



TOWN OF STONINGTON
Zoning Board of Appeals
Stonington Police Station Meeting Room
173 South Broad Street
Pawcatuck, Connecticut 06379
REGULAR MEETING MINUTES
May 12, 2009

Final

In attendance were members Neil Canavan, Jack Guyol, John Prue, David Rezendes, Lynn Conway, Ben Tamsky and David Rathbun, presiding. Zoning Official Joseph Larkin and Director of Planning William Haase were also present.

Chairman Rathbun called the meeting at 7:02 P.M and read the rules of order into the record. Secretary Canavan announced that the legal notice had been published in the New London Day and the Westerly Sun on May 1 and May 8, 2009. He then read the call for the first Public Hearing.

ZBA #09-06 John & Jessica Kam (Chris Carey) – Seeking a variance from ZR 5.1.1 bulk requirements to reduce the front yard setback from 30' to 9'1" for modification of 2nd story of existing residence. Property located at 30 Island Rd., Stonington, CT. Assessor's Map 79 Block 8 Lot 3. Zone RM-20.

Mr. Prue recused himself. The Zoning Official stated an A-2 survey was submitted.

Architect Chris Carey described the project which would add a second story to the house. The brick building was originally used for industrial purposes and was built prior to the adoption of Zoning regulations. The 16 inch deep brick walls make expansion out very difficult so adding vertically is there only choice. He described stalls or bays from a previous use restricted the back. Essentially a dormer front and back will be added.

No one spoke in opposition or had any general comments on this application.

Ms. Conway moved to approve, Mr. Canavan seconded. After deliberations, the motion was unanimously approved.

AAP #09-05 EOF Realty LLC – Request ZBA lift Cease & Desist Order #09-05. Property located at 595 Greenhaven Rd., Pawcatuck, CT. Assessor's Map 8 Block 2 Lot 1 Zone RA-20 & RR-80

The Zoning Official reviewed e-mails from February 19, 2009 which documented what transpired that day:

Neighbor Margaret Tebbetts called claiming that the Oliver Group was clearing the buffer area which violated their agreement. Mr. Larkin reviewed the definition of buffer and screening in the regulations and its amendment and concluded that the issue is a civil matter between the neighbors and not an issue to involve the Town. Mr. Haase had directed Mr. Larkin to issue the Cease and Desist Order.

John Prue was mentioned in the e-mails because Mrs. Tebbetts had called him about the cutting. He stated for the record that this exparte communication was cut off without discussing the matter in detail, and he felt it did not prejudice him from sitting on this application or cause him to recuse himself.

Director of Planning, Bill Haase requested that the ZBA agree to uphold the Cease and Desist order. The definition of "buffer" to include various materials. He saw both the owner's side which was removing invasive weed species such as bittersweet and vines, and Mrs. Tebbetts' view that screening materials were being removed.

Mr. Tamsky articulated the terms buffer and screening as being landscape material.

Discussion of the definition of buffer to include "to the satisfaction of both neighbors" which puts a burden of arbitrage onto the ZBA.

Mr. Prue brought up the point when the ZBA decision was written, the Tebbetts were not technically neighbors since the merger clause did not come into effect until 1976.

Mrs. Conway asked if the 60 days for EOF to comply had expired and was told that this appeal stays the tolling of days.

In favor of the application:

Attorney Donald Steinhoff representing EOF Realty LLC presented pictures and his rational for the Group's removing the plant materials: They intended to remove the scrub material in order to plant grass consistent with the rest of the landscaping design and that of the neighborhood. He considered grass an acceptable landscape material.

Mr. Tamsky asked if any trees were cut down. Mr. Steinhoff replied that a scrub tree was cut down.

Mr. Rezendes asked why they had decided to do this at this time. Mr. Steinhoff stated that the winter season is the optimal time for brush cutting.

Speaking in opposition :

Patricia DeSaules thought that this was a malicious act because the parking lot was not approved. She emphasized how beautiful the area was prior to the cutting.

Margaret Tebbetts discussed the plants that were in the buffer which included grapes, vines and wild roses.

Gus DeSaules, described what has happened which includes swaths of clear cutting adjacent to his property and that thirty years of vegetation is now missing.

Bob Langworthy asked that decisions made by the Board be equally upheld across the Board. He did not believe that material that was removed was only bittersweet but had other material as well.

Mark Tebbetts referred to the 1975 map which stated the lot was to remain in its natural state. Only residential uses were to be on that lot and that the variance did not apply to the lot. He thought the lack of screening material would amplify air conditioner noise.

Alfred Tebbetts spoke about the years it would take to grow a buffer.

Helen Jankoski would like to see the buffer replaced.

Tom Stahl spoke on behalf of his parent's property.

Rebuttal: Mr. Steinhoff said the Wetlands were never touched. Mr. Rezendes asked about the dish. Mr. Steinhoff answered that the Oliver Group used it to communicate with overseas clients and that it was positioned there only temporarily.

Chairman Rathbun relinquished his position to Mr. Rezendes.

Seated for this deliberation were: Tamsky, Rezendes, Canavan, Guyol and Prue.

Mr. Prue moved to uphold the Cease and Desist Order and Mr. Guyol seconded the motion.

After deliberations, the motion passed with Mr. Tamsky casting the lone vote to overturn.

Old Business:

ZBA #09-04 Lewis & Linda Lorinsky (Charles Tabor) – Seeking a variance from ZR 5.1.1 to reduce the rear yard setback from 50' to 31' and increase the Floor Area Ratio (FAR) from .10 to .107 for construction of a sunroom on an existing deck. Property located at 12 Meadowlark Lane, Stonington, CT Map 106 Block 5 Lot 2 Zone RR-80.

WITHDRAWN

New Business:

ZBA # 09-07 Janette D. Mercer (Peter Gardner)- Seeking a variance from ZR 5.1.1. bulk requirements to reduce the backyard setback from 50' to 36.9' for construction of a barn. Property located at 248 Pequot Trail, Pawcatuck. Assessor's Map 38 Block 2 Lot 1. Zone RR-80.

ZBA #09-08 David and Kristine Boisoneau (David Rossetta)- Seeking a variance to ZR 5.1.1 bulk requirements to reduce rear yard setback from 100 feet to 65 feet and side yard set back from 76 feet to 35 feet.

Property located at 20 Miner Pentway. Assessor's Map Block 1 Lot 41. Zone GBR-130.

Mr. Tamsky moved to hear both of these applications at the June 2009 meeting and Mr. Rezendes seconded.

The motion passed unanimously.

Chairman Rathbun adjourned the meeting at 9:53 P.M.

Neil Canavan, Secretary