

TOWN OF SOUTHTON  
 ZONING BOARD OF APPEALS  
 TUESDAY, MARCH 24, 2009

Chairman Joseph LaPorte called the Public Hearing and Regular meeting of the Southington Zoning Board of Appeals to order at 7:00 o'clock, p.m. in the Council Chambers of the Southington Town Hall with the following members in attendance:

Robert Salka, Edward Kuklinski Patricia Potter\* and Paul Bedard

Alternate: Robert Sherman

Others: Frank Vinci, Zoning Enforcement Officer

Absent: Joseph LaRosa, Alternate  
 Michael Milo, Alternate  
 Ronald Bohigian, Alternate

(\*Arrived with meeting in progress.)

Mr. Sherman was seated for Ms. Potter this evening. A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance.

Mr. Salka explained to the audience the procedure to be followed in the presentation of an appeal. He advised that should their appeal be approved, they file it with the Town Clerk's Office before proceeding with the project.

JOSEPH LAPORTE, Chairman, presiding:

PUBLIC HEARING ITEM:

A. Appeal #5693A, application of Herbert M. & Cynthia Lee Babbitt for a variance to exceed 3 garage spaces with a proposed 12 x 36 foot addition to an existing 30 x 36 foot detached garage under Section 2-01AA1 & 15-04 of the Zoning Regulations, 501 Pleasant Street in an R-20/25 zone.

MR. VINCI: Will the applicant please come forward and state your name and address for the record.

MS. BABBITT: Hello. I am Cynthia Babbitt.

MR. BABBITT: Herbert Babbitt, 501 Pleasant Street.

MS. BABBITT: We have a picture of the proposed addition to the garage.

(Passed around)

Herb and I have been there about 14 years.

Herb is a funeral director by trade and has been for 25 years. And, has a hobby of collecting classic Mustangs. And, a while ago we had asked for that garage. He has been renting storage space and has recently lost his storage space for a couple of the cars.

We don't work on them ourselves. We have them professionally restored. There's no loud noise there or anything like that. It's really basically storage.

The garage that's there now, I don't know if you've looked at it on line. I know you can. You know, our lot is, I think its .76 acres. We own right down into the pond.

It's really quiet. The garage kind of slopes down. The existing garage is tucked in back. As you know, we are next to Mrs. Luty's property. There's a really nice mature tree line there. And, there are mature trees behind it, too.

So the only way you really see our garage is to be in our backyard, honestly.

We've run out of space. And, like I said, he's --- we have a classic car fully restored sitting out in the yard right now, covered. And, it is deteriorating desperately.

We would like this extra bay added on. We went to Barn Yard and we asked them to design, to draw the addition for us so that it would not look like an addition and it would just melt right into this existing garage. And, they have done it. We don't have the --- they said, if we buy it, they'll give us the plans. And, that is the point we're at.

But that is what it'll look like. And, they have done it for other people before. I think that's probably all we have to say. We've been here a long time. There's never been any calls that you know, there's anything going on back there. There's nothing going on back there. Just a driveway and some storage.

THE CHAIR: As far as being tucked back there, I would imagine everyone on the board went by there. It is a huge garage you have there right now. It's very, very large. In fact, it is bigger than the house that you live in. Am I correct?

MS. BABBITT: Well, you know, we decided that the house was enough for us. And, um, the garage is big. But on .76 acres,

you know, I look at those houses looming over me next door on a postage sized lot and um, I don't see that it's any - certainly not as unsightly as what I have next door to me.

There's plenty of yard. If you look at the garage, you should look at the yard, too.

THE CHAIR: I did. What I'm getting at is as far as the character, to me, my personal opinion; it's out of character for the house. The garage is huge. Sitting back there.

Any questions you have?

MR. SALKA: Well, one of the things and I drive by it every day and you can see it from the road and I agree with you to a point where to say that it appears to be out of character with all of those small ranches. I don't --- none of them have a garage in back. This is the only garage and it's huge. As you pointed out, it's not only larger than the house but it's taller, as well. And, then adding another 12 by 30 to it, it's going to make that garage huge.

And, the other question is, what is the hardship for doing it? Having antique cars is not a hardship. Um, a hardship would be you've got a topography problem and you have to move it somewhere. But you've got to really show the board that you've got a real hardship for this. And, having things, if you will, is not classified as a hardship under our regulations that we have to follow. They're state regulations. They're zoning regulations. And one of the key questions they ask is: what's the hardship.

So, I am asking you: What is the hardship? Other than you've got antique cars. But that's not a hardship in the sense of what we have to follow in our regulations.

MR. BABBITT: Well, if I don't build a garage here, I have to pay to store them somewhere else. Last ten years it's cost me over \$10,000 to store them.

MR. SALKA: But that's not a hardship. A financial hardship -

MR. BABBITT: It's a financial hardship.

MR. SALKA: It's a hardship to you. Right. But it's not a hardship to the board.

THE CHAIR: We don't recognize that as a hardship.

MR.SALKA: We can't recognize that -

MR. BABBITT: Plus the time and effort and money that I have into the cars themselves.

MR. SALKA: Right.

MS.POTTER: But that is a self imposed hardship.

MR. SALKA: It is not a hardship that the board can use.

MR. BABBITT: Actually, two houses down, there's a --- they've got a big garage right up against the house.

THE CHAIR: We are only here for this application.

MR. BABBITT: Okay, but I'm just saying. The Chairman said there were no garages in that neighborhood.

MS. BABBITT: As far as the house being tiny and the garage being large, I was born and raised in Southington on Homesdale Avenue. I was married for a short time. I moved back to Southington, back along, 15 years ago, as a single parent.

And, I bought that house because it was right in the middle of a school district. And, I met Herb and we got married. And, you know, I bought the house. And, I was lucky enough to meet Herb who had this hobby and you know, maybe Herb would've bought a different house had he not known me or had, you know, circumstances were different. The house was what it was. And, it served the purpose of being in the town I wanted to raise the kids in and in the school district.

The house never grew. Okay? We didn't need it to grow. But Herb had this hobby and he's not looking, he doesn't sell cars. He has the first car he ever bought which happened to be a Mustang.

THE CHAIR: What it does is it sounds to me like he outgrew the garage.

MS. BABBITT: Well, he did.

MR. BABBITT: Correct. I lost storage last fall.

THE CHAIR: He's outgrowing the garage.

MS. BABBITT: I'm sorry?

THE CHAIR: It's like he's outgrowing the garage. I don't know how many cars he has there now but it sounds like you want more cars there.

MS. BABBITT: Well, we have our every day vehicles, too. Just like everybody else. You have your rider lawn mower. You know, it's almost an acre of land. We have a little rider. We

have our snow blower. We have all the things that everybody else has but he has these classic cars, too.

It's not a junk yard. We don't have car parts everywhere. We have a tidy yard. And, we want to house these. We want to keep them housed and what they're worth.

Yes, he has outgrown the garage. And, we want to do this in the right way. We want to do it so that - you know, we're willing to pay somebody to do a good job. Not a hack job. And, they've guaranteed us that they'll do as good of a job as they did the first time out.

And, we just need that extra bay on the right side of the garage. And honestly, we get a lot of compliments on it. You might think it's looming and big and unsightly. But you know, maybe the people who enjoy large garages don't.

I think personally it's a matter of opinion. Just like a lot of the big gaudy houses you see in Southington that are huge on a postage stamp lot. It's a matter of taste.

MR. SALKA: We've got to look at this specific application and you bought the house and that's fine. I mean, this board can't - would not ever justify you've got a small house or a large house or a large garage or a small garage.

What we have to look at it is, is this application and what you're asking for, does it meet the criteria for a variance. And, the first question we have to ask is: is there a hardship? That's one of the first questions we have to ask.

If we don't get an answer with regards to what the real definition of a hardship is for this board, then we really cannot approve the application because then it could get challenged and we would lose anyway.

MR. BABBITT: What is the definition of a hardship?

MS. BABBITT: Maybe we're unclear about -

THE CHAIR: That's only one of the things. The hardship is one of them.

MR. SALKA: Right. But that is one of the key items.

THE CHAIR: And, what you are doing here now is, I'm just saying, is the purpose, it's a residential property. They're all residential around there. What you're doing, it seems like, and it's not residential really. What you want to do is - it's what is residential and a garage takes over. So what is the purpose? What is the real thing that that piece of property is?

MS. BABBITT: We live there!

THE CHAIR: I know that. That's what I'm saying.

MR. BABBITT: We still live there. We go there every night. It's our residence.

THE CHAIR: That's what I'm saying. Not that it's a business back there but the use is it more residential or is it getting to be more for extended cars? The purpose. It's the purpose.

MS. BABBITT: Well, I don't -

MR. BABBITT: Well, that's the reason why I need more storage because I lost my storage that I had for over ten years and you know, if I look at what I paid for ten years of storage, there's half of a garage.

Like my wife said, I have two cars that stayed outside all winter. And, one is a convertible.

And, the time, effort and money I spent on the cars, it's going to go to waste if I can't put them inside.

MR. BEDARD: It's a hard thing. To speak to the purpose as well is, I mean the hardship is certainly the biggest issue. And, unfortunately, what you have here is really a self imposed condition.

MR. BABBITT: Not really. Because I lost storage that I had no control over.

He came to me and says I need your cars out in a week. This is last October. And, to find good secure storage -

MS. BABBITT: We've been everywhere to find good storage.

MR. BEDARD: There are options out there. But my main point is just that by having this many cars, that condition and that need to store all of those cars, is the self-imposed. But the hardship is the primary issue.

But to speak to the Chairman's point about purpose, another concern is, I don't have any doubt that you're looking to do this for anything but to store these cars. That's a hobby. And, frankly, as a car enthusiast myself, I'm sympathetic to that personal desire. I really am. Separate from a hardship and that's separate from the purpose.

But when you look beyond what you might do with it and again, I don't doubt that you'll do anything wrong with it, but that will run with the land, that variance. So some day at some

point time who is to say that somebody else might take this now 1500 sf structure and do something improper with it. You can't guarantee that that won't happen. And, that's really not something that you would want to happen in a residential zone like that.

MS. BABBITT: Yah but, I'm 54 years old. Herb's 45 years old. I've lived in Southington all my life except for a short period when I was in Meriden. I mean, how can you -

MR. BABBITT: I have had two legal residences in 45 years. I worked at the same job for 25 years. So I am not looking to go build a garage and move out in a year or two.

I understand you're probably looking -

MR. BEDARD: This is a general concern.

MR. BABBITT: But wouldn't the town have a say if somebody was running a business of out there or doing something illegal, to come in and say, this is a residential zone and you can't hang a sign out saying you're repairing autos or something?

MR. BEDARD: It is very hard once you approve something of this nature to police it a year down the road or five years down the road or ten years down the road. It becomes complicated if you start to replicate decisions of this nature.

Now as a town like Southington how do you maintain that? That'd be very difficult, I think, for the town to do successfully.

It's just a concern that you have to look at if you're sitting in our shoes. It goes above and beyond what you might be looking to do with it is really my point. You have to think about down the road what might happen with that structure.

MS. BABBITT: Well, it definitely does. It definitely does. We can't speak for a future inhabitant of that house but we've been there a long time. I brought my kids back to Southington to be here in a town that I wanted them in.

You know, I don't want to leave that house, either. Now the kids are gone. Now it's the perfect sized house.

THE CHAIR: So this board has to protect the future of the Town of Southington. That's what this board is here for.

Any more questions for the applicant?

MR. SHERMAN: Well, I think you really have to understand that the existing building is out of conformance. You have a size garage that is not common in Southington and it violates the

statutes now except you had a variance back ten years ago to build it. But that --- where does it end?

I mean, the existing building is too big. There's none authorized in Southington like it.

MR. BABBITT: Oh ---

MS. BABBITT: We kind of beg to differ on that but we are really not here to argue with you.

MR. SHERMAN: I have it in 1999 when you applied for it, the variance itself; it was exactly the same variance as you are applying for now. You had four old cars and that you were refinishing them and you needed the extra space.

So the board, for whatever reason at that time, was a little more liberal with it and authorized it because you had no other structure like it.

But to add on to an existing one that's already too large, I think is probably asking more than the board seems to want to -

MS. BABBITT: Well, I would like to just politely argue the fact that there are plenty of big garages in Southington and plenty of people with a lot of restored cars in their garages in Southington.

THE CHAIR: Okay, we're going to stay within this application.

Any more questions for the applicant?

MS. BABBITT: That's all.

THE CHAIR: Have you finished your presentation?

MS. BABBITT: We have.

THE CHAIR: Thank you.

MS. BABBITT: Are you all set?

MR. BABBITT: Actually, I would just like to make a comment.

THE CHAIR: Go ahead.

MR. BABBITT: We're talking about size and it sticks out, but it's also - the elevation is much lower than the street level and our neighbor said to me Saturday, that to me, if you look at the peaks of the two properties or two buildings, they're the same height. Because it is tucked down lower elevation and further out back.

MS. BABBITT: And, it's out back by the pond. And, I don't know if you, you know, I don't know if you've driven around and seen it.

MR. BABBITT: My wife mentioned we want to go to the right so if you're looking at the house, you almost don't even see that third bay that we're looking for from the street.

MS. BABBITT: It's going to the right of the backyard. Not the left.

THE CHAIR: Okay, thank you.

MS. BABBITT: We're all done.

THE CHAIR: Anybody here to speak in favor of the applicant?

(No response)

Anybody here to oppose the applicant?

(No response)

If not, this appeal is closed.

7:20 pm.

#### **REGULAR MEETING**

Approval of Minutes - Regular Meeting of March 10, 2009

Mr. Salka made a motion to approve the Minutes of the March 10<sup>th</sup> meeting. Mr. Bedard seconded. Motion passed unanimously on a voice vote.

NEW BUSINESS:

A. Appeal #5693A, application of Herbert M. & Cynthia Lee Babbitt for a variance to exceed 3 garage spaces with a proposed 12 x 36 foot addition to an existing 30 x 36 foot detached garage under Section 2-01AA1 & 15-04 of the Zoning Regulations, 501 Pleasant Street in an R-20/25 zone.

Mr. Salka made a motion to approve Appeal 5693A. Mr. Bedard seconded.

Mr. Salka said the applicant did not exhibit or really give us a hardship for this particular variance and number two; we've already approved a variance for this back in 1999 for an oversized garage. Not to get into that there is other garages the same size, but the garage they wanted to build on that piece of property back in 1999, required a variance, because it was oversized at the time based on our zoning regulations.

Now we're coming in and asking for an additional variance to make it even larger. And, I don't believe we should approve it because as someone else pointed out, this particular variance, as well as the original one will go with the property regardless of who owns it. So it just goes on in the future.

Roll Call Vote:	Salka:	No
	Kuklinski:	No
	Sherman:	No
	Bedard:	No
	LaPorte:	No

Motion fails 0 to 5.

NEW BUSINESS/ MISCELLANEOUS / OLD BUSINESS

None to report.

Mr. Salka made a motion to adjourn. Mr. Bedard seconded. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 7:23 o'clock, p.m.)

Joseph LaPorte, Chairman  
Zoning Board of Appeals