



## TOWN OF NEWTOWN

### Zoning Board of Appeals Minutes

February 4, 2015 at 7:30PM

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), Ross Carley, Alan Clavette (Vice-Chair), Timothy Cronin, Barbara O'Connor (Secretary), **Alternates Present:** Roy Meadows & Herb Rosenthal (Jane Sharpe absent)  
**Staff Present:** Lynn Kovack (recording clerk)

The meeting of the Zoning Board of Appeals was called to order by Chairman Annett at 7:37PM. Ms. O'Connor called the roll and then read the Docket #14-12

**DOCKET #14-12 Application of John Neuhoff for a variance of Sections 7.02.100 and 7.02.110 of the Zoning Regulations to permit the building of a single family dwelling without the proper acreage and frontage. The property is located at 48 Algonquin Trail in the Town of Newtown, CT in an R2 zone**

Chairman Annett said we have a challenging discussion tonight. He would like to have all of you look at this and whether you're in favor or opposed to making any decision on the case in support of a variance. He stated that because we had a lot of people at the prior meeting that were neighbors and had an excellent presentation by the applicant and a lot of information was given. So when we go to make the decision be sure that we made in the discussion enough parts to bring out to support one way or the other and not just make it superficial which sometimes happens due to straight forward cases because this one is unique.

Secretary then read the above Docket #14-12 to the group

Discussion started with Mr. Cronin asking about the letter from the Cedarhurst Association having to do with property lines. He asked how can we make a decision on this property if there is a question about access to the property with the Cedarhurst association and they have not given him access.

It was stated that the map presented by the applicant and the map that is on file with the Town have some differences. There is a deed from the original Cedarhurst Association which details lot numbers (map#1) and then it refers you to a map #2 which is the surveyors map which shows pins, East, West, etc. Brautigam Land surveyors states the map included #48 but map#2 was not presented at any meetings and can't be located. Zoned in 2002 changes in area regulations for compliant lot and changes in the amount of land that counted if your 25% or greater slopes and this property only has .4% which does not comply to the 25% requirement.

All evidence so far states it was a cabin on the property. Cabin had no plumbing, no kitchen, no heat and just screen windows. Was never completed space at all and that use is still permitted on this land is not mistaken Mr. Clavett pointed out. So that can still be done so he doesn't see it as a taking and so he does not see that as a hardship. Regs refer to a self imposed hardships also. The fact is as a new owner purchased after new rules

in place and was aware at the time. Is that a hardship at this point. It all depends on what happened to the property after the zoning regulations were put into place and whether the owner did anything different to make non conforming and if the person who built it did nothing he could still get a variance but would still have to prove their case. But all evidence shows nothing done for years and years except current resident who did new roof without the proper permits required.

At the 6/4/14 meeting Donna from 83 Algonquin Trail stated owner of #48 installed roof without permits but was never verified. Testimony stated that Mr. Benson told the owner it was not a buildable lot and the owner acknowledged Mr. Benson had told him this. Mr. Rosenthal asked if it was ever a buildable lot? It doesn't mean it is a buildable lot if not approved with a subdivision. Owner stated he was being taxed as a buildable lot but how it is taxed has no bearing on whether it is a buildable lot or not.

A number of people who spoke at the last meeting regarding drainage and impact to other properties down below a portion of the property. Not sure if drainage can be done properly. Steep slope by property and building by the lake is a big factor on handling the request.

Mr. Rosenthal stated the Burden of Proof has to come from the applicant and he doesn't see that. Regulations also state a shared driveway for the proposed dwelling is no longer allowed so another variance would be needed. He needs required road frontage also which brings us back to the maps.

Mr. Clavett made a motion to deny on the following reasons:

1. Conflicting maps showing access to the property, encroachment to the property, property boundaries, etc (no resolution to which map is correct)
2. Hardship has not been demonstrated because the fact that .4 acres does not comply with the 25% slopeage requirement.
3. Evidence property was attempted to be modified (new roof)
4. Is access granted by the Cedarhurst Association?
5. Questions on enough road frontage with current regulations

Decision is to Deny Docket #14-12

Mr. Cronin motioned to adjourn meeting at 7:56pm. Clavett (2<sup>nd</sup>) All in Favor

Respectfully submitted by Lynn Kovack