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**ZONING BOARD OF APPEALS
MINUTES**

**Regular Meeting of April 2, 2014 at 7:30 pm
Meeting Room #3, Municipal Center, 3 Primrose Street, Newtown CT**

These Minutes are Subject to Approval by the Zoning Board of Appeals

Members present: Charles E. Annett (Chair), Barbara O'Connor (Secretary), Timothy Cronin, and Ross Carley; **Members not Present:** Alan Clavette (Vice-Chair); **Alternates Present:** Roy Meadows and Jane Sharpe; **Alternates not Present:** Herb Rosenthal; **Staff Present:** George Benson, Director of Planning & Land Use

The meeting of the Zoning Board of Appeals was called to order by Chairman Charles Annett at 7:39 pm. Mr. Annett asked the secretary to call the roll and read the legal notice for the first docket.

Docket 13-06 Application of Robert Manna, Jr. for a variance of Section 7.02.100 of the Zoning Regulations to permit the replacement of an abandoned non-conforming house with a new house. The property is located at 60 Waterview Drive in Sandy Hook, CT in an R-1 zone.

Mr. Annett explained the procedures for the hearing and asked the applicant to come forward. Michael Burton, 107 Glen Road, Sandy Hook (owner of Michael Burton Builders) and Robert Manna, 100 Glen Road, Sandy Hook were present. Mr. Burton submitted plans and said the variance request is to allow construction of a two bedroom home in place of an abandoned structure. The property has been brought up to the Newtown Health Code and meets public health codes without exception. The lot is bordered by a Town right-of-way. The engineering was completed by Al Shepard. They received Conservation/Inland Wetlands approval. They are drilling three new wells (one for the proposed home and one for each neighbor) and installing two new septic systems. The variance is for set-back lines. The building is non-conforming where the original structure was two feet off the south side, which will be changed to five feet. The north side was originally 17 feet off the line, which will change to 13 feet. The front setback will be changed from 50 feet to 35 feet in order to

accommodate a one-car garage. The structure will be pulled farther away from the lake. The footprint is approximately the same, 30' x 30', with the exception of it being a two-story home with a finished basement. Mr. Cronin asked why the house wasn't centered on the property. Mr. Burton said they didn't want to increase the nonconformity. Mr. Annett asked about the setback from the lake. Mr. Burton said the patio is 20 foot away and the home will be 28 feet from the lake. Mr. Burton noted on a GIS map that out of approx. 41 residents, only 10% have structures behind the 50 foot setback, so the request for variance is not out of harmony with the neighborhood. They also designed the home so it will not overpower the neighborhood or block views and will improve surrounding property values. Mr. Burton said he felt it was in line with the purpose and intent of the Newtown Zoning Regulations, is the most appropriate use of the land, consistent with the soil type and terrain and the infrastructure capacity of the neighborhood is suitable. They feel they are conserving property values in the neighborhood by replacing a blighted structure with a home. It will also be farther from the lake. He said there are letters of support submitted and several neighbors present to speak in favor. Mr. Annett asked about removing the material and debris from the Town right-of-way and if it will be re-seeded. Mr. Burton said they will clean up and re-seed.

Ms. O'Connor read the following into the record: A memo dated January 20, 2014 from Rob Sibley, Town of Newtown Deputy Director of Planning and Land Use; A letter dated March 6, 2014 from Gary Frenette, Town of Newtown Zoning Enforcement Officer; A letter dated March 24, 2014 George Benson, Town of Newtown Director of Planning and Land Use; A letter from Marty and Dorothy Kelly, 24 Dock Drive, Sandy Hook, CT speaking in favor of the project.

Mr. Annett then asked if members of the public who are in favor of the application would like to speak. Jodi O'Keefe, owner of 56 and 49 Waterview Drive, Sandy Hook, spoke in favor; Christy Sanford, 66 Waterview Drive, Sandy Hook, spoke in favor; John Burns, 46 Waterview Drive, Sandy Hook, spoke in favor; Randall Pineau, 47 Waterview Drive, spoke in favor; Comments included that they felt it was a good project, it would increase property values, happy to see there is a conscious effort to keep right of way there; and requested a stipulation that the right-of-way remain intact.

Mr. Annett asked if anyone would like to speak of opposition. Christine Wheway, 34 Underhill Road, commended the applicant for the presentation but found others who have met up with difficulties in doing similar projects. She shared concerns about work already started on the property. Mr. Annett asked the applicant if they have begun construction. Mr. Burton said they have obtained permits for demolition of the existing structure and for the tree removal. Ms. O'Connor commended the applicants

for their plans and preparation. After hearing no further comments, Mr. Annette declared the hearing closed.

Docket 13-07 Application of Russo Farms LLC for a variance of Section 9.03.210 of the Zoning Regulations and a clarification of docket decision #02-20. The property is located at 160 Sugar St in the Town of Newtown in an R-2 Zone.

Ms. O'Connor read the legal notice. Mr. Annett asked the applicant to come forward. Angelo Russo, 35 Ichabod Road, Southbury, CT and Atty. Thomas Kaelin from Woodbury were present. Mr. Annett explained the procedures and asked the applicant to explain their variance request.

Mr. Kaelin began with discussing a history of the property and submitted exhibits: Exhibit #1: Photos of equipment previously stored on the property; Exhibit #2: An overhead GIS map of the property; Exhibit #3: Newtown zoning regulations in effect in 2002; Exhibit #4: A transcript of ZBA 8/7/12 Public Hearing; and Exhibit #5: Docket decision for ZBA meeting of 8/7/12. He pointed out regulations 8.05.300 and 8.05.500 that were in effect during that time and discussed the original stipulations to the 2002 approval with regards to "unrelated" vehicles and restrictions. After the 2002 approval there were disagreements on the use of other vehicles. An agreement was not reached and the Town filed a lawsuit currently pending in Danbury. As an attempt to settle they were requested to file the present application to seek clarification from the board regarding limitations on vehicles necessary to operate the hay business.

Board members asked about previous and current uses of the property and discussed concerns over a number of unrelated vehicles seen on the property, including a number of vehicles parked out front. Atty. Kaelin said some are from the business across the street. Discussions regarding on-conforming uses and zoning regulations continued. Ms. O'Connor read a memo from Gary Frenette dated April 2, 2014 regarding zoning compliance. Mr. Annett noted there is a shed on the property and tires, a horse trailer, junk cars, and unregistered vehicles were witnessed on the property. He felt there is a continued use of the property not in accordance with the hay business. Atty. Kaelin discussed intensification vs expansion of a nonconforming use. Ms. O'Connor said the original problem was the amount of trailers with the limit of three, but that more than three were seen on the property. Atty. Kaelin said that would not happen again. Mr. Carley asked about the mulch and concrete barriers. Mr. Russo said they are gone.

Mr. Annett asked if anyone wanted to speak in favor of the application. Carlyn Winston, 15a Parmalee Hill Road, Newtown, CT said she is a customer of the applicant and explained reasons why she relies on Mr. Russo's business to provide hay for her animals. She said the pup trailer allows Mr. Russo to deliver dry hay in inclement weather.

Mr. Annett asked if anyone wanted to speak in opposition. William Beckman, 10 Sugar Hill Road, discussed concerns about unlimited amount of vehicles associated with the business. He does not object to the current business, but would like the numbers of trailers and vehicles limited. His concern is maintaining the character of the neighborhood and avoiding setting a precedence regarding vehicle storage. Mr. Annett reassured him that each case stands on its own and is specific to that situation and there is no way precedence can be set.

Mr. Benson discussed the history of issues regarding the vehicles on the property. In the 2002 variance the applicant agreed to a limit of three trailers and that they cannot have unrelated vehicles. He said they could not negotiate in court without returning to ZBA to clarify the first decision. There were continued issues with unrelated vehicles (i.e., dump truck, unregistered vehicles) found on the property so he felt they needed a parameter to work with. They came to an agreement with a list that was reasonable to both parties. The only question was regarding the pup trailer.

After no further discussions, Mr. Annett declared the hearing closed.

Docket 14-01 Application of Richard Barillari for a variance of Section 8.03.222 of the Zoning Regulations to allow a driveway with grades more than fifteen percent (15%) in certain areas. The property is located at 40 Glen Road in the Town of Newtown in an R-1 Zone.

Ms. O'Conner read the docket. Mr. Annett asked for the applicant to come forward. Charles Spath, of Stuart Somers in Southbury, and Richard Barillari from 64 Watkins Drive in Newtown were present. Mr. Spath explained the property and current driveway frontage and the proposed changes to the driveway grades. The driveway is currently gravel with no problems with erosion but will be paved later on. The original driveway had an approximate 19% grade. Ms. Lockwood submitted a letter in favor of the improvements of the driveway. He discussed topography, the septic and a large tree that makes the grade difficult. Improvements were made to alleviate a blind spot and to make it safer to exit onto Glenn Road. Approx. 200 feet of the driveway will exceed a 15% grade. After no further discussions, the hearing was closed.

DOCKET DECISIONS

Docket 13-06 Application of Robert Manna, Jr. for a variance of Section 7.02.100 of the Zoning Regulations to permit the replacement of an abandoned non-conforming house with a new house. The property is located at 60 Waterview Drive in Sandy Hook, CT in an R-1 zone.

Mr. Annett motioned to approve the application as presented with a stipulation that the Town right-of way will be graded and seeded. Mr. Cronin seconded the motion and all were in favor.

- Charles E. Annett.....Yes*
- Barbara O'ConnorYes*
- Timothy CroninYes*
- Ross Carley.....Yes*

Docket 13-07 Application of Russo Farms LLC for a variance of Section 9.03.210 of the Zoning Regulations and a clarification of docket decision #02-20. The property is located at 160 Sugar Street in the Town of Newtown in an R-2 Zone.

Ms. O'Connor motioned to accept the application with clarification to allow vehicles listed on Applicant's Exhibit #6 which lists as follows: One 30 foot open gooseneck trailer; three tractors; one 32 foot single axel "pup trailer"; one 20 foot open trailer; one backhoe model 680 Pace or 410 JD; and three full-sized enclosed trailers approx. 53 feet long. It was noted that "or equivalent models" be added. Ms. O'Connor added that all extraneous materials, equipment, vehicles and junk are to be removed. Mr. Cronin seconded the motion and all were in favor

- Charles E. Annett.....Yes*
- Barbara O'ConnorYes*
- Timothy CroninYes*
- Ross Carley.....Yes*

Docket 14-01 Application of Richard Barillari for a variance of Section 8.03.222 of the Zoning Regulations to allow a driveway with grades more than fifteen percent (15%) in certain areas. The property is located at 40 Glen Road in the Town of Newtown in an R-1 Zone.

Mr. Annett motioned to approve the application as submitted. Mr. Ross seconded the motion. All were in favor

- Charles E. Annett.....Yes*
- Barbara O'ConnorYes*
- Timothy CroninYes*
- Ross Carley.....Yes*

Mr. Cronin motioned to add a stipulation that the application is approved due to the fact that the applicant has decreased the non-conformity and that they removed the vegetation/shrubs to provide a line of sight exiting the driveway. Mr. Carley seconded the motion and all were in favor.

- Charles E. Annett.....Yes*
- Barbara O'ConnorYes*
- Timothy CroninYes*
- Ross Carley.....Yes*

Mr. Carley made a motion to adjourn which was seconded by Mr. Clavette. The motion was carried and the meeting was adjourned at 9:45 pm.

Respectfully submitted by Tammy Hazen