

Rec'd  
1-10-08

**Town of Southeast**  
**Zoning Board of Appeals**  
**Minutes of December 17, 2007**

Edward Colello, Chairman	Present
Thomas Costello, Vice Chair	Present
Timothy Froessel	Present
Joseph Castellano	Present
Paul Vink	Present
Roderick Cassidy	Present
Kevin Sheil	Present
Mary Rhuda, Admin Assistant	Present
Willis Stephens, Town Attorney	Present

**Regular Meeting:**

**Michael Principe, 35 Maple Road** - Michael Principe and Lynn Edleson, the applicants, were once again in front of the board requesting a variance for a 10ft x 14ft shed to be placed on the property. The installation of this garden shed in a R160 zone requires a 100 ft setback. The property is approximately 1.5 acres and the variance is for 35ft. The shed is on a gravel foundation. The board went to the property and inspected the shed. They like the shed and feel it is consistent with the neighborhood. Public hearing closed.

Motion introduced by T. Costello to grant a 35 ft variance.  
Seconded by R. Cassidy.

**Criteria:**

1. Where an undesirable change will be produced in the character of the neighborhood.  
No. Shed will be 65 ft from property line.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
Only locating it in different location.
3. Whether the requested variance is substantial.  
Not substantial.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.  
No.

5. Whether the alleged difficulty was self-created.  
Yes. They want a shed, but property was up zoned.

Roll Call Vote:

R. Cassidy	In favor
J. Castellano	In favor
T. Froessel	In favor
T. Costello	In favor
P. Vink	In favor
K. Sheil	In favor
E. Colello	In favor

Variance granted by a vote of 7-0.

**Barry Nesson, 385 Allview Avenue** - Mr. Nesson was reminded that he was still under oath. The applicant went over the history of this variance; he has owned this 4 family, non-conforming home since 1995. When he went to refinance, he found that he was in violation. There is room in the back of the home which was originally a deck which is now enclosed and serves as a living room. There were no permits for this enclosure which was done prior to Mr. Nesson buying property. Per Town Code Enforcement Officer, the applicant is in compliance with all rental registration laws and there are no other outstanding issues or permits needed for this home. The structure is around 10ft x 15ft. A survey from 1995 shows the room in question was already in place. Mrs. A. Ruszkowski has some papers from the Assessors department which shows owner is taxed as a 3 bedroom not a 4. Again, per ZEO the tax records could be inaccurate and that the Building Department, Zoning Department and the Assessors Department all try to work together to get records updated. The Chairman once again stated that the issues the neighbors have with this property are not an issue that the Zoning Board of Appeals can or should address. It was again emphasized that it is no fault of the owners that the enclosed deck was missed on the municipal search. Public hearing closed.

Motion introduced by P. Vink to grant a 9ft rear setback and a 26ft front yard setback for already existing room.

Seconded by T. Froessel.

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.  
No change.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
No.
3. Whether the requested variance is substantial.  
Yes. Front, not the rear.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.  
No. Board of Health already had been to property.
5. Whether the alleged difficulty was self-created.  
No. The opposite, room on survey.

Roll Call Vote:

K. Sheil	Against
P. Vink	In favor
T. Costello	In favor
T. Froessel	In favor
J. Castellano	In favor
R. Cassidy	Against
E. Colello	In favor

Variance granted by a vote of 5-2.

**Anthony & Stephanie Fanelli, 40 Milltown Road - Mr.** Fanelli was before the board again and was reminded he was still under oath. The applicant wants to add a two car garage with a bonus room above it. This property already has a 3 car garage. This garage will be "L" shaped. Proposed addition to be approximately 24ft x 30ft and will be 7ft from the property line. This property is triangle shaped and will need a rear/side setback because it is the same line. The applicant showed the board drawings of the proposed addition as well as the property survey. Previously the applicant was asked if the room could be downsized to 24ft x 24ft., which he did, so now the variance request is smaller and the structure would be 13ft from property line instead of the original 7 ft. The board discussed that the variance was rather large, but due to the location of property, it wouldn't be bothering anyone. It was also discussed that the applicant has commercial work trucks on property, which is not allowed under the Town code. The property abuts the reservoir and a 5 car garage is not in the character of the neighborhood. Public hearing closed.

Motion introduced by E. Colello to grant a 37ft variance for relief from rear/side setbacks as depicted in drawings.  
Seconded by P. Vink.

Criteria:

- 1. Where an undesirable change will be produced in the character of the neighborhood.  
Yes. It's a big addition, but property not in a neighborhood.
- 2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
No. Odd shaped property
- 3. Whether the requested variance is substantial  
Yes.
- 4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.  
No. No extra bedrooms, no affect on reservoir.
- 5. Whether the alleged difficulty was self-created.  
Yes.

Roll Call Vote:

R. Cassidy	Against
J. Castellano	In favor
T. Froessel	Against
T. Costello	Against
P. Vink	In favor
K. Sheil	Against
E. Colello	In favor

Variance DENIED by a vote of 4-3.

**Timothy & Anne Nevin, 21 Wilson Road** - Mr. Nevin was reminded he was still under oath. Mr. Nevin wants to construct an in-ground pool and will need a 7ft variance. His backyard slopes down and the pool will be on the first level due to the topography. It was asked if when the hole is being dug out for the pool, could the soil be used to level off the lower level. Applicant said it is already planned to use that soil for support of the retaining walls. Public hearing closed.

Motion introduced by T. Froessel to grant a 7ft variance for distance between principal structure and accessory structure.  
Seconded by R. Cassidy.

## Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.  
Yes. No in ground pools in neighborhood.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
No. Slope very steep.
3. Whether the requested variance is substantial.  
Yes. Half of set back requirement.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.  
No evidence.
5. Whether the alleged difficulty was self-created.  
Yes. They want a pool.

## Roll Call Vote:

K. Sheil	In favor
P. Vink	In favor
T. Costello	In favor
T. Froessel	In favor
J. Castellano	In favor
R. Cassidy	In favor
E. Colello	In favor

Variance granted by a vote of 7-0.

**Rosalyn & Enrique Rodriguez, 10 Tamarix Drive** – Mr. & Mrs. Rodriguez were before the board to request a variance for there home due to a fire in September 2007. They were sworn in and mailings were checked. Due to the fire, repairs are needed so they have decided to add a second floor to the home. There will be a master bedroom suite on the second floor, and they will expand in the back of the home by 6ft. The upstairs addition will be 24ft x 26ft. The applicants showed pictures of home and proposed addition. This is a pre-existing, non-conforming home. There will be no change. They need relief from section 138-11. Public hearing closed.

Motion introduced by P. Vink to grant a 6ft front yard pre-existing, non-conforming variance.  
Seconded by R. Cassidy.

**Criteria:**

1. Where an undesirable change will be produced in the character of the neighborhood.  
No. Positive change.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
No. Need variance for anything.
3. Whether the requested variance is substantial  
No.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.  
No.
5. Whether the alleged difficulty was self-created.  
No. Created by fire.

**Roll Call Vote:**

R. Cassidy	In favor
J. Castellano	In favor
T. Froessel	In favor
T. Costello	In favor
P. Vink	In favor
K. Sheil	In favor
E. Colello	In favor

Variance granted by a vote of 7-0.

**John Olszewski, 9 Townsend Lane** – Mr. Olszewski was sworn in and mailings were checked and were in order. The applicant would like to construct a roof over existing front steps of home. The roof will be 5ft x 10ft, just to cover the steps already in place; therefore, there will be no change. Applicant had pictures of home as well as a survey. Public hearing closed.

Motion introduced by T. Froessel to grant a 5ft east side and a 8ft total side setback to enlarge the pre-existing, non-conforming structure as depicted. Seconded by J. Castellano.

**Criteria:**

1. Where an undesirable change will be produced in the character of the neighborhood.  
No.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
No. Up zoned.
3. Whether the requested variance is substantial.  
No.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.  
No.
5. Whether the alleged difficulty was self-created.  
No.

**Roll Call Vote:**

K. Sheil	In favor
P. Vink	In favor
T. Costello	In favor
T. Froessel	In favor
J. Castellano	In favor
R. Cassidy	In favor
E. Colello	In favor

Variance granted by a vote of 7-0.

**Deborah & Daniel Sudlow, 21 Carillon Road** – Mr. & Mrs. Sudlow were sworn in and the mailings were in order. They would like to construct a front deck there home to help their elderly parents, who live with them, have easier access to get in and out of home. The deck will be 10ft x 18ft. The builder will place two steps up as well as a removable ramp to aide with the entering of home. There are no changes; this is a pre-existing, non-conforming structure. Public hearing closed.

Motion introduced by T. Costello to grant the following:

- 6.5ft east side, no change
- 2 ft west side, no change
- 18.5 ft total side, no change
- 9.50 ft front north, no change

Seconded by P. Vink

Criteria:

- 1. Where an undesirable change will be produced in the character of the neighborhood.  
No.
- 2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
No.
- 3. Whether the requested variance is substantial.  
Minor.
- 4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.  
No testimony to this.
- 5. Whether the alleged difficulty was self-created.  
Yes. They want to build a deck.

Roll Call Vote:

R. Cassidy	In favor
J. Castellano	In favor
T. Froessel	In favor
T. Costello	In favor
P. Vink	In favor
K. Sheil	In favor
E. Colello	In favor

Variance granted by a vote of 7-0.

**Arthur & Lois Elias, 30 Nelson Boulevard** – Mr. & Mrs. Elias, as well as James Sanok were sworn in, mailings are in order. The Elias's need a variance for an existing section of fence that is 4ft high. Per code, the fence can only be 3ft in height. The fence does not block any views or hinder site of drivers. The neighbors do not have any problems with the fence. Pictures and a survey were presented. Pubic hearing closed.

Motion introduced by P. Vink to grant a 1ft front setback (north) for existing fence. Seconded by T. Froessel.



**Criteria:**

1. Where an undesirable change will be produced in the character of the neighborhood.  
No.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
No.
3. Whether the requested variance is substantial.  
No.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.  
No.
5. Whether the alleged difficulty was self-created.  
Yes. They put up fence.

**Roll Call Vote:**

K. Sheil	In favor
P. Vink	In favor
T. Costello	In favor
T. Froessel	In favor
J. Castellano	In favor
R. Cassidy	In favor
E. Colello	In favor

Variance granted by a vote of 7-0.

**Paul Wasserman, 88 Lakeview Drive** – Mr. Wasserman and Rand Perry were sworn in. The mailings were checked and are in order. The applicant would like to build a 3 season sunroom that measures 12ft x 32 ft. All walls will be windowed, and there will be no heat. The foundation will be built on wood decking. The existing concrete patio will remain. This is a pre-existing, non-conforming, no change request. Pictures of proposed room were presented as well as a survey of the property. Public hearing closed.

Motion introduced by E. Colello to grant a 3ft east side variance.  
Seconded by T. Costello.

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.  
No. Good addition.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
No. Pre-existing.
3. Whether the requested variance is substantial  
No, small, no-change.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.  
None.
5. Whether the alleged difficulty was self-created.  
No.

Roll Call Vote:

R. Cassidy	In favor
P. Vink	In favor
T. Costello	In favor
T. Froessel	In favor
J. Costello	In favor
R. Cassidy	In favor
E. Colello	In favor

Variance granted by a vote of 7-0.

Motion introduced by T. Costello to approve the minutes of November 17, 2007.  
Seconded by R. Cassidy.

All in favor.

Approved 7-0.

TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
RESOLUTION

Date: December 17, 2007

Motion Introduced by: T. Costello

Seconded by: R. Cassidy

WHERE, the Zoning Board of Appeals of the Town of Southeast on the above date granted an area variance for:

Michael Principe  
35 Maple Road  
TM #: 66-1.42

35ft South side setback.

Roll Call Vote:

Chairman E. Colello	In favor
Boardmember T. Costello	In favor
Boardmember T. Froessel	In favor
Boardmember J. Castellano	In favor
Boardmember P. Vink	In favor
Boardmember K. Sheil	In favor
Boardmember R. Cassidy	In favor

VOTE: The variance was granted by a vote of 7-0.



Mary Rhuda, Secretary  
Zoning Board of Appeals

TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
RESOLUTION

Date: December 17, 2007

Motion Introduced by: P. Vink

Seconded by: T. Froessel

WHERE, the Zoning Board of Appeals of the Town of Southeast on the above date granted an area variance for:

Barry Nesson  
385 Allview Avenue  
TM #: 67-19-1.2

9ft rear setback  
26 front yard setback

Roll Call Vote:

Chairman E. Colello	In favor
Boardmember T. Costello	In favor
Boardmember T. Froessel	In favor
Boardmember J. Castellano	In favor
Boardmember P. Vink	In favor
Boardmember K. Sheil	Against
Boardmember R. Cassidy	Against

VOTE: The variance was granted by a vote of 5-2.



Mary Rhuda, Secretary  
Zoning Board of Appeals

TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
RESOLUTION

Date: December 17, 2007

Motion Introduced by: E. Colello

Seconded by: P. Vink

WHERE, the Zoning Board of Appeals of the Town of Southeast on the above date denied an area variance for:

Anthony & Stephanie Fanelli  
40 Milltown Road  
TM #: 57-2-27

37ft rear/side setback

Roll Call Vote:

Chairman E. Colello	In favor
Boardmember T. Costello	Against
Boardmember T. Froessel	Against
Boardmember J. Castellano	In favor
Boardmember P. Vink	In favor
Boardmember K. Sheil	Against
Boardmember R. Cassidy	Against

VOTE: The variance was denied by a vote of 4-3.



Mary Rhuda, Secretary  
Zoning Board of Appeals

TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
RESOLUTION

Date: December 17, 2007

Motion Introduced by: T. Froessel

Seconded by: R. Cassidy

WHERE, the Zoning Board of Appeals of the Town of Southeast on the above date granted an area variance for:

Timothy & Anne Nevin  
21 Wilson Road  
TM #: 56.18-2-23

7ft variance for distance between principal structure and accessory structure

Roll Call Vote:

Chairman E. Colello	In favor
Boardmember T. Costello	In favor
Boardmember T. Froessel	In favor
Boardmember J. Castellano	In favor
Boardmember P. Vink	In favor
Boardmember K. Sheil	In favor
Boardmember R. Cassidy	In favor

VOTE: The variance was denied by a vote of 7-0.



Mary Rhuda, Secretary  
Zoning Board of Appeals

TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
RESOLUTION

Date: December 17, 2007

Motion Introduced by: P. Vink

Seconded by: R. Cassidy

WHERE, the Zoning Board of Appeals of the Town of Southeast on the above date granted an area variance for:

Rosalyn & Enrique Rodriquez  
10 Tamarix Drive  
TM #: 56.12-3-7

6ft front yard, pre-existing, non-conforming variance

Roll Call Vote:

Chairman E. Colello	In favor
Boardmember T. Costello	In favor
Boardmember T. Froessel	In favor
Boardmember J. Castellano	In favor
Boardmember P. Vink	In favor
Boardmember K. Sheil	In favor
Boardmember R. Cassidy	In favor

VOTE: The variance was denied by a vote of 7-0.



Mary Rhuda, Secretary  
Zoning Board of Appeals

TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
RESOLUTION

Date: December 17, 2007  
Motion Introduced by: T. Froessel  
Seconded by: J. Castellano

WHERE, the Zoning Board of Appeals of the Town of Southeast on the above date granted an area variance for:

John Olszewski  
9 Townsend Lane  
TM #: 35-2-43

5ft east side setback  
8ft total side setback

Roll Call Vote:

Chairman E. Colello	In favor
Boardmember T. Costello	In favor
Boardmember T. Froessel	In favor
Boardmember J. Castellano	In favor
Boardmember P. Vink	In favor
Boardmember K. Sheil	In favor
Boardmember R. Cassidy	In favor

VOTE: The variance was granted by a vote of 7-0.

  
\_\_\_\_\_  
Mary Rhuda, Secretary  
Zoning Board of Appeals



TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
RESOLUTION

Date: December 17, 2007  
Motion Introduced by: T. Costello  
Seconded by: P. Vink

WHERE, the Zoning Board of Appeals of the Town of Southeast on the above date granted an area variance for:

Deborah & Daniel Sudlow  
21 Carillon Road  
TM #: 56.14-2.43

6.5 east side setback, no change  
2 ft west side setback, no change  
18.5 ft total side setback, no change  
9.50 ft front/north side setback, no change

Roll Call Vote:

Chairman E. Colello	In favor
Boardmember T. Costello	In favor
Boardmember T. Froessel	In favor
Boardmember J. Castellano	In favor
Boardmember P. Vink	In favor
Boardmember K. Sheil	In favor
Boardmember R. Cassidy	In favor

VOTE: The variance was granted by a vote of 7-0.



Mary Rhuda, Secretary  
Zoning Board of Appeals

TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
RESOLUTION

Date: December 17, 2007  
Motion Introduced by: E. Colello  
Seconded by: T. Costello

WHERE, the Zoning Board of Appeals of the Town of Southeast on the above date granted an area variance for:

Paul Wasserman  
88 Lakeview Drive  
TM #: 46.61-1.3

3ft east side variance

Roll Call Vote:

Chairman E. Colello	In favor
Boardmember T. Costello	In favor
Boardmember T. Froessel	In favor
Boardmember J. Castellano	In favor
Boardmember P. Vink	In favor
Boardmember K. Sheil	In favor
Boardmember R. Cassidy	In favor

VOTE: The variance was granted by a vote of 7-0.



Mary Rhuda, Secretary  
Zoning Board of Appeals

TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
RESOLUTION

Date: December 17, 2007  
Motion Introduced by: P. Vink  
Seconded by: T. Froessel

WHERE, the Zoning Board of Appeals of the Town of Southeast on the above date granted an area variance for:

Arthur & Lois Elias  
30 Nelson Boulevard  
TM #: 67.9-2-24

1 ft front setback (north)

Roll Call Vote:

Chairman E. Colello	In favor
Boardmember T. Costello	In favor
Boardmember T. Froessel	In favor
Boardmember J. Castellano	In favor
Boardmember P. Vink	In favor
Boardmember K. Sheil	In favor
Boardmember R. Cassidy	In favor

VOTE: The variance was granted by a vote of 7-0.



Mary Rhuda, Secretary  
Zoning Board of Appeals