

upon the rear abutters. Finally, the very large pine trees planted on the rear of the Sands' property block the rear abutter's view of most of the site, and break up the view of the rear of the house.

The Baldpate Hill Road abutters on each side of the Sands' home will not have any visual impact. The addition in the rear is 15' deep, but half of the depth of the addition is not visible to these abutters. There is a 7-8 foot jog in the left rear corner where a portion of the library is located. This jog makes the depth of the addition when viewed from the sides as being 7-8 feet, not the full 15 feet.

2. The house as enlarged would be in keeping with sizes and styles of other homes

As to the styles of homes in the neighborhood, they are varied and eclectic. There are modern ranches with pitched roofs and with flat roofs, colonials, and chateau styles, among others. The homes are built with a variety of facades such as stucco, faux stucco, clapboard, shingle, board, and concrete. The Sands' home as enlarged will continue to fit into the neighborhood.

Except for #17, #15 and #31 Baldpate Hill Road, the majority of houses are on lots similar in size to or larger than the petitioners'. Although an "old" lot, it contains over 23,000 square feet.

As to the relative sizes of homes, it is always difficult to get an exact comparison. Nevertheless, one method, as used in Verne Porter's Area Plan, is to use the Assessors website figures and apply the old FAR or pre-10/15/11 formula to all the buildings including the petitioners'. This allows a comparison of the existing building with others. The Sands' existing house per his calculations from the Assessors Website was .2030, #49 was .27[±] and #31 was .2279[±]. Across the street, #46 was .19 and #32 was .1660. This method has the disadvantage of disregarding the sizes of the lots.

The addition of essentially 870 gsf to the existing Sands' house is negligible, and the massing of the house will appear to others in the neighborhood (if they could see the massing) as unchanged.

3. The house as enlarged would not be more detrimental to the neighborhood

The extension of the nonconforming house as to FAR will not be substantially more detrimental to the neighborhood. The additions as proposed will not be readily visible to the abutting properties, and the house, as existing and proposed, will be similar in size to many others in the neighborhood.

ADDITIONAL BACKGROUND

In 2007, the Sands constructed a basketball half-court at the rear of their lot. Mr. and Ms. Sands acted on advice of their civil engineer, who represented to them that the basketball court was not a "structure" but rather like a patio, did not require a permit, and could be located within setbacks. After the basketball court was constructed Inspectional Services in 2008 notified the Sands that the basketball court was indeed a structure and was in violation of the side and rear setback requirements. The Sands applied to the Zoning Board of Appeals, which granted a variance #7-09 legalizing the half basketball court. One of the conditions in that variance required permanent plantings of pine trees along the rear lot line.

In 2012, the Sands went back to the ZBA, because their attorneys discovered that one condition in #7-09 was so onerous that it would be unlikely the Sands could subsequently have sold or refinanced their property. That condition read as follows: *"That there be no future buildings or structures constructed on the property except as approved by the Zoning Board of Appeals."* The literal meaning of that condition, as confirmed by Commissioner John Lojek and the Newton Law Department, was that the limitation would apply anywhere on the property and to most everything from the construction of an addition to their home to placement of a light pole or fence or outdoor HVAC unit, etc. The ZBA modified the provision to apply only to that part of the lot within 85 feet of the rear lot line, which thereby removed the condition from the house and the areas to the sides and front yards of the house.

The Sands also installed an oversized subsurface stormwater drainage system, which reportedly has greatly helped the immediate abutter in the rear from a previous long-standing condition.