October 6th 2024

Chairman Carpenteri
Zoning Board of Appeals
Town of East Lyme
108 Pennsylvania Ave
Niantic, CT 06357

Received
OCT 7 2024
Town of East Lyme
Land Use

Dear Chairman Carpenteri and Zoning Board of Appeals,

We appreciate your consideration for our request for a variance to the East Lyme Zoning Regulations and look forward to discussing the matter at a future board meeting. We have included several enclosures as required by the appeals processes for your review.

1. Fully completed application for appeals
2. Denial of zoning application
3. Letter from owners describing hardship
4. Copy of property deed for 23 Grand St. Niantic CT 06357
5. Copy of deed for 23 Grand St. Niantic CT 06357 showing existing lot lines were established prior to zoning regulations.
6. Email exchange between abutting property (The Norton – 125 Main St) with no objections to the requested variance request.
7. Existing assessor map
8. The Norton "As Built" survey to provide baseline for property lines being along existing fence, in lieu of having a L2 survey conducted.
9. Site plan displaying the hardship due to setbacks and existing septic system

The appropriate fees have been paid to the Town of East Lyme and we are looking forward to discussing our request with the appeals board. Additionally, due to obligations of Rob's employment with the Navy, we humbly ask that the board schedule the discussion regarding this topic outside of the dates ranging from October 27th to November 14th.

Sincerely,

Rob and Megan Low
23 Grand Street

Dear Zoning Board of Appeals,

We appreciate you taking your time to review our request for a variance to the East Lyme Zoning Regulations. We acquired 23 Grand Street in June of 2022, moved into the house in July, and enjoy the the sense of community in our small town. When we purchased the house, we assumed a garage or accessory building would be possible because most homes in the neighborhood had an accessory building or garage. Earlier this year, we had time to start working on several projects around our house and began construction on an accessory building to address our storage challenges. Regrettably, we did not realize we needed a zoning permit and the zoning commission provided us with a cease-and-desist order. We immediately complied and removed the building and appropriately submitted the zoning application. Unfortunately, due to the accessory building location necessitating being within 10' of the side lot line, the zoning official denied our applications due to non-compliance with regulations. We are writing to request a variance because we believe it meets the general statute requirements based on the two-part test for variances as outlined below.

First, as the majority of homes residential homes within the adjacent residential district and those residing within the commercial (CB) district are evaluated, the majority have as-built garages or accessory buildings that are largely on or closely located at the property lines. The variance request to reduce our side yard setback to 1.5 feet would be in line with the adjacent housing, and would not substantially affect the comprehensive zoning plan. In addition to the local properties, the CB district zoning regulations allow for removal of setback requirements provided both lot line neighbors agree and the common wall be made of concrete material (section 20.18). Therefore, both the current land use and setback enforcement on existing structures as well as the zoning authorization to remove setback requirements for CB purposes, reducing our side yard setback would meet the first test for variance request.

Secondly, adherence to the strict letter of the zoning ordinance on our lot imposes unusual hardship which is unnecessary in carrying out the zoning plan. As described within cases outlined within Chapter 9 of Land Use Law and Practice provided on the East Lyme Board of Appeals website, we believe that a hardship exists due to 1) the pre-existing non-conforming lot sizing and 2) the existing septic system. Both issues are similar to cases where a hardship was supported and variances were approved.

Pre-existing non-conformance: Our property at 23 Grand Street is located within the Commercial District (CB) of Niantic Village. This zone requires minimum lot sizes of 10,000 square feet (section 9.3.1) when used for residential purposes with minimum frontage of 80 feet (section 9.3.2). Our lot falls short of both of these requirements at 6,936 square feet and 70 feet of frontage. These shortfalls are significant because they drive the setback requirements to prevent the use of a larger percentage of our lot. Additionally, the 10-foot smaller frontage results in our lot being especially narrow and impacted severely by side lot setback requirements. The current setback laws would be more reasonable if we had the minimum size lot requirements by today's standard.

> Related Case: In Archambault v. Wadlow, a hardship was created due to the establishment of zoning regulations on a lot that pre-existed prior to enactment of the regulations in 1953. Ultimately a variance was provided to allow construction of a home on a non-conforming smaller than required lot, within regulation setback limits.

As shown in the enclosed documentation for this variance request, our lot was established well before the 1952/1953 establishment of zoning regulations. Our lot boundaries date back to deed from 1900.

The hardship began upon instituting the zoning regulations which resulted in a partial confiscation of the existing lot, preventing use of a significant portion of the pre-existing lot. This hardship has been carried with the lot without a request for zoning appeal.

Existing Septic System: As shown on the site plan, the septic tank, dry well and leaching field remove the ability for using the majority of the southern portion of the lot. The lot is not serviced by public sewer systems necessitating continued septic system use. The driveway and side yard on the East and Western sides of the lot are not large enough to add an accessory building without also requiring a side-lot setback variance to zoning regulations. The existing location of the septic system and to remain within the 40% lot coverage regulations make the only viable place for the accessory building to be located within the side lot setback on the Eastern side of the property while still providing more a 5-foot standoff from the septic tank.

> Related Cases: Within Kelly v. Willington "A side yard setback variance to allow the expansion of a house was upheld where the zoning board of appeals found that there was a hardship due to the location of an existing deck and pool at the rear of the house, and the location of the septic system and leaching fields on the other side of the house which were there when the owners bought the property, and the board found that the abutting owners would not be adversely affected by the variance."

As can be seen in the provided site plan, our unique lot characteristics coupled with the existing hardship due to the non-conforming size of our lot result in the only viable place to locate an accessory building to be within the regulated 10-foot setback on our eastern property boundary. Additionally, communications with our abutting property owners and the existence of a parking lot directly adjacent to the proposed location of the accessory building provide proof that this will not adversely affect the abutting property while being consistent with houses within the local neighborhood.

We ask that the East Lyme Zoning Board of Appeals grant a variance to the existing zoning regulations to allow for a reduced setback of 1.5 feet on the Eastern side of our lot. This approval is based on the carried hardship on the non-conforming lot due to the smaller frontage (width) and overall square footage. Furthermore, the approval is based on uniquely small (non-conforming) lot size and the existing location of the septic system necessitate a variance to allow for any further land use on the lot.

This variance approval would be consistent with the general purpose and intent of the zoning ordinances and does not adversely affect public health, safety and welfare, or property value in the district. Additionally, the strict enforcement of the zoning regulations does not provide for the best use of our lot, and is not in keeping with East Lyme's principles for zoning regulations due to imposing a hardship. Thank you for your consideration of our variance request.

Sincerely,

Rob and Megan Low
23 Grand Street