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February 20, 2021

Via Electronic Transmission

Zoning Board of Appeals
Town of Berlin
240 Kensington Road
Berlin, CT 06037

Re: ZBA # 2021 – 05 (the “Application”)
(a/k/a Applications for Variances from Front & Side Setback to Build Supersized Garage
One Foot (1’) from Property Line of 1.25 Acre Parcel)
Applicant: Ryan Haley (the “Applicant”)
Property Owners: Ryan and Michelle Haley (the “Haleys”)
Project Address: 379 Main Street, East Berlin, CT 06023 (the “Haley Property”)

Members of the Zoning Board of Appeals:

I represent Dorothy N. Warren, a 98 year old woman who owns and has resided at 369 Main Street, East Berlin for more than fifty-seven years. Mrs. Warren’s residence abuts the Haley Property to the north.

Opposition to Application for Variances

On behalf of Mrs. Warren, we oppose the Applicant’s request for the granting of variances that would permit the Haleys to tear down an existing nonconforming garage located close to my client’s property line and construct an over-sized garage only one foot (1’) from the property line. The Haley Property is over 1.25 acres and has ample room and suitable topography to enable the Applicant to construct suitable alterations in a manner that does not extend or increase the nonconformity. The Applicant’s only claim of hardship is cost. However, Berlin’s Zoning Regulations state that “financial or economic hardship” is not grounds for the granting of a variance.

Summary of Applicant’s Proposal

The brief description of the proposal in the Application states “Removal of existing garage and lean-to, and construction of a new 1-car attached garage and small addition. New construction to be located in the same general area as the removed structures.” The Variance Applications requested are “for relief of front and side setback requirement.” The Application further states “Existing house and garage are located entirely within the front and side setbacks.”

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However, Applicant fails to mention that in designing the new garage he decided to take a page out of the McDonald's Handbook and "Super-Size It." Whereas the current garage is two-hundred seventy square feet (270 sq.) and is located several feet from Mrs. Warren's property line, the Applicant proposes to enlarge the garage to more than double the size, almost six hundred square feet (600 sq.) (approximately twenty feet (20') by thirty feet (30')) and locate it a mere one foot (1') from Dorothy Warren's property line.

Deficiencies in Grounds for Requested Variances

Failure to Meet Required Standard for the Granting of Variances

1. There Is No Hardship

a. The Haley Property has:

- i. No unusual size – 1.264 acres
- ii. Far more land on the south side of the dwelling than on the north side where the existing driveway and garage are situated
- iii. No unusual shape
- iv. No unusual topography

b. Applicant appears to be attempting to claim that the desire to align the proposed new addition and garage with the existing house and existing driveway causes a hardship supporting the granting of the variances. However, a hardship cannot be self-imposed or based on cost or finances, as it is here.

2. The Zoning Regulations provide that "it is the intent of these regulations to permit nonconformities (existing structures, etc.) to continue until they are removed but not to encourage their survival. A nonconforming structure, such as the existing garage, may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. Such nonconforming structure shall not be enlarged or altered in a manner which extends or increases the nonconformity but may be altered to decrease the nonconformity.
- b. The Applicant proposes to enlarge the garage to more than double the size of the existing garage and locate it one foot (1') from Dorothy Warren's property line, thereby increasing and expanding, rather than reducing, the nonconformity.

3. Construction of garage that is located one foot (1') from Mrs. Warren's property line:

- a. Would reduce the size of the side yard on the Haley Property to one foot (1') effectively eliminated the concept of a "side yard" in an R-43 Zone.
- b. Would make it highly improbable that the garage could be constructed without trespassing on Mrs. Warren's property.
- c. Would make it impossible for the occupants of the Haley Property to maintain the garage or walk around the garage without trespassing on Mrs. Warren's property.

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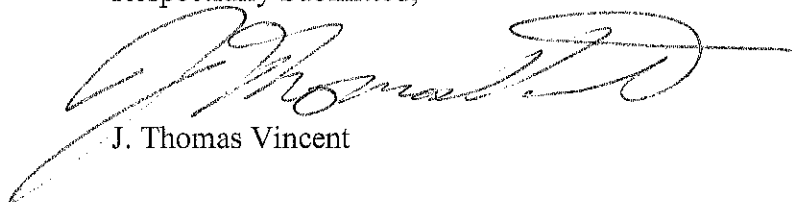
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4. As letters from two of Mrs. Warren's children, Susan Harlan and Dr. Paul Warren, indicate, Mrs. Warren was forced to place a reverse mortgage on her property after the death of her late husband to provide funds to pay for the cost of health care and living expenses. She fears that granting the requested variances and the construction of a much larger garage so close to her property line would significantly reduce the value of her property and impair the equity securing her mortgage.

Therefore, we request that the Application for the requested variances be denied.

Respectfully Submitted,



J. Thomas Vincent

Enclosures

JTV/as

cc: Mrs. Dorothy N. Warren

Mrs. Susan W. Harlan

Paul Warren, Ph.D.

Mr. James N. Warren