



DEPARTMENT OF PLANNING AND DEVELOPMENT

MEMORANDUM

TO: Zoning Board of Appeals

FROM: Wayne Scott, Zoning Official

DATE: December 30, 2025

TITLE: Staff Report: Application #ZBA-25-46
Single Family Residential
Eight (8) Setback Variances & One (1) Lot line Adjustment

SUMMARY

The subject property, 37 Oswegatchie Road is a corner lot in an R-20 Medium Density Residential district located at the northwest corner of Oswegatchie Road and Point Comfort and is nonconforming in respect to lot area. In addition, all the existing structures located on the subject lot are nonconforming in respect to front yard, side yard and/or rear yard setbacks as well.

- The minimum lot area requirement in the R-20 district is 20,000 square feet. The existing nonconforming lot size is 10,570.89 square feet.
- The required front yard setback in the district is 50 feet.

Per zoning regulation Section 3.10: When located on a corner lot, an accessory building shall be no closer to a street lot line than the least depth of any front yard requirement along such street.

- The front yard setback of the existing garage is 22.2 feet and the front yard setback of the existing (shed) building in the front yard is 46.2 feet.
- The required side yard setback in the district is 20 feet.
 - The existing nonconforming side yard setbacks along the north side boundary are as follows: The side yard setback of the existing concrete shelf located along the easterly side of the property at the Niantic River water's edge is 0.0 feet. The side yard setback of the existing house is 0.2 feet. The side yard setback of the existing stairs is also 0.2 feet. The side yard setback of existing garage is 6.0 feet.
 - The existing nonconforming side yard setbacks along the south side boundary are as follows: The side yard setback of the existing house is 12.0 feet. The side yard setback of the existing deck is 14.4 feet.

- The required rear yard setback in the district is 50 feet.
 - The rear yard setback of the existing concrete shelf located along the easterly side of the property at the water's edge is 0.0 feet. The rear yard setback of the existing deck is 3.3 feet. The rear yard setback of the existing house is 6.5 feet. The rear yard setback of the existing stairs is 8.5 feet.

The applicant is proposing to demolish the existing nonconforming single-family structure and construct a new single family residential structure on the existing nonconforming structure's footprint located at the far west portion of the existing nonconforming lot. The applicant is proposing to remove the existing nonconforming (shed) building currently located in the front yard of the property.

The applicant is also proposing a lot line revision to the existing northerly boundary between the subject property and the adjacent property at 35 Oswegatchie Road. The applicant is proposing the revision would be an even exchange of land, with each of the two lots continuing to have the same amount of land before and after the adjustment. The following are the applicant's proposed front, side and rear yard setbacks contingent upon the proposed lot line revision noted herein.

- The required front yard setback in the district is 50 feet.
 - The proposed front yard setback of the existing nonconforming garage to remain 22.2 feet.
- The required side yard setback in the district is 20 feet.
 - The proposed side yard setbacks along the north side boundary are as follows: The proposed side yard setback of the existing concrete shelf located along the easterly side of the property at the water's edge to remain 0.0 feet. The proposed side yard setback of the existing garage is 7.1 feet. The proposed side yard setback of the proposed deck stairs is 17.2 feet. The proposed side yard setback of the proposed deck is 17.5 feet.
 - The proposed side yard setbacks along the south side boundary are as follows: The side yard setback of the eave of the proposed house is 5.9 feet. The side yard setback of the proposed sky bridge is 7.6 feet. The proposed side yard setback of the proposed house is 8.0 feet. The proposed side yard setback of the proposed deck is 16.4 feet.
- The required rear yard setback in the district is 50 feet.
 - The proposed rear yard setback of the existing concrete shelf located along the easterly side of the property at the water's edge to remain 0.0 feet. The proposed rear yard setback of the proposed deck is 0.4 feet. The proposed rear yard setback of the eave of the proposed house is 4.4 feet. The rear yard setback of the proposed house is 6.5 feet.

A portion of the property lies within the Coastal Flood Hazard Area Zone (AE-12), and much of the proposed work occurs within this designated flood hazard area. The work proposed is subject to a Coastal Area Management review.

Pertinent Regulations

CGS §8-6

Zoning Regulations

Sec. 25.3 – Development in Flood Hazard Areas

Sec 25.4 – Coastal Area Management

Sec 27 – Zoning Board of Appeals

Sections. 4.4.2 – Side Yard Setback Regulations

Sections. 4.4.3 – Rear Yard Setback Regulations

	Required	Existing	Proposed	Variance Request
Side Yard Setback (North Boundary) DECK	20 Feet	N/A	17.5 Feet	2.5 Feet
Side Yard Setback (North Boundary) DECK STAIRS	20 Feet	N/A	17.2 Feet	2.8 Feet
Side Yard Setback (North Boundary) GARAGE	20 Feet	* 6 Feet	17.1 Feet	2.8 Feet
Side Yard Setback (South Boundary) EAVE	20 Feet	* 12 Feet	5.9 Feet	14.1 Feet
Side Yard Setback (South Boundary) DECK	20 Feet	* 14.4 Feet	16.4 Feet	3.6 Feet
Side Yard Setback (South Boundary) SKY BRIDGE	20 Feet	N/A	7.6 Feet	12.4 Feet
Rear Yard Setback DECK	50 Feet	* 3.3 Feet	0.4 Feet	49.6 Feet
Rear Yard Setback EAVE	50 Feet	* 6.5 Feet	4.4 Feet	45.6 Feet

* - Pre-existing nonconforming

Permitted Use within the District:

Sec 4.1.1 – One-family dwellings

DISCUSSION

The application presents the following statement of hardship:

“ As currently developed, the Property contains wide variety of non-conformities, including lot size, street line setbacks, both side yard setbacks, and rear yard setback. It is a long narrow lot with steep slopes extending to the riverfront. When the zoning regulations are applied to the Property in its current land configuration, 97.1% of the lot is undevelopable – only 307 square feet of developable land – creating a significant hardship to this Property.

The Applicant minimizes the scope of its request by proposing a lot line revision that facilitates increased setbacks beyond what could be achieved under the existing lot configuration. The proposed lot line revision also enhances the non-conforming aspects of the adjacent property at 35 Oswegatchie Road, owned by an affiliate of the Applicant. The adjusted boundary increases the side yard setbacks and the lot width, bringing that property into greater conformity with the Zoning Regulations. As the board is likely aware, the reduction of non-conformity serves as an alternate basis for a variance under Connecticut law.

Finally, the development plan takes the Property's location within the surrounding neighborhood into consideration. By orienting the new house in the existing location, it maintains reasonable setbacks to the adjacent home and shed at 3 Point Comfort. By utilizing the current driveway and maintaining the garage in its current location, Applicant avoids further variance requests and the construction activity associated with relocation of the structure.”

To justify the granting of a variance, the Board must first determine whether a legal hardship exists. Per CT State Statutes 8-6 and Section 27.2.3 of the Town of Waterford Regulations, one of the powers and duties of the ZBA is:

27.2.3 To determine and vary the application of provisions of these Regulations, in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare, and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not generally affecting the district in which it is situated, a literal enforcement of these Regulations would result in exceptional difficulty or unusual hardship, so that substantial justice will be done and the public safety and welfare secured.

Once the board has determined a legal hardship exists the following criteria for decisions from the Town of Waterford Zoning Regulations Section 27.5 must be applied and included in the board's findings:

27.5 CRITERIA FOR DECISIONS

In addition to other requirements established within these Regulations, the Zoning Board of Appeals, prior to making its decision regarding any application for a variance or any other matter requiring Board action in accordance with the provisions of these Regulations, shall consider, at a minimum, the following factors:

- a. The size and intensity of the proposal under consideration and its potential impact on the surrounding neighborhood including consideration of past ownership patterns involving the property in question and adjacent properties and changes in the Zoning Regulations, which have occurred since the lot in question was created.
- b. The existence of conditions of the same kind and/or character on other properties within the surrounding neighborhood.
- c. The impact the proposed request will have on the capacity of adjacent streets to handle peak traffic loads without causing congestion and without creating any traffic hazards.
- d. The possible obstruction of light or air, or the emission of noise, light, smoke, odor, gas, dust, or vibration in noxious or offensive quantities which might be caused by the proposal under consideration and the impact such conditions might have on adjacent properties.
- e. The resultant effect the proposal under consideration would have on the value and utilization of other properties within the surrounding neighborhood.
- f. The existence of unusual topography on the property in question and the nature, location and height of all existing and proposed buildings, walls, fences, and landscaping on the site in question.
- g. The extent, nature and arrangement of all existing and proposed parking facilities, driveways and roadways on the site in question.
- h. Any problems which might be created with regard to providing fire and/or police protection to the site in question or to adjacent properties.
- i. The preservation of the character of the neighborhood.
- j. The location of existing water and sewerage systems serving the subject site and the adequacy of such systems to support any additional construction on the property.

- k. All other standards prescribed by these Regulations.

27.6 TERMS AND CONDITIONS

In granting any variance under these Regulations, the Board may attach such additional terms, conditions and safeguards as are deemed necessary to protect the neighborhood such as, but not limited to, the following:

- a. Requirement of front, side or rear yards greater than the minimum required by these Regulations.
- b. Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting or other devices.
- c. Modifications of the exterior features or appearance of any structure, where necessary to preserve property values.
- d. Limitation of size, number of occupants, method of time of operation or extent of facilities.
- e. Regulation of number, design, and location of access drives or other traffic features.
- f. Requirement of off-street parking or other special features beyond the minimum required by these Regulations or other applicable codes or regulations.

27.6.1 Failure to comply with any such condition or safeguard shall constitute a violation of these Regulations.