue to be a single-family residence. The basic intent of the Master Plan is to protect the general welfare of residents and the character of the Town. This project would not adversely affect the health, safety, or welfare of the community. Allowing the Fitzpatricks to have an outdoor deck would promote safer outdoor gatherings during the ongoing COVID-19 pandemic, particularly since Ms. Fitzpatrick has elderly parents who frequently visit.

3. *The values of surrounding properties are not diminished:*

The values of surrounding properties would not be diminished by the proposed deck.

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

There are special conditions of the property that create an unnecessary hardship to the Applicants. The triangular shape of the lot is unusual for the neighborhood, where most lots are rectangular. Because of this unique shape, there is a relative expanse of land on the left hand side of the house, and a relative scarcity of land on the right hand side. Given the triangular lot shape, there would be no sense of overcrowding or overbuilding, and the deck would remain well within all setback requirements. Also, the steep descending grade in the lot makes the area of the proposed deck the only feasible location. In addition, if the lot shape were rectangular, the proposed deck would not require a variance because it would fit within the increased permitted lot coverage.

5. *Substantial justice is done:*

There would be no benefit to the general public in denying the variances that outweighs the hardship to the Fitzpatricks. There would be substantial injustice to the Applicants if they were denied permission to make customary and reasonable outdoor use of their property. Furthermore, the deck does not come close to encroaching on any setbacks.

Ms. Sofio asked if Mr. Fitzpatrick needed a variance for the build out where the deck would be attached to. Mr. Fitzpatrick responded that he did not require a variance because the overall lot coverage was reduced by removing a previous deck. Ms. Tanguay asked if the Fitzpatricks had considered adding the deck as a part of the previous project. Mr. Fitzpatrick stated that they had considered this, but decided to proceed without the deck so that they would not need a variance and risk losing the contractor they had hired.

Chair Baker opened the hearing to the public at 7:26 p.m. Hearing no comments from the public, Chair Baker closed the public hearing at 7:26 p.m. and opened discussion back up to the Board.

Ms. Sofio felt that there are unusual conditions of the lot and noted that there were no objections from neighbors. She appreciated how Mr. Fitzpatrick took into account the Master Plan when presenting his case and believed that the application should be approved.

Ms. Goldberg stated that the Fitzpatricks have met the five criteria, and the application meets the standards for hardship in terms of the distinguishing features of the property. The application is reasonable and as minimal as can be, and respects the character of the neighborhood.

Ms. Tanguay agreed that the application is reasonable and acknowledged the odd shape of the lot. She appreciated the forthrightness of considering the deck in the past but holding off. She pointed out that it is tricky since the backyard is not as private given how it abuts Abigale Lane. Overall, Ms. Tanguay found the request to increase lot coverage as very minimal.

Mr. Gardner stated that the application is very thoughtful and he had no objection.

Mr. Taylor felt that the proposed deck fits well with the neighborhood and would have no impact on neighbors.

Chair Baker agreed that the five criteria have been met. He pointed out that the greatest hardship is the sloping backyard, which requires a deck to utilize that space as opposed to a patio, which would require regrading.

Mr. Gardner motioned to approve the application of The Katherine M. Fitzpatrick Revocable Trust of 2019, owner of 48 Spring Hill Road (Map 4 Lot 24) as submitted, including both requests for variances, premised upon the reasoning set forth in the supporting memorandum. Ms. Tanguay seconded. Ms. Sofio, Ms. Goldberg, Ms. Tanguay, Mr. Gardner, and Mr. Taylor all voted in favor. Motion carried unanimously.

3. Approve Minutes.

Ms. Sofio moved to accept the April 2021 minutes as amended. Mr. Fitzpatrick seconded. Mr. Fitzpatrick, Ms. Sofio, Ms. Tanguay, Mr. Gardner, Mr. Taylor, and Chair Baker all voted in favor. The motion carried unanimously.

4. Set Date of Next Meeting.

Chair Baker announced that the next Zoning Board of Adjustment meeting will be held on Tuesday, June 22, 2021 at 7:00 p.m. at the Commons.

5. Adjournment.

There being no further business, Mr. Gardner moved to adjourn the public meeting. Mr. Fitzpatrick seconded. The motion carried, unanimously, and the meeting adjourned at 7:38 p.m.

Respectfully Submitted,

Meghan Rumph
Secretary