



Town of Cromwell Zoning Board of Appeals

***PUBLIC HEARING AND MEETING
6:30 P.M. TUESDAY APRIL 11, 2023
TOWN HALL COUNCIL CHAMBERS
41 WEST STREET CROMWELL***

AGENDA

1. **Call to Order**
2. **Roll Call**
3. **Seating of Alternates**
4. **Approval of Agenda**
5. **Public Comments**
6. **Public Hearing:**
 - a. Application #23-02: Request for Variance from Section 2.2.B Bulk Requirements of the Zoning Regulations (Side Yard Setback on a corner lot and Aggregate Side Yard Setback) to allow for the construction of an addition on the east side of the house at 8 Black Haw Drive. Maureen Y. Krauss and Jeffrey are the Applicants and the Owners.
7. **Board Members Comments:**
8. **Approval of Minutes:**
 - a. March 14, 2023
9. **Adjourn**

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LEGAL NOTICE
PUBLIC HEARING
TOWN OF CROMWELL ZONING BOARD OF APPEALS

The Cromwell Zoning Board of Appeals will hold a Public Hearing and Meeting at 6:30 pm on Tuesday, April 11, 2023 in the Council Chambers at the Cromwell Town Hall at 41 West Street on the following item:

1. Application #23-02: Request for Variance from Section 2.2.B Bulk Requirements of the Zoning Regulations (Side Yard Setback on a corner lot and Aggregate Side Yard Setback) to allow for the construction of an addition on the east side of the house at 8 Black Haw Drive. Maureen Y. Krauss and Jeffrey are the Applicants and the Owners.

At this hearing interested parties may appear and be heard and written testimony received. The application is on file in the Planning and Development Department office at 41 West Street, Cromwell, Connecticut.

Joseph Morin
Chairman

Dated in Cromwell, Connecticut this 27th day of March 2023.

23-02

rev. 6/20/2011

**TOWN OF CROMWELL
ZONING BOARD OF APPEALS**

**APPLICATION FOR VARIANCE, ZONING APPEAL, DMV LOCATION APPROVAL,
OR CHANGE OF NON-CONFORMING USE SPECIAL PERMIT**

Address: 8 Blackhaw Drive	PIN #: 00252300
Zoning District: R-25	Volume/Page: 548-33
Applicant: Jeff and Maureen Krauss	Property Owner: Same
Home or Business Address: 8 Blackhaw Drive	Home or Business Address: Same
Phone #: 860 635 7261	Phone: Same
Email: JKrauss1995@sbglobal.net	
<i>I hereby certify that the information presented is to the best of my knowledge true and accurate, and that should such information be proved to be inaccurate or misleading, any permit issued on the basis of this information may be revoked.</i> Signature:	<i>I hereby consent to the Applicant acting as my agent for the purpose of this application.</i> Signature:

Type of Application (check one):

☒ Variance from Section 2.2.B + 5.7 of the Zoning Regulations.

☐ Appeal from ZEO Decision dated _____.

☐ Change of Non-Conforming Use Special Permit.

☐ Application for Motor Vehicle Location Approval (attach copy of your completed DMV Form K-7)

Description of Request:

Relief from the Section 2.2.B and 5.7 requirement for a R-25 corner lot sideyard setback from 26 Ft to 19.5 ft

Justification for Request:

If Applying for a variance, state the hardship and explain why the variance is required.

If Appealing a decision of the ZEO, explain why you feel the ZEO is wrong.

If Applying for a change in non-conforming use Special Permit, explain how the new use will be less non-conforming than the current use.

If Requesting DMV Location Approval, state the date of the original Public Hearing (if any).

We are applying for a variance due to extensive work in the middle back yard (swale, fill, drywell, landscaping) as well a sealing in basement windows and raising hatchway. Secondly, we are limited due to being on a corner lot.

1. I will send written notice of this application to the owners of property within 100' of the site not less than 14 days before the public hearing. I will submit the "certificate of mailing" not less than 10 days before the hearing.
2. I will post a sign on the property not less than 14 days before the public hearing per Section 8.10.H. of the Cromwell Zoning Regulations. I will submit an affidavit of posting at the hearing.
3. If my request is dimensional in nature, I have submitted a site plan prepared by a surveyor in accordance with Sec. 10.4.B.2 of the Cromwell Zoning Regulations.


applicant

3/2/23
date



Town of Cromwell Zoning Board of Appeals

***PUBLIC HEARING AND MEETING
6:30 P.M. TUESDAY MARCH 14, 2023
TOWN HALL COUNCIL CHAMBERS
41 WEST STREET CROMWELL***

Minutes and Record of Votes

Present: Chairman Joseph Morin, Vice Chairman Dan Delisle, Mark Zampino, John Whitney and Steve Wygonowski (alternate)

Absent: John Keithan

Also Present: Director of Planning and Development, Stuart Popper

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Mar 29, 2023 10:20A
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CROMWELL, CT

1. **Call to Order** - the meeting was called to order by Chairman Morin at 6:32pm
2. **Roll Call** - The presence of the above members was noted.
3. **Seating of Alternates**

A motion was made by John Whitney and seconded by Mark Zampino to seat Steve Wygonowski as an alternate. All were in favor; the motion passed.

4. Approval of Agenda

A motion was made by John Whitney and seconded by Mark Zampino to approve the agenda. All were in favor; the motion passed.

5. Public Comments

6. Public Hearing:

a. Application #23-01: Appeal to the order of the Zoning Enforcement Officer dated January 10, 2023 for the Violation of Section 1.3.A.3 and Section 2.2 of the Zoning Regulations at 16 Pleasant Street. Myron P. Johnson is the Applicant and the Owner.

Dan Delisle reads the public hearing notice for application #23-01.

A motion was made by John Whitney and seconded by Dan Delisle to open the public hearing for application #23-01. All were in favor; the motion passed.

Mr. Popper reviewed Mr. Johnson's cease and desist order. He said the order was issued on January 10, 2023 for storing construction equipment and materials such as rocks, stone, pavers, blocks and sand in a residential zone at 16 Pleasant Street. Mr. Popper shared a chronological order of violations and enforcement action. He said Mr. Myron does have a special permit (#07-08) to keep a commercial dump truck and trailer on site, in a garage. Mr. Popper shared the previous minutes and actions for applications that were submitted by Mr. Johnson. He said this is a violation for materials, an excavator and one commercial piece of equipment that should be kept in a garage. He said the approval with conditions for the equipment is on page 5 and 6 of minutes that are dated June 5, 2007.

Myron Johnson, 16 Pleasant Street, Cromwell hands out a document to the Board. He said it is an overview of the chrono of events. Mr. Johnson asked the Chairman for a copy of the document that Mr. Popper just cited. Mr. Wygonowski gave Mr. Johnson a copy of the minutes dated June 5, 2007.

Mr. Johnson said he wants to discuss the origin of the complaint from the complaint form. Mr. Popper said that is not why we are here today. He said this is a hearing for you to appeal the cease and desist order. Mr. Johnson said that complaint is what started everything. He gave the Board a copy of the complaint form. Chairman Morin said this complaint is almost a year old. He said the Zoning Enforcement Officer is saying that you have excess of what you have permits for. Chairman Morin said we are here to discuss the cease and desist order issued from Mr. Driska. He said you can ask for a special permit or a variance at a later time but tonight is just for the appeal of the cease and desist. Mr. Johnson said but this complaint was written by the Zoning Enforcement Officer and signed by the complainant. He said all of the complaints listed on the complaint form were also written the same way on the actual cease and desist order. Mr. Popper said don't attack people who are not here to respond. He said we are here to address the facts. Mr. Johnson said I wonder why the Zoning Enforcement Officer didn't inform the complainant of the special permit in place at 16 Pleasant Street. He said that is his responsibility.

Chairman Morin told Mr. Johnson that he has to talk about why the cease and desist order should be overturned. He said it is not the place of the Board to ask questions right now. Chairman Morin asked Mr. Johnson why the cease and desist order should be overturned. Mr. Johnson said I am trying to tell you what is germane to this case and Mr. Driska is not coming onto my property legally. Mr. Johnson said that Mr. Driska initiated the complaint from someone who lives 2 miles away from me. He said I appeal this because the chrono sheet is missing activity that we have done to comply with this that isn't on this report. Mr. Popper said these are the Zoning Enforcement Officers activities not yours. Mr. Johnson said if he doesn't write down what he saw at my house then he can't issue a cease and desist. Chairman Morin asked what was missing. Mr. Johnson said I moved vehicles and tons of dirt and that isn't shown anywhere. He said I want it amended since it looks like I wasn't there. Mr. Popper said this is his report to the Board and we don't have to amend it. Chairman Morin asked Mr. Johnson why he didn't send in a request to the Zoning Enforcement Officer asking for a copy of his report. Mr. Johnson said I put in numerous requests to him about what he wanted done and he didn't reply to me. He said it's important that I know what the specific violations are or it makes it impossible for me to comply with the order. He said I know the Zoning Enforcement Officer was there but he never recorded what he saw. Mr. Johnson said that is a violation of the rule of law on discovery and this is breaking the rules. Chairman Morin said the practice book has nothing to do with overruling the Zoning Enforcement Officer that is for a special permit or variances.

Mr. Johnson said the memo doesn't match the violation sheet. He said the materials are on the side of the property that he is currently working on. He said it is the last side to be screened in. He passed pictures around to the Board members and explained that he was constructing a berm and the rock is for that purpose. Chairman Morin asked if it was on the side of his property and Mr. Johnson said yes, and I told the Zoning Enforcement Officer but he completely ignored me. Mr. Johnson said it is a problem that Mr.

Driska is not here.

Chairman Morin said if you had the rock to build the screening why didn't you apply for a special permit. He said it probably would have been approved. Mr. Johnson said I didn't know I needed a permit since no one told me that. Chairman Morin said you could have found out but now you know how to fix item #4 on the memo you gave to us.

Mr. Johnson said why is the business truck on the violation when I have a special permit for it. He said it says truck and trailer. Mr. Popper said it doesn't specify which equipment and there are some items there that aren't on the permit.

Mr. Delisle asked someone to clarify which vehicles are included in the cease and desist order. Mr. Popper said his special permit #07-68 is for a dump truck and a commercial trailer if they are stored in the garage. He said the trailer is not stored in the garage so it's a violation. Chairman Morins said the Planning and Zoning Commission can attach conditions on special permits. He told Mr. Johnson that he asked for a special permit so that means you have to comply with any conditions. Mr. Johnson said that my trailer is not beyond 16 feet and the regulations state a permit is only needed for trailers over 16 feet. Chairman Morin said it doesn't matter if was 12 feet and Mr. Johnson said you wouldn't need a permit if it was 12 feet as per the ordinance. Chairman Morin said, again, they can change the ordinance with a special permit. Mr. Popper said the other piece in the cease and desist order is the excavator. He said it is the excavator, trailer and materials. Mr. Johnson said the cease and desist order doesn't match what you just said. He said you can't introduce into the record what I haven't seen before. He said my cease and desist order doesn't say anything about a trailer and an excavator. Chairman Morin said that equipment is the different construction equipment mentioned in the cease and desist. Mr. Johnson said I asked him to be specific and Chairman Morin said he is quoting a section of the zoning regulations so it covers everything and he doesn't have to call out the specific equipment. Mr. Johnson said so I am supposed to guess. Chairman Morin said no, you can go to the zoning code where it states the equipment.

Mr. Johnson said he wants a change of the special permit since 15,000lbs is allowed by the ordinance without a special permit. He said I want that changed. Mr. Morin said that a special permit was given to you for the residential zone you are in. Mr. Popper said if he wants to change the special permit he has to go back to the Planning and Zoning Commission. He said we can't do that here since it has to be a formal application for the record.

Chairman Morin said the last point on Mr. Johnson's memo has nothing to do with this. He said we are not acting on what Salvatore Petrella did at the municipal hearing.

Mr. Wygonowski asked what the property was. Mr. Johnson said a F650 dump truck and a trailer which have a special permit. I also have a 1 ton dump truck that doesn't need a permit and the rock and dirt which are for a project on my property. Mr. Popper said the trailer isn't in a garage and that you also have a backhoe. He said the materials are stone, rock, pavers, blocks and sand. Mr. Johnson said there is no rule on the excavator. Chairman Morin said rocks stored on property are considered commercial materials and you need a variance for that. He asked Mr. Johnson why he hasn't done anything about this since June and Mr. Johnson said I didn't know I had to hurry up and I've been slowly accumulating materials. Mr. Delisle said the regulations says that storing of the materials shouldn't be seen from the street and said I don't believe you can see this from the street. Mr. Popper said the abutting properties can see it since there are no berms. He said if you drive down South Street you can see it and Mr. Johnson said that is not true. He said the trees are 15 feet high and they seal off the whole rear lot. He said you can only see the materials if you are on the property.

Mr. Johnson said the regulations are clear and there is no ordinance for anything else and my home

business fits all criteria.

Chairman Morin asked for any members of the public who wished to speak.

Anita Ford Saunders, President of the NAACP with a home address of 14 Brook View Lane in Middletown asked if the Board was saying the Planning and Zoning Commission can change the rules. Chairman Morin said the Commission gives options to make changes by adding a special permit where they can make conditions of approvals. Ms. Saunders asked how residents know when permits change. Mr. Popper said with a special permit the Commission has the discretion and authority to waive the regulations and explains the process that a resident can take to request a special permit. He said there are some items that are cut and dry.

Chairman Morin said Mr. Johnson was granted a special permit that said those items have to be in a garage. He said that Mr. Johnson can apply for a variance for the materials and we would likely approve it and that approval stays on the deed forever. Chairman Morin said it is the trailer and excavator that are a problem. Ms. Saunders said that this is a heated conversation and told Mr. Popper that it was inappropriate for him to tell Mr. Johnson that he was full of it. Mr. Popper said he apologizes for that.

A motion was made by Mark Zampino and seconded by Dan Delisle to close the public hearing for application #23-01. All were in favor; the motion passed.

Chairman Morin asked if the cease and desist order could be cut up because he is thinking to uphold the cease and desist with the exception of the rocks and materials as long as Mr. Johnson comes in within 60 days to apply for a variance or special permit. Mr. Popper said that should be ok and if it is a problem he would let them know.

Mr. Zampino asked if there would be a time limit on the work and Mr. Whitney said that would be in the actual variance.

A break was called at 7:46pm to change the recording tape.

The meeting was called back to order at 7:50pm

A motion was made by John Whitney and seconded by Mark Zampino to uphold the cease and desist order minus the rocks and berm material provided that a variance with the Zoning Board of Appeals or a special permit with Planning and Zoning is applied for within 60 days. Chairman Morin, John Whitney, Mark Zampino and Steve Wygonowski approved and Dan Delisle voted no on upholding the cease and desist order but yes on the requirement for the materials. The motion passed.

Mr. Wygonowski asked what Mr. Johnson's recourse was for the other items. Chairman Morin said he doesn't have the excavator or trailer cleared and will need a special permit.

Ms. Saunders asked about the trailer and why you would do that in this case and Chairman Morin said rules are made to be modified and broken but we can talk after.

Mr. Delisle asked that Mr. Johnson has 60 days to file an application with the Town Planner for the materials and Chairman Morin said yes.

7. Board Members Comments

Mr. Zampino said he attended the Bar Seminar and it was outstanding.

8. Approval of Minutes:

a. November 8, 2022

A motion was made by Mark Zampino and seconded by John Whitney to approve the minutes of November 8, 2022. John Whitney, Mark Zampino, Steve Wygonowski approved and Chairman Morin abstained. The motion passed.

9. Adjourn

A motion was made by Mark Zampino and seconded by John Whitney to adjourn at 7:59pm. All were in favor; the motion passed.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Linda Imme".

Linda Imme
Recording Clerk