

TOWN OF STONINGTON
Zoning Board of Appeals
REGULAR MEETING
August 9, 2011
Final Minutes

Chairman Rathbun called the meeting to order at 7:05 p.m. In attendance were Matt Berger, Jack Guyol, Neil Canavan, Lynn Conway and David Rezendes. Fred Deichmann was absent. ZEO Joe Larkin and IWEO Candace Palmer were present.

Public Hearings:

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 Allyn's Alley, Mystic. Assessor's Map 177 Block 7 Lot 9. Zone RA-20.

ZEO Larkin described the violation cited against the shed. Owners Catherine Moffet and Christie Williams explained that the shed was built in 2009. It replaced two existing smaller sheds on their non-conforming Mason's Island lot. Their intention was to improve the appearance and security of their trash and recycling bins, lawnmowers, garden tools and bicycles. They do not have a garage where these items could be placed. The applicants did not realize they needed a permit for the shed. They said they had no other viable location on their non-conforming, corner lot.

PUBLIC COMMENT IN FAVOR: None

PUBLIC COMMENT OPPOSED: Rufus Allyn, president of the Mason's Island Company, stated there is a 10' setback deed restriction for property's on Allyn's Alley.

REBUTTAL: The applicants submitted a copy of their deed which they said had none of the restrictions Mr. Allyn referenced listed on the deed.

Chairman Rathbun closed the Public Hearing.

ZBA #11-13 Peter Watrous Carpentry LLC – Seeking a variance from ZR 5.1.1 to reduce side yard setback from 75' to 25' and reduce the non-infringement area from 100' to 35' for the construction of a single family residence. Property located at Clarence Ave., Pawcatuck. Assessor's Map 10 Block 3 Lot 1 Zone RC-120.

ZEO Larkin stated that the applicant has completed an A-2 survey and has received approval from the Wetlands Commission. The applicant had previously been turned down for this application and now has returned with a downsized plan.

Mr. Watrous stated the hardship is the character of the land with a stream going down the middle of the property. He explained that he has redesigned the plan from a two story house to a single story ranch. In doing research on the property he found an application from 1989. At that time the property was zoned RM-20. If that were still the zone he would not need to apply for a variance. Mr. Watrous stated properties, much smaller than his property of 2.5 acres, in the area were granted variances.

PUBLIC COMMENT IN FAVOR: None

PUBLIC COMMENT AGAINST: Ann Miller, Mary Ann Leonard They felt the size was the same and too close to their house. Diane Donovan inquired about the placement of his septic system.

REBUTTAL: Mr. Watrous rebutted several comments.

Chairman Rathbun closed the Public Hearing.

New Business:

AAP #11-14 Nancy A. Bestwick - Request ZBA revoke the Zoning Enforcement Officer's issuance of Zoning Permit #11-156 ZON to Goran Subotic. Property located at 93 Hewitt Rd., Mystic. Assessor's Map 161 Block 9 Lot 5. Zone RA-20.

Mr. Guyol made the motion to schedule the application for a special meeting in September. Mr. Canavan seconded. The motion was unanimously approved.

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.

Chairman Rathbun recused himself from this public hearing. David Rezendes stepped in as acting chairman. ZEO Larkin stepped down. Candace Palmer was acting ZEO for this application.

Attorney Tom Londregan stated that the history of this property was long and complicated. He gave a review of the application and instructions for the Commission. He asked that Joe Larkin and he be recused to avoid any possible prejudice. Attorney Londregan said Attorney Richard Cody had been retained to represent the Town and Attorney Alan Messier would assist IWEO Candace Palmer.

Candace Palmer reviewed the history of the application.

Ms. Holt reviewed past appellate and superior court decisions. She stated that she bought the property as a buildable lot. The property was listed as a buildable lot in 2005 on the Tax Assessor's card. Ms. Holt would like to bring this building into code compliance and build within the regulations. She feels she is being denied that opportunity. She claimed that 69% of the properties around her exceeded the RH-10 requirements with many exceeding the RH-10 guidelines by more than 30%. She felt she had been excluded from building what 249 houses around her had been able to build. Ms. Holt claimed a 25% lost utility of her property and diminished value.

Mr. Berger asked for clarification regarding her statement of a 25% lost utility of her property. Ms. Holt said if she rebuilt her home to 1600 s.f. she would be losing 25% utility of her property because under the RH-10 regulations she would be allowed 2200 s.f.

Attorney Cody warned that evidence from the applicant might overlap with the application ZBA #11-12. In the interest of the applicant, he asked permission that the introduction of evidence be selected later.

Commission members further pressed Ms. Holt for clarification regarding the variance she was seeking.

PUBLIC COMMENT FOR: David Hopkins, Alex Slater, Martha Slater, Claire Warren
PUBLIC COMMENT AGAINST: Attorney Thomas DeHaggen provided detailed exhibits and comments. Jim Vallillo also spoke in opposition.

PUBLIC COMMENTS GENERAL: Carrie Moran

PUBLIC COMMENTS REBUTTAL: Carol Holt

Mr. Berger made the motion to continue the hearing and would like staff to supply all the information from the record to the Board members. Mr. Canavan seconded. The motion was unanimously approved.

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.

Carol Holt reviewed the history of the vacant corner lot which at one time was considered a buildable lot. However, the lot is not longer considered to be a buildable lot. They would like to build a single family house there. This central issue was 10 foot strip of land which had been conveyed away, making the property under requirements. She discussed case history and various historical zoning issues. Mr. Berger asked what she wanted the variance to be. She stated that she wanted the property to be a buildable lot in the RH-10 meeting.

PUBLIC COMMENT AGAINST: Jim Vallillo.

Mr. Canavan made the motion to continue the Public Hearing. Ms. Conway seconded. The motion was unanimously approved.

Deliberations & Decisions – Current Applications

Old Business

Administrative Review

Review of meeting minutes: 6/14/2011

Adjournment: Mr. Guyol made the motion to adjourn. Mr. Berger seconded. The motion was unanimously approved.



Neil Canavan, Secretary