



TOWN OF STONINGTON
Zoning Board of Appeals
Stonington Police Station Meeting Room
173 South Broad Street
Pawcatuck, Connecticut 06379

FINAL

The Stonington Zoning Board of Appeals held a Regular Meeting at the Stonington Police Station on May 8, 2007 at 7:00 p.m. Present for the meeting were Board Members David Rathbun, Neil Canavan, Frederick Deichmann, Bill Buscetto, David Rezendes, & Alternate Member John Prue. Town Attorney Jeffrey Londregan and Zoning Official Joseph Larkin were also in attendance.

Chairman Rathbun called the meeting to order at 7:05 p.m. and read the following:

"It takes four votes of this five-member Board to grant a variance. In order for a variance to be granted, the applicant must prove a hardship. After the conclusion of tonight's public hearing, this Board has 65 days to render a decision. Any decision made by the Board can be appealed to Superior Court within 15 days of the effective date. First we will hear from our Zoning Enforcement Officer, and then we will listen to the applicant and all those in favor of the application, followed by those in opposition. Then if anyone has general comments they will be heard. The applicant has the right for rebuttal. However, if any new points are raised during the rebuttal, the public has the right to respond."

Seated for the tonight's public hearings were: Frederick Deichmann, Neil Canavan, David Rezendes, Bill Buscetto, and David Rathbun, presiding.

Secretary Canavan announced that the Notice of this Public Hearing had been published in the **New London Day** and the **Westerly Sun** on **Friday, April 20, 2007** and **Friday, April 27, 2007**. He then read the call for the first public hearing:

ZBA #07-04 Richard & Katharine Gildersleeve (Frank Eppinger) – Seeking a variance of ZR 5.1.1 to increase the maximum height from 25' to 33' 3" for a functional venting cupola for a barn/carriage house style guesthouse on property located at 57 Flanders Road, Stonington, CT. Assessor's Map 105, Block 3, Lot 2, Zone RC-120.

Mr. Larkin presented a brief history of the application.

Attorney Frank Eppinger presented the application and answered questions from the Board.

Speaking in favor was Bruce Brast of Flanders Road, Stonington, CT.

No one spoke in opposition or with general comments.

The Public Hearing was closed at 7:20 p.m.

Mr. Canavan moved to deny the application. Mr. Rezendes seconded. After discussion, Mr. Canavan withdrew his motion. Mr. Rezendes withdrew his second. Mr. Buscetto moved to approve the application as presented. Mr. Deichmann seconded. Motion carried 5-0.

ZBA #07-05 M-R Atlantic Properties, LLC (Nicholas Kepple) – Seeking to overturn the ZEO's decision to deny Application #07-026 ZON and Cease & Desist Order #06-155 for property located at 8 Marie Avenue, Pawcatuck, CT. Assessor's Map 16, Block 9, Lot 9, Zone RH-10.

Mr. Rezendes moved to combine applications ZBA #07-05 and ZBA #07-07 as one hearing. Mr. Deichmann seconded. Motion carried 5-0.

ZBA #07-07 M-R Atlantic Properties, LLC (Nicholas Kepple) – Seeking a variance of ZR 5.1.1 to reduce the side yard setback from 20' to 10' for deck and stairs on property located at 8 Marie Avenue, Pawcatuck, CT. Assessor's Map 16, Block 9, Lot 9, Zone RH-10.

Mr. Larkin presented a history of the application and presented exhibits for the file.

Attorney Nicholas Kepple of 20 South Anguilla Road, Pawcatuck, CT, presented the applications. Mr. Kepple solicited the testimony of Mr. Mario Ritacco and Mr. Marco Ritacco regarding 8 and 12 Marie Avenue, Pawcatuck, CT. He also submitted affidavits from neighbors stating that the decks were constructed prior to July 2003.

Attorney Kepple argued that CGS 8-13a applied in this situation and the 3-year statute of limitations had been exceeded. No one else spoke in favor of the application.

Zoning Official Joseph Larkin spoke in opposition to overturning his decision and presented documents refuting that CGS 8-13a applied in this case.

Mr. Kepple asked the board to continue this Public Hearing to give him more time to submit additional court cases regarding the applicability of CGS 8-13a.

Mr. Deichmann moved to continue this Public Hearing to June 12, 2007. Mr. Canavan seconded. Motion carried 5-0.

ZBA #07-06 Mario Ritacco (Nicholas Kepple) – Seeking to overturn the ZEO’s decision to deny Application #07-027 ZON and Cease & Desist Order #06-133 for property located at 12 Marie Avenue, Pawcatuck, CT. Assessor’s Map 16, Block 9, Lot 7, Zone RH-10.

Mr. Rezendes moved to combine ZBA #07-06 and ZBA #07-08 as one hearing. Mr. Deichmann seconded. Motion carried 5-0.

ZBA #07-08 Mario Ritacco (Nicholas Kepple) – Seeking a variance of ZR 5.1.1 to reduce the rear yard setback from 22’ to 20’ for structure location on property located at 12 Marie Avenue, Pawcatuck, CT. Assessor’s Map 16, Block 9, Lot 7, Zone RH-10.

Mr. Kepple presented the application and questioned Mario Ritacco, 12 Marie Ave, Pawcatuck, CT.

Mr. Deichmann moved to continue this Public Hearing until the June 12, 2007 meeting. Mr. Rezendes seconded. Motion carried 5-0.

ZBA #07-09 Charles Nado & Leonard Montesi (Steven Marien) – Seeking a variance of ZR 2.10 to reduce the frontage requirement from 300’ to 0’ and ZR 3.1.4.2 to reduce the non-infringement area from 100’ to 20’ for construction of a single family residence on property located at Smail Street, Mystic, CT. Assessor’s Map 161, Block 24, Lot 5, Zone RC-120.

Due to applicant abutter notification error, the public hearing for ZBA #07-09 was postponed until June 12, 2007.

Deliberations & Decisions:

Seated for these decisions were: John Prue, Fred Deichmann, David Rathbun, Neil Canavan, and David Rezendes.

ZBA #07-01 Carol Holt – Seeking to overturn the ZEO’s decision to approve Application #06-127 ZON for construction of a 10’ x 12’ shed on property located at 56 Langworthy Ave., Stonington, CT. Assessor’s Map 129, Block 16, Lot 7, Zone RM-20.

Mr. Deichmann moved to overturn the ZEO’s decision. Mr. Rezendes seconded. The motion was denied 5-0. The Board felt the shed is in compliance of health and safety issues – tethered properly to the ground.

ZBA #07-03 KAC Realty LLC (DiCesare-Bentley Engineers Inc) – Seeking a variance of ZR 5.1.1 to increase the Floor Area Ratio from 0.6 to 1.04 for residential development/building rehabilitation on property located at 17-19 East Main Street, Mystic, CT. Assessor’s Map 174, Block 2, Lot 4, Zone DB-5. **CAM REVIEW REQUIRED.**

Mr. Rezendes motioned to deny the application, stating a Historic Building did not justify the increase in Floor Area Ratio. Mr. Deichmann seconded. The motion carried 5-0.

New Business:

ZBA #07-11 Ingrid Bernhard – Seeking a variance of ZR 3.3.4.2.2 to reduce the 50’ buffer to 28’ to install an inground swimming pool on property located at 25 Niles Road, Mystic, CT. Assessor’s Map 181, Block 2, Lot 9, Zone RM-15. The application was accepted and scheduled for a public Hearing on June 12, 2007.

ZBA #07-12 Erik & Janet Nichols MacPeck (Robert Schacht) – Seeking a variance of ZR 5.1.1 to reduce the front yard setback from 75’ to 2.7’ for construction of an addition to a pre-existing non-conforming accessory structure on property located at 19 Latimer Point Road, Stonington, CT. Assessor’s Map 154, Block 1, Lot 1, Zone RC-120. The application was accepted and scheduled for a public hearing on June 12, 2007.

ZBA #07-13 Joseph & Margaret Masterjoseph – Seeking a variance of ZR 5.1.1 to reduce the front yard setback from 30’ to 14’ and increase the Floor Area Ratio from .217 or 2,509 square feet to .230 or 2,661 square feet for three (3) additions on property located at 225 North Water Street, Stonington, CT. Assessor’s Map 100, Block 7, Lot 1, Zone RM-20.

The application was accepted and tentatively scheduled for June 12, 2007, provided the applicant receives a waiver of an A-2 survey requirement in a timely fashion.

Adjournment:

Mr. Deichmann moved to adjourn and Mr. Rezendes seconded. The meeting adjourned at 9:20 p.m.

Neil Canavan, Secretary