

MANSFIELD ZONING BOARD OF APPEALS – REGULAR MEETING  
MINUTES  
AUGUST 12, 2015

Chairman Accorsi called the meeting to order at 7:00 p.m. in the Council Chamber of the Audrey P. Beck Municipal Building.

Present: Members – Accorsi, Gotch, Katz, Stearns

Alternate – Shaiken

Absent: Member – Welch

Alternates – Brosseau, Ward

Alternate Shaiken acted as voting member for this hearing.

**STEVEN ROGERS – 7:00 P.M.**

To hear comments on the application of Steven Rogers for a Variance of Art VIII, Sec A for a lot line revision that would reduce the setback of a non-conforming structure from 25' to 13' at 93 Old Turnpike Rd.

Mr. Rogers purchased the properties at 85, 87 & 93 Old Turnpike Rd in 1979. There were 3 houses and a barn. The property was divided so that 93 Old Turnpike Rd became his residence with one house and the barn on the property. The other two houses are rental properties, currently owned by Homeworks Properties LLC, and are on the adjacent lot.

His goal is to replace the 2 rental homes with 2 single-family homes and make 93 Old Turnpike Rd a full 2 acre lot. There is 700 feet of frontage in total. With the exception of the barn, all non-conforming issues will be resolved with this lot line revision. He is requesting a variance for the renovated barn, which he figures is close to 200 years old. The existing 25' side yard setback was conforming until zoning changes occurred around 1984.

Due to a discrepancy caused by different methods of measuring, the setback needed is actually 11', not 13'.

Mr. Rogers feels that his hardship is due to a difficult situation caused by his efforts to preserve an historical structure.

Neighborhood Opinion Sheets, showing no objections from abutters and certified receipts from mailings sent to the remainder of the abutters were submitted.

Betty Wassmundt, an abutter from 54 Old Turnpike Rd spoke against approval of this variance (see attached letter).

**BUSINESS MEETING**

Members discussed whether or not they considered the application of Steven Rogers a hardship. Due to questions on this issue and questioning why the application was not for a Special Exception, it was decided to continue the hearing until September 9, 2015 in order to receive further clarification from Curt Hirsch, Zoning Enforcement Officer.

**APPROVAL OF MINUTES FROM JUNE 10, 2015**

Katz moved to approve the minutes of June 10, 2015 as presented.

In favor: Accorsi, Katz, Stearns, Shaiken

**ADJOURNMENT**

Meeting was adjourned at 7:50 P.M.

Respectfully Submitted,

Ben Shaiken  
Acting Secretary

8/12/2015

RE: Variance request by Rogers on Old Turnpike Road

Re: Variance application by Rogers on Old Turnpike Road

Jan. 12, 1979 V167, P253

Oguschwitz to: Rogers & Depray

One parcel of 7.02 acres

V167, P260

Agreement: Oguschwitz and, Rogers & Depray to divide property, 7.02 acres

Mar. 6, 1979 V168, p236

Rogers & Depray to: Rogers & Bobb, Randall & Arliss

5.77 acres, a portion of V167, P253, including two rental properties

Mar. 20, 2002 V470, P136

Rogers & Depray and Bobb, Randall & Arliss to: Homeworks Properties, LLC

This history is important:

Rogers & Depray originally purchased approximately 7 acres of land with a house, cottage, small barn and a multifamily rental property.

The small barn **conformed** to zoning regulations excepting for its **fronting** setback; its **sideline** setback **conformed**.

Two months subsequent, Rogers & Depray divided the land. The house and barn remained on one parcel, 93 Old Turnpike Road, while the rental properties remained on the larger parcel, 83/85 Old Turnpike Road.

The lot with the house and barn **conformed** to the zoning regulations at the time, including the **sideline** setback of 25 feet for the barn. Again, the little barn **conformed** excepting for its **fronting** setback.

93 Old Turnpike Road remained in the names: Rogers & Depray.

The rental property parcel was deeded to Rogers & Depray and Bobb, Randall & Arliss and, ultimately to Homeworks Properties, LLC.

Subsequently zoning changed to a 2 acre zone requiring 200 feet of road frontage.

93 Old Turnpike became a non-conforming lot; the little barn with its 25 foot **sideline conformed** within its non-conforming lot. This town has many such lots and they are perfectly functional.

At the time of the pending change to 2 acre zoning notice was given to the town's citizens. 83/85 Old Turnpike Road could have been subdivided into two lots prior to this change. The owners elected not to do this; a second lot would have produced an extra tax bill.

Now, all citizens are subject to a change in zoning regulations and we all have to live with the new regulations.

All the other properties on this road must deal with the current regulations. Should this Board see fit to grant this requested variance, I caution you that other property owners on Old Turnpike Road may come before you to request similar variances. Could ZBA deny a request for a road frontage variance if this one is granted? What would the result be? Old Turnpike Road, a designated scenic road, may be turned into a residential street. Or, perhaps it will become a rental road; Homeworks Properties, LLC is, I believe, a rental/development company. The two lot subdivision requested may just become two rental properties, that is not in keeping with the scenic road designation for the Old Turnpike.

In conclusion, the **sideline** setback of the little barn conforms to the zoning at the time its current lot was created. The applicant created that boundary line and now states that this is a hardship. This Board's **VARIANCE APPLICATION** specifically states that: "Personal or financial hardship for the owner, or **hardship which is the result of the applicant's own actions**, cannot be considered sufficient grounds to grant a variance."

I can see no hardship inherent in this situation excepting that the owners want the financial benefit of having two lots instead of one.

I do not believe that the Zoning Board of Appeals can legally grant this request for a variance.

Two observations:

1. There are reasons for **sideline** setbacks; the setback provides some insulation for the neighboring property. The barn now is used in a quiet manner but that may not always be the case. The neighboring property should have the benefit of a proper **sideline** setback.
2. 83/85 Old Turnpike Road as it stands is perfectly suited to becoming a small farm and that would be consistent with the designated scenic road and the town's commitment to open space preservation.

Thank you.

Betty Wassmundt  
54 Old Turnpike Road  
Storrs, CT 06268