

TOWN OF STONINGTON

Zoning Board of Appeals

REGULAR MEETING

Final Minutes

December 13, 2011

Chairman Rathbun called the December 13, 2011, Town of Stonington's Zoning Board of Appeals meeting to order at 7:06 p.m. In attendance were members Frederick Deichmann, Neil Canavan, David Rezendes and alternate Virginia McCormack. Also in attendance was Zoning Enforcement Officer Joe Larkin. Matt Berger, Jack Guyol and Lynn Conway were absent.

Public Hearings:

ZBA #11-19 & CAM Chateau Jaune LLC - Seeking a variance from ZR 3.1.4.2 to reduce the non-infringement area from 100 ft. to 80 ft. from tidal wetland and to reduce the non-infringement area from 100 ft. to 0 ft. from man-made inland wetland. Property located at Latimer Point Rd., Stonington. Assessor's Map 154 Block 1 Lot 2. Zone RC-120.

ZEO Larkin reviewed the application. In 2008 Ann Wilkie, the owner of the property at that time, presented a request to the Planning and Zoning Commission to construct protective retaining walls with stones and boulders located on the site approximately 25 feet landward of the coastal feature. The Commission tabled the application. Ann Wilkie then withdrew the request.

Without the proper approvals, the Wilkie's began site work and built a retaining wall out of boulders on the property and then backfilled it. After inspection by Planning Department and DEP, the owners filed ZBA # 10-06 in May of 2010. No public hearing was held on the application and in August the ZBA application was withdrawn. In August 2010 an Inland Wetlands application (IW #10-17) was filed. On November 2, 2010 Michael Scanlon of DiCesare-Bentley Engineers, submitted a letter withdrawing the application stating that the created wetlands on the property were tidal and not inland wetlands and therefore an Inland Wetlands application is not applicable. In June of 2011 the property was foreclosed upon.

The new owners are now seeking relief for the site work that was conducted on the property without the benefit of proper permits.

Michael Scanlon of DiCesare- Bentley Engineers presented the first variance issue. The previous owners, the Wilkie's, began building without obtaining any permits. They began by basically clear cutting the lot leaving only a couple of large trees. They then proceeded to take the boulders and rocks on the property and line them up as a retaining wall. The retaining wall encroaches into the 100 foot non-infringement area. The Commission took the action it did believing they were protecting an inland wetlands area. A soil scientist was hired to delineate the wetlands and it was discovered that the area was tidal wetlands and not inland wetlands. Therefore an Inland Wetlands application was not necessary.

Soil scientist James Cowan stated that the retaining wall stopped the soil from changing and that there are no inland wetlands on the property. The vegetation is mostly native with minimal invasive species and if the wall were to be removed there would be significant sediment and erosion disturbance.

Board members commented that this site is a disaster. They discussed possible methods for the wall's removal and the impact of the removal.

Mr. Scanlon stated that he had been hired by the Wilkie's to mark the 100 foot non-infringement area. He was not called back as these markers became lost or obscured to remark the area. He argued that the wall actually serves to protect the property from encroachment.

Mr. Scanlon addressed the second variance request which is to reduce the inland wetlands non-infringement area from 100 ft. to 0 ft. from a man-made inland wetland. He described the property on the landward side of the wall as being primarily ledge. The excavated area is poorly drained and compacted fill.

Mr. Larkin asked if there were other inland wetlands on the property. Mr. Scanlon stated there were not.

PUBLIC COMMENT FOR: Bruce Williams said he is a builder and he had found a buyer for the property who would like to hire him to build a house there. However, he stated he did not believe their mortgage application would be approved if these issues have not been resolved.

Mr. Canavan thought there was an advantage to the homeowner to take the additional 20 feet as in the Dodson's application. Mr. Rezendes asked if the wall was structurally stable and Mr. Scanlon stated that it was. It has been there for 3 years.

PUBLIC COMMENT OPPOSED: None

PUBLIC COMMENT GENERAL: Rick Newton, Vice President of Avalonia Land Trust discussed potential for harming endangered bird species such as the piping plovers.

Chairman Rathbun closed the Public Hearing.

Mr. Rezendes made the motion to approve the first variance to reduce the non-infringement area from 100 feet to 80 feet from tidal wetland. Mr. Canavan seconded. Roll Call: Mr. Rezendes-approve, Mr. Deichmann-deny, Mr. Canavan-approve, Ms. McCormack-approve, Mr. Rathbun-deny. There were 3 votes to approve and 2 to deny. The motion failed because a 4 to 1 vote is needed to approve a variance.

Mr. Deichmann made the motion to approve the motion to reduce the non-infringement area from 100 feet to 0 feet from man-made inland wetland. Mr. Canavan seconded. The motion was unanimously approved.

Mr. Rezendes made the motion to approve the CAM to reduce the non-infringement area from 100 feet to 80 feet from man-made inland wetland. The motion was unanimously denied.

Mr. Rezendes made the motion to approve the CAM to reduce the non-infringement area from 100 feet to 0 feet. Mr. Canavan seconded. The motion was unanimously approved.

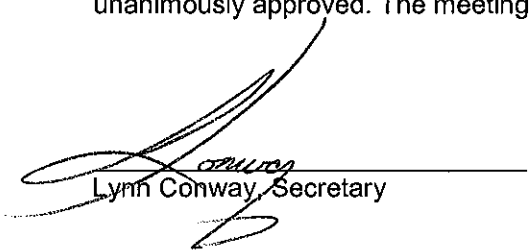
New Business:

ZBA #11-20 Stonington Water Pollution Control Authority- Seeking variances from ZR 7.7 to reduce the required height of the basement from elevation 11 to elevation 6 NAVD; ZR 3.1.4.2 to reduce the Non-Infringement Area from 100 feet to 42 feet; and ZR 5.1.1 Bulk Requirements to reduce rear yard setback from 100 feet to 42 feet, to reduce side yard setback from 75 feet to 46 feet and increase FAR from .04 to .22 to allow construction of improvements to the Mystic WPCA Facility as authorized by referendum. Property locates at 22 Edgemont St. Mystic CT. Assessor's Map 174, Block 20, Lot 1, Zone RC-120.

Review of Meeting Minutes: Mr. Rezendes made the motion to approve the minutes from the November 8, 2011 meeting. The other Board members had not read the minutes so Mr. Rezendes withdrew the motion.

Mr. Deichmann made the motion to accept the new application from the Stonington WPCA. Mr. Canavan seconded. The motion was unanimously approved.

Adjournment: Mr. Rezendes made the motion to adjourn. Mr. Canavan seconded. The motion was unanimously approved. The meeting was adjourned at 8:39 P.M.


Lynn Conway, Secretary