

**Zoning Board of Appeals
REGULAR MEETING
Final Minutes
October 11, 2011**

Chairman Rathbun called the meeting to order at 7:37 p.m. In attendance were members Frederick Deichmann, David Rezendes, and alternate Virginia McCormick. ZEO Joseph Larkin was also in attendance. Absent were Neil Canavan, Jack Guyol, and Matthew Berger. Chairman Rathbun confirmed with each applicant if they wanted to proceed with their application since there were only four Board members present.

Public Hearings: Chairman Rathbun seated alternate Ms. McCormick for the first two applications

a. **ZBA #11-15 – John & Betsy Perkins** – Seeking a variance from ZR 5.1.1 to reduce rear yard setback from 3.4' to 0' for the installation of a maintenance catwalk. Property located at 43 East Shore Rd., Stonington. Assessor's Map 154 Block 6 Lot 6. Zone RM-20.

ZEO Larkin reviewed the application of a waterfront house at Latimer Point. The house sits on an ocean cliff which restricts access to the front of the building and the ability to maintain the structure

Mr. Perkins described his desire to build a catwalk to allow for access to maintain the hurricane panels and siding for the house. He is requesting a maintenance platform approximately 36 inches by 27 feet. He stated that he has two large decks and is not seeking more deck area.

PUBLIC COMMENT: None

Chairman Rathbun closed the Public Hearing.

b. **ZBA #11-16 Erik & Janet MacPeck** – Seeking a variance from ZR 5.1.1 bulk requirements to reduce the front yard setback and expand the non-conforming structure from 75' to 28.7' for construction of a 5' x 27' deck with railing across front entryway. Property located at 19 Latimer Pt. Rd., Stonington. Assessor's Map 154 Block 1 Lot 1 Zone RC-120.

ZEO Larkin stated that the ZBA granted a variance in 2007 to reduce the front yard setback. Review of the application ZBA #07-12 reveals that the variance was specifically to add 48 sq. ft. of additional footprint and 132 sq. ft.

Robb Schacht spoke for the applicant and described the small building which is residential in use and requested a small deck across the front so that an area can be created which can be snow shoveled. He stated that the hardship is that the whole building is within the 75 foot setback. There is a 4' overhang on the building and this deck would be constructed under the overhang.

The ZEO confirmed that a variance was previously granted for the west side of the house. This variance request for the deck is on the east side of the house.

PUBLIC COMMENT: None

Chairman Rathbun closed the Public Hearing.

AAP-# 11-17 Mark W. Tebbets - Request ZBA revoke the Zoning Enforcement Officer's issuance of Zoning Permit #11-180 ZON to EOF Realty. Property located at 595 Greenhaven Rd., Pawcatuck. Assessor's Map 8 Block 1 & 2 Lot 1 & 1. Zone RA-20.

Lynn Conway arrived at 8:00 p.m. and was seated for this application.

The ZEO reviewed the application regarding the resurfacing and landscaping the parking lot at EOF Realty, which was started but has not been completed within one year. The old Zoning Permit has technically expired. EOF would like to continue the work. He stated that a Site plan usually is good for 5 years. A Site plan was signed in 2005 but due to litigation was stayed and finally approved in 2008, therefore within the 5 year limit. The ZEO signed off on it The ZEO signed off in 2008 because ZR 8.3.2 authorizes this procedure in residential zones. Last year this regulation was amended and it is not clear if the ZEO is still allowed to sign off. On August 23, 2011 the ZEO was informed by his superiors that it was ok to sign off on Zoning Permit #11-180. Mr. Tebbets filed his appeal of that decision on September 7, 2011.

Mark Tebbets reviewed the complicated history of this property. He claimed the property across the street was not a legally permitted parking lot, but was a residential lot. The parking and accessory buildings behind the building are also not legal. In addition there is now an illegal apartment in the building which affects parking space calculations. He claimed there is no manufacturing being done by the Oliver Group at the building. Now it is all office space according to the company's website. Ms. Conway asked about the lot which had previously been for outside storage, which was never permitted. He clarified that the buildings and parking area were all there prior to purchasing his home adjacent to the building. He claimed there are three shifts operating around the clock at the Oliver Group which is disruptive to the neighborhood. Mr. Tebbets had a long list of infractions including the buffer that was stripped away. Commission members clarified that the lot is currently being used for parking.

PUBLIC COMMENTS IN FAVOR: Mrs. Tebbets, Helen Jankowski and Gus Dessaulles,
PUBLIC COMMENTS GENERAL: The ZEO clarified that the 19 car parking lot is in fact permitted but was not finished. He presented a box of documents regarding the property. Ms. Conway asked about the specifics of when the 2008 permit was granted and whether the site was inspected. The ZEO claimed that he was not a lone ranger but worked with the Planning staff and others and has emails and documentation to resolve the issues.

Mr. Rezendes asked the ZEO if he felt the property was in Zoning compliance. Mr. Larkin replied as best as it can be. To his knowledge there was no apartment there. The compliance notice was signed by WEO Candace Palmer. He inquired after the Planning & Zoning Commission's omnibus regulation changes were adopted if he could sign off on it and he was told that he could. Mr. Rezendes reminded the Board that the town attorney did write a letter confirming that this business use was allowed. Ms. McCormick asked about reconfiguring the drainage to include catch basins to capture the oil from the parking lot.

REBUTTAL: Mark Tebbets asked again about the apartment. He asked that the plan be scrutinized and if there is anything irregular that the entire approval be thrown out.

Chairman Rathbun asked the Board if they wanted to continue the Public Hearing. If there is an apartment there parking space calculations would be affected. Chairman Rathbun closed the Public Hearing.

d. ZBA #11-18 Kurt & Elizabeth Hansen – Seeking a variance from ZR 5.1.1 to reduce the front yard setback from 40' to 33.7' and the rear yard setback from 15' to 10' for a proposed addition. Property located at 68 Pequotsepos Rd., Mystic. Assessor's Map 150 Block 1 Lot 3. Zone RA-40.

Due to an error in the advertising of this application the public hearing has been rescheduled to November 8, 2011. The application description will be corrected and re-advertised.

DELIBERATIONS

ZBA #11-15 – John & Betsy Perkins Mr. Rezendes made the motion to approve. Ms. McCormick seconded. Mr. Rezendes withdrew his motion and made the motion to approve with the amendment that the setback be changed from 3.4 feet to .4 feet. Mr. Deichmann seconded. The motion was unanimously approved. Roll Call: Ms. McCormick-for, Mr. Deichmann-for, Mr. Rathbun-for, Mr. Rezendes-for.

ZBA #11-16 Erik & Janet MacPeek, Mr. Deichmann made the motion to approve. Mr. Rezendes seconded. The motion was denied 2 to 2 with 1 abstention. Roll Call: Ms. McCormick-against, Mr. Deichmann- against, Mr. Rathbun-against, Mr. Rezendes-for.

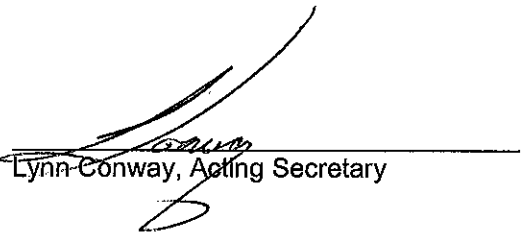
AAP-# 11-17 Mark W. Tebbets - Ms. Conway made the motion to grant the request to revoke the Zoning Officers permit. Ms. McCormick seconded. Ms. Conway thought there were many issues which were not addressed. Mr. Rezendes thought it was simply repaving a previously paved parking lot. Roll Call: Ms. McCormick-for, Mr. Deichmann-for, Mr. Rathbun-for, Ms. Conway-for, Mr. Rezendes-against. The motion to revoke was approved 4 to 1.

New Business

Administrative Review

Review of meeting minutes: 6/14/2011; 8/9/2011; 9/6/2011 & 9/13/2011

Adjournment: Mr. Rezendes made the motion to adjourn the meeting. Mr. Deichmann seconded. The meeting was adjourned at 10:11 P.M.



Lynn Conway, Acting Secretary