



**TOWN OF NEWTOWN**  
**ZONING BOARD OF APPEALS**

MINUTES

REGULAR MEETING

August 7, 2019 at 7:30 p.m.

Meeting Room 3, 3 Primrose Street, Newtown, CT 06470

**Present:** Barbara O'Connor, Joseph Bojnowski, Jane Sharpe, Christina Paradis, Robin Buchanan, Prerna Rao, and Ross Carley

**Absent:** Alan Clavette

**Also Present:** Christine O'Neill, Clerk

In Mr. Clavette's absence, Ms. O'Connor acted as Chair and Ms. Sharpe acted as Secretary. Ms. O'Connor called the meeting to order at 7:30 p.m.

**Discussion and Action Items**

**Application 19.04 by Andrew and Jacqueline Garthwait, for a property located at 3 Brassie Road, Newtown, CT for a variance of Chart VII-I of the Zoning Regulations of the Town of Newtown, so as to permit the expansion of an existing garage into the setback area, as shown on a set of plans entitled "Zoning Location Survey, Prepared for Andrew T. Garthwait, 3 Brassie Road, Newtown Connecticut" dated 6/19/19 and documents submitted to the Land Use Agency 7/2/19.**

Ms. O'Connor opened the meeting by explaining the ZBA process to Mr. Garthwait, the applicant. Mr. Garthwait stated that his hardship is that he has sciatica, back pain, and rotator cuff problems which are exacerbated when he needs to care for a non-garaged car. Mr. Carley asked if Mr. Garthwait was claiming disability through ADA. He replied that he has medical records to prove his issue, but is not claiming disability. Mr. Carley replied that the State only allows hardship in certain cases, including ADA-recognized disabilities. Mr. Carley wanted to clarify because 3 Brassie Road is already nonconforming, and this proposed Variance would increase the nonconformity.

Ms. Rao added that a hardship must be about the property itself, not the applicant. This is because a Variance runs with the lot itself, so even after Mr. Garthwait moves out, the Variance will remain. Mr. Garthwait demonstrated on the plans that the house and attached garage were not built in the center of the property when the house was constructed in the 1960s.

Mr. Carley wondered if Mr. Garthwait had considered extending the garage further back as a tandem garage. The Board realized this would still encroach upon a setback. Mr. Carley asked how long the current garage was, and Mr. Garthwait replied 19 feet.

Ms. Sharpe asked when the house was purchased. Mr. Garthwait replied 2007. Ms. Sharpe asked if the garage was there at the time, and Mr. Garthwait replied that it was.

Mr. Carley asked if the applicant had considered doing away with the breezeway. Mr. Garthwait shared that the demolition of the breezeway was cost-prohibitive.

Mr. Garthwait explained that he does not have ADA status, but he has bodily hardships as well as a piece of land with a geography that does not allow him to put the garage elsewhere.

Ms. Rao wondered if changing from a one-car to a two-car garage would be considered a change in use. The Board seemed to determine that it would not. Ms. Rao pointed out that if the use remained the same, this might not be considered “increasing the nonconformity.”

Mr. Garthwait said he had received a suggestion that he could move the driveway to the other side of the house and construct a two-car garage on that side, but his wife did not want to change the aesthetics of the house. The Board, however, liked this idea and pointed out that he would not need a Variance for that. Mr. Garthwait and the Board looked at the plans again and determined that putting the garage on the other side of the property would in fact still encroach upon the setback if it were 24x24.

Mr. Garthwait stated that two of his neighbors have nonconforming garages, and wondered if this Board regularly approves applications of that nature. Mr. Carley replied that if the topography of those properties created a hardship, such as the presence of steep slopes or swampy areas, then they would have granted Variances.

Mr. Bojnowski suggested that putting the garage behind the house could work, where there appeared to be open space. Mr. Garthwait replied that there are four leach fields all the way across the back of the property, which preclude the erection of a garage. The Board concluded that this created a reasonable hardship. As such, they would need a map that demonstrated these leach fields since they are not represented on the current plans.

Ms. Sharpe pointed out that the Board could make it a condition of approval that Mr. Garthwait submit evidence of the leach fields to the Land Use Agency. After some back and forth between the Board and the applicant, everyone agreed the best thing to do was to continue the public hearing, just in case they had questions about the map that was to be submitted.

Ms. Sharpe made a motion to table Application 19.04, to be continued at a Special Meeting of August 14th, 2019 at 7: 30 p.m. Ms. Rao seconded. All were in favor and the meeting was continued.

### **Acceptance of Minutes**

Ms. Sharpe moved to approve the minutes from the meeting of July 15, 2019. Mr. Bojnowski seconded. All were in favor and the minutes from last meeting were approved.

### **Adjournment**

Mr. Carley moved to adjourn the meeting. Ms. Sharpe seconded. All were in favor and the meeting was adjourned at 7:59 p.m.

*Respectfully submitted,  
Christine O’Neill, clerk*