

Zoning Board of Appeals
REGULAR MEETING
Final Minutes
June 14, 2011

Chairman Rathbun called the meeting to order at 7:06 p.m. In attendance were Frederick Deichmann, Jack Guyol, Lynn Conway, Neil Canavan and David Rezendes. Matthew Berger arrived at 7:09 p.m. Attorney Brian Estep of Conway and Londregan was also present.

Public Hearings: Chairman Rathbun changed the order of the Public Hearings to hear ZBA #11-09 first.

d. ZBA #11-09 Ethan & Kay Tower – Seeking a variance from ZR 5.1.1 front yard setback for the construction of three dormers to a pre-existing non-conforming structure. Property located at 2 Yacht Club Rd., Mystic. Assessor's Map 177 Block 10 Lot 4. Zone RA-20

Mr. Deichmann recused himself. Mr. Larkin reviewed the variance request for front yard setback. Mr. and Mrs. Tower spoke about their plan for interior renovations. The proposal is for three dormers which will provide additional headroom and air circulation to their second floor.

PUBLIC COMMENT FOR: H. Bruce Fielding spoke in favor of the application. There were no other comments regarding the application. Chairman Rathbun closed the Public Hearing.

a. ZBA #11-05 Frank E. Lionelli (Merrill Lynch) Continued – Seeking a variance to ZR 7.12.7.3 to permit a 6' x 4' monument sign on existing lot. Property located at 38 East Main St., Mystic, CT. Assessor's Map 174 Block 18 Lot 13. Zone LS-5.

Craig Clinton spoke on behalf of the applicant. He stated he had met with the Town Planner and reviewed the signage plan. Following that meeting Mr. Craig submitted plans for a freestanding monument sign. There was a discussion regarding the proposed and existing signage.

The ZEO stated that if the variance was approved, that approval would be filed on the land records and stay with the property.

PUBLIC COMMENT AGAINST: H. Bruce Fielding, a tenant in the building spoke about the fairness of losing their signage. It was explained that his signage would not be lost.

Dora Hill did not believe the Commission had the authority to grant a variance to increase the size of the sign but they could vary the bulk requirements. She also discussed the new signage regulations recently passed by P and Z. There were no further comments and Chairman Rathbun closed the Public Hearing.

b. ZBA #11-07 Harold & Michele Mitchell – Seeking a variance from ZR 5.1.1 bulk requirements to reduce front yard setback from 20' to 17.6' for single family residence. Property located at 46 Maple St., Lords Point, Stonington. Assessor's Map 127 Block 8 Lot 10. Zone RM-15 (RH-10 bulk applies).

The ZEO explained that it was determined in the "As Built" plan filed by the property owner, that the location of the new house is 17.6' from the property line which does not meet the required front yard setback of 20'.

Mr. and Mrs. Mitchell spoke on behalf of their situation. Mr. Mitchell stated that the ledge outcropping on the property necessitated the shift in the foundation and skewing the house on the lot. They have finished the renovation of their house but cannot obtain a certificate of occupancy. Mr. Rezendes stated that Mr. & Mrs. Mitchell were the ones that brought this to the attention of the Zoning Official. Ms. Conway clarified the sequence of events, including the contractor's original placement of the footing. There were no public comments. Chairman Rathbun closed the Public Hearing.

c. AAP #11-08 Linda Hutter – Request ZBA revoke the Zoning Enforcement Officer's issuance of Zoning Permit #11-015ZON to Gorin Subotic. Property located at 93 Hewitt Rd., Mystic. Assessor's Map 161 Block 9 Lot 5. Zone RA-20.

The ZEO reviewed the application for the proposed sheds. He stated that the proposed sheds were single story and met the necessary setback requirements and with the installation of the shed the maximum F.A.R. had been received. Mr. Larkin said that the regulations do not exclude the storing of costumes.

PUBLIC COMMENT IN FAVOR: Linda Hutter spoke on behalf of her application. Mrs. Hutter stated that she did not have a problem with what is being stored but the size of the accessory buildings. The total square footage of the 2 accessory buildings is larger than the actual square footage of the existing house.

Attorney Robert Avena spoke representing Richard & Nancy Bestwick and also on behalf of the neighbors. Attorney Avena submitted his legal memorandum as Exhibit #2, a copy of the assessor's map as Exhibit #3.. He also discussed some discrepancies in the zoning permit application submitted by Mr. Subotic. Attorney Avena stated there is more square footage for the accessory use structures than the square footage of the primary use. He discussed the proposed storage of costumes in these buildings and stated that use is on accessory to the primary residential use. Mr. Guyol asked Attorney Avena if the primary complaint with the buildings is the appearance or the use. Attorney Avena answered it was a combination of use and bulk.

Jocelyn Simoncini read a letter opposing the issuance of the zoning permit. The letter was signed by over 35 neighbors. Ms. Simoncini also presented pictures of the buildings on the site as Exhibit #4. She argued that they are not sheds but actual mobile homes. The installation of these trailers have devalued her home and not in keeping with the characteristics of the neighborhood. The signed letter from the neighbors was submitted as Exhibit #5.

Richard and Nancy Bestwick (87 Hewitt Rd.) verified they did sign the letter. Mrs. Bestwick had 3 photos which were submitted as Exhibits #6, #7 and #8. She also submitted several photos mounted on a white board as Exhibit #9. Mrs. Bestwick also read a letter (Exhibit #10) from John Chernovitz who resides at 11 Meadowbrook Lane. Mr. Bestwick expressed his opposition to the installation of the portable classrooms.

Christopher Stamm (99 Hewitt Rd.) said he had already signed the letter. He said he was appalled when he arrived home from work and saw the structures that had been dropped on the property at 93 Hewitt Rd. He submitted a photo showing the garage and a portion of the 2 portable buildings as Exhibit #11.

Justin Kane stated he had signed the letter and he submitted two pictures (Exhibits #12 & #13) of 93 Hewitt Rd. taken from his property. Dirk Vlieks spoke and also indicated he had signed the letter. Antonio Mastroianni said he believed the zoning permit for installation of the 2 buildings should be revoked. He had also signed the letter. He noted there were 54 signatures not 34 signatures on the letter.

Rick Newton and Patrick Conway spoke opposing the buildings at 93 Hewitt Rd. Dora Hill isolated the problem as being an accessory use to the ballet school which is a mile away. The buildings should be located on the ballet school property. John Groothoff (13 Geiser St.), Bryan Marshall (10 Meadowbrook La.) and Charlene Fowler (13 Richmond La.) all spoke opposing the approval of the zoning permit. Albert Weber also spoke and submitted 2 photos as Exhibit #14.

PUBLIC COMMENT AGAINST: Gorin Subotic, owner refuted many of the earlier claims and apologized for causing stress to his neighbors. He explained the process he went through prior to purchasing and placing the buildings on his property. He is planning to paint and add siding to the buildings to make them look nicer. He is also going to put in plantings around the buildings. Mr. Subotic claimed that thousands of international students come to audition at the Mystic Ballet School. Mr. Berger asked what the sheds are for. He answered that they are to store the Mystic Ballet's costumes in a climate controlled setting. They were previously housed in a shed near the Mashantucket Pequot Museum, where the Ballet frequently performs.

PUBLIC COMMENT GENERAL COMMENTS: ZEO Joseph Larkin, explained the height issue with regards to the flood plain requirements. The structures have to be a foot above the base flood elevation. Richard Bestwick claimed the actual height of the buildings is now 16 feet. Antonio Mastroianni asked for a clarification of the use proposed for the buildings and if it is a commercial use. Jessica Ricker (17 Geiser St.) asked why the structures cannot be moved to the Mystic Ballet School property.

REBUTTAL: Linda Hutter recapped her motives in the application. Attorney Avena believes the record is complete and clear. He said that Mr. Subotic had some business needs and he tried to put those business needs in a residential zone. With these buildings, he had more accessory use square footage than he had primary use. Chairman Rathbun closed the Public Hearing.

Deliberations & Decisions – Current Applications

AAP #11-08 Linda Hutter - Chairman Rathbun, Mr. Berger, Ms. Conway Mr. Rezendes and Mr. Canavan were seated for this vote. Mr. Berger made the motion to approve the application to revoke the zoning permit #11-015ZON. Ms. Conway seconded. The application was unanimously approved.

ZBA #11-05 Frank E. Lionelli (Merrill Lynch) Continued - Chairman Rathbun Mr. Deichmann, Mr. Berger, Mr. Canavan and Mr. Rezendes were seated for this vote. Mr. Deichmann made the motion to deny. Mr. Berger seconded. The motion was unanimously denied.

ZBA#11-07 Harold & Michele Mitchell - Chairman Rathbun, Mr. Berger, Ms. Conway Mr. Rezendes and Mr. Canavan were seated for this vote. Mr. Berger made the motion to approve. Mr. Canavan seconded. The motion was unanimously approved. Ms. Conway wanted it noted that the process of monitoring and measuring these situations prior to being built should be improved.

ZBA #11-09 Ethan & Kay Tower - Chairman Rathbun, Mr. Berger, Ms. Conway Mr. Rezendes and Mr. Canavan were seated for this vote. Mr. Rezendes made the motion to approve. Mr. Canavan seconded. The motion was unanimously approved.

New Business:

a. **ZBA #11-10 Catherine Moffett** – Seeking a variance from ZR 5.1.1 front yard setback from 30' to 4' for an existing shed. Property located at 5 Allyns Alley, Mystic. Assessor's Map 177 Block 7 Lot 9. Zone RA-20.

b. **ZBA #11-11 – Thompson Wyper & Carol Holt** – Seeking a variance from ZR 2.7 minimum lot area, ZR 2.8 undersized lots (adjacent), ZR 2.9 undersized lots (other); to allow property to have buildable status under RH-10 guidelines. Property located at 57 Boulder Ave., Stonington. Assessor's Map 129 Block 16 Lot 2, Zone RM-20.

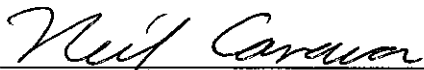
c. **ZBA #11-12 – Carol Holt** – Seeking a variance from ZR 2.7 minimum lot area, ZR 2.8 undersized lots (adjacent), ZR 2.9 undersized lots (other); to allow property to have buildable status under RH-10 guidelines. Property located at Hampton St., Stonington. Assessor's Map 129 Block 16 Lot 4 Zone RM-20.

Mr. Rezendes made the motion to accept the applications for the next meeting. Mr. Canavan seconded the motion and it was unanimously approved.

Administrative Review; None

Review of meeting minutes: 5/10/2011 Mr. Rezendes made the motion to approve the minutes with a correction to the name Tebbets on page 2. Mr. Berger seconded. The minutes were unanimously approved.

Adjournment: Chairman Rathbun adjourned the meeting at 10:28 P.M.



Neil Canavan, Secretary