

**TOWN OF MONTVILLE
ZONING BOARD OF APPEALS**

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REGULAR MEETING/PUBLIC HEARING MINUTES

**Regular Meeting/Public Hearing
April 5, 2023, 6:00 p.m.
Town Council Chambers – Town Hall**

The Town of Montville has lifted the mask mandate effective Monday, February 28, 2022, throughout the Town facilities in coordination with the schools. Although the mask mandate has been lifted, Uncas Health strongly recommends that all individuals, both vaccinated and unvaccinated, continue to wear masks indoors. Comments will only be accepted at times designated during public hearings by the Chair of the meeting. The Zoning Board of Appeals Rules of Procedure, decorum, timeliness, and suitability shall be followed and enforced.

1. Call to Order.

Board Chairman MacNeil called the regular meeting of the Zoning Board of Appeals to order at 6:01 p.m.

2. Pledge of Allegiance.

All stood and pledged the flag.

3. Roll Call.

Board Members present were Douglas Adams, Vincent Attwater-Young, Joseph Berardy, Richard Gladue, John MacNeil, and Board Alternate Arthur Montorsi. Board Alternate Russell Wehner was absent. A quorum of the permanent Board members were present so no one needed to be seated.

ZEO Meredith Badalucca was also present for the meeting.

Motion by Board Chairman MacNeil; seconded by Board Member Adams to amend the Agenda and move Items 6.C and 6.D ahead of Item 6.A, per the request of ZEO Badalucca. Discussion: none. Voice vote, 5-0, all in favor. Motion carried.

4. Minutes: Approve the Minutes of the January 4, 2023, Meeting.

Motion by Board Chairman MacNeil; seconded by Board member Adams to approve the Minutes of January 4, 2023. Discussion: none. Voice vote, 5-0, all in favor. Motion carried.

5. Executive Session. -- None

6. Public Hearings/Applications.

- c. **Public Hearing 23 ZBA 2** – Owner/Applicant Shot into the Dark LLC for a variance of Zoning Regulation Section 7.6.3 (rear yard setback) to construct a single family residence a distance of 232 feet from rear property line at Lake Drive (108-065-000 & 108-066-000), Oakdale, CT (*App. Submitted 03/17/2023, Date of Receipt 04/05/2023. Public Hearing must open by 06/09/2023, 35 days to close from date of open.*).

Board Chairman MacNeil asked ZEO Badalucca for the Staff Report and the Abutters List; these items were read into the record by the ZEO.

Staff Exhibits

1. Application and Plans titled “Site Improvement Survey, Property Belonging To: Michael Desautels, Shot into the Dark, LLC, Lake Drive, Montville, Connecticut, Dated December 26, 2022.”
2. Public Hearing Notice published in *The Day* Newspaper on March 24, 2023 and March 31, 2023.
3. Staff Report dated March 20, 2023.
4. Abutters List and Certificate of Mailing receipts dated March 20, 2023.

Staff Report

The properties are two adjacent parcels of undeveloped land located in the R-80 zoning district. Both parcels are legal pre-existing, non-conforming undeveloped lots with regards to lot area and lot frontage. The owner is proposing to combine both lots and develop the combined lot with a single family residence.

The combination of these lots will contain 12,521 square feet of lot area and have approximately 94.72 feet of frontage on Lake Drive and will eliminate one of the two non-conforming lots. The minimum required lot size in this district is 80,000 square feet with a minimum required lot frontage of 180 feet. The required front and rear yard setbacks are 50 feet and the required side yard setback is 20 feet. The maximum building height is 35 feet.

The applicant proposes to construct a 24’ x 36’ single family residence with an on-site septic system and well on the property. The single family residence is proposed to be 23.2 feet from the rear property line as shown on a plan entitled “Site Improvement Survey, Property Belonging To: Michael Desautels, Shot into the Dark, LLC, Lake Drive, Montville, Connecticut, Dated December 26, 2022.”

The applicant states the hardship is as follows: “The Applicant has acquired two (2) adjacent legally non-conforming parcels of land (Assessor’s lot 65 and 66) and combined the same to constitute the same a singular building lot which can satisfy the requirements of the Connecticut Public Health Code. It is not possible to meet the requirements of the setback regulations of the Town of Montville Zoning Ordinance in order to develop the lot for a permitted use; i.e., a single family residence with an on-site septic system and well, without relief from the bulk requirements of the Montville Zoning Regulations due to the legally non-conforming status of the lot. The site

development plan for the development of the combined lots, submitted herewith, has been formulated in order to minimize the relief from the Zoning Regulations required.”

Attorney Harry Heller with an office at 736 Route 32 Montville, who represents the Owner/Applicant, Shot in the Dark, LLC, explained the properties purchased were originally 15 ft x 25 ft. lots for seasonal and lakefront cottages in the 1920’s and the Owner/Applicant owns two (2) adjacent lots. Purchased were three (3) additional lots with 58 ft of lot frontage with a 8,000 sq. ft. lot area that is buildable per the public health code and per the site plan for a single family dwelling requiring relief from the Board as it does not meet the setback requirement. The Owner/Applicant now owns five (5) lots and has proposed to combine the two (2) lots that are preexisting and nonconforming and protected by zoning regulations. Setbacks are required to develop a single family home. After the original plan was submitted, a plan was submitted with a better plan developed with the gable end of the house facing the road. The house was rotated at a 90-degree angle as it had adequate width. The revised plan was submitted to the ZEO this morning (Owner/Applicants Exhibit 1) that houses a standard configuration of the house parallel to the road, not perpendicular to the road decreasing the amount of various from 26.7 ft to 20 ft and making it consistent with the other area homes. For the Board to grant a variance, an unusual hardship must be determined that this property has unlike others generally in the district nor affected by any act of the Owner/Applicant. The variance would allow constructive use of the property via compromise of a legal hardship due an existing knoll reducing the minimum building area on the site and pushing back the grade of the driveway. A CT Supreme Court and an Appellate Court case were cited memorializing support of the variance referencing steep lots and navigation to site a home on the lot thus making it less conforming. Board Chairman MacNeil inquired if DPH test hole data was sought; Attorney Heller responded the site is gravel with an adjoining well not yet approved but reviewed and per DPH Class A and Class B soil does not require footing drains.

Board Chairman MacNeil asked three (3) times if anyone wanted to speak in favor of the application and then three (3) times if anyone wished to speak in opposition of the application. There were no responses. There were also no questions from Board members nor questions to the Owner/Applicant; all were satisfied, nor were there questions for the ZEO.

Motion by Board Chairman MacNeil; seconded by Board Member Adams to close the public hearing for 23 ZBA 2. Discussion: none. Voice vote, 5-0, all in favor. Motion carried.

- d. **Discussion & Decision 23 ZBA 2** – Owner/Applicant Shot in the Dark, LLC for a variance of Zoning Regulation Section 7.6.3 (rear yard setback) to construct a single family residence a distance of 23.2 feet from rear property line at Lake Drive (108-065-000 & 108-066-000), Oakdale, CT *(DRD 65 days from close of public hearing)*.

Motion by Board Chairman MacNeil; seconded by Board Member Adams to GRANT a variance of Zoning Regulations Section 7.6.3 (R-80 District, Minimum Setbacks, Rear Yard) as requested in Application #23 ZBA 2 including supporting documents and as shown on a plan entitled “Site Improvement Survey, Property Belonging To: Michael Desautels, Shot into the Dark, LLC, Lake Drive, Montville, Connecticut, Dated December 26, 2022” as follows: a 20’ variance of the

required 50' Rear Yard setback to allow for the construction of a single family residence 30' from the rear property line.

The findings for the granting of the variances are:

The unique conditions and circumstances associated with the request are not the result of actions of the Applicant taken subsequent to the adoption of the Montville Zoning Regulations and the variance would be in harmony with the general intent & purpose of the Montville Zoning Regulations and would conserve the public health, safety, convenience, welfare and property values; and

The exceptional difficulty or unusual hardship on which the decision is based is as follows: the lots have existed prior to zoning and have been legally pre-existing, non-conforming lots in terms of total lot area and lot frontage. This limits the location of a single family residence on the lot that would meet the required minimum setbacks.

Discussion: Board Chairman MacNeil he conditions and suggestions for the property did not take away use of it; instead, it would benefit it. Roll Call vote: *In favor*: Board Members Adams, Attwater-Young, Berardy, Gladue and MacNeil. *Opposed*: none. 5-0 vote. Motion carried.

- a. **Public Hearing. 23 ZBA 1** – Owner/Applicant Michael T. & Gilda L. Steifel for a variance of Zoning Regulations 13.6 (front & rear yard setbacks) to construct a storage building and storage container a distance of 18 – 20 feet from property lines at 314 Route 163 (082-062-000), Uncasville, CT (*App. Submitted 02/08/2023, Date of Receipt 03/01/2023. Public Hearing must open by 05/05/2023, 35 days to close from date of open.*).

Board Chairman MacNeil asked for the Staff Report and whether abutters had been notified. ZEO Badalucca reported into the record the Exhibit List for the Application and the Staff Report as follows:

Staff Exhibits

1. Application and Plans titled “Conceptual Improvement Plan Prepared for Michael T. Stiefel & Gilda L. Stiefel #314 Route #163, Montville, Connecticut, Dated December 6, 2022.
2. Public Hearing Notice published in *The Day* Newspaper on February 17, 2023 and February 24, 2023.
3. Staff Report dated February 9, 2023.
4. Abutters List and Certificate of Mailing receipts dated February 13, 2023.
5. Public Hearing Notice published in *The Day* Newspaper on March 24, 2023 and March 31, 2023.
6. Certificate of Mailing receipts dated March 21, 2023.

Staff Report

The property is located in the Industrial zoning district on about 0.36 acres (17,320 square feet) and has approximately 294 feet of frontage on Route 163. The property is a legal pre-existing, non-conforming undeveloped lot with regards to its size. The minimum required lot size in this district is 40,000 square feet. The required front and rear yard setbacks are 30 feet each.

The applicant proposes to construct a 30' x 30' storage building and place a 8'x 40' storage container on the property. The storage building is proposed to be 24.5 feet from the front property line and 18 feet from the rear property. The storage container is proposed to be located 20 feet from the front property line and 20 feet from the rear property line. Location of both structures are shown on a plan entitled "Conceptual Improvement Plan Prepared for Michael T. Stiefel & Gilda L. Stiefel, #314 Route #163, Montville, Connecticut, dated December 6, 2022."

In January 2009, the Town of Montville foreclosed on the property and the Planning & Zoning Commission at its April 28, 2009, meeting voted in favor of an 8-24 Review for the sale of the property. The property was sold on December 6, 2012 and most recently sold on November 10, 2022 to the applicant.

The applicant states the hardship is as follows: "The property pre-dates the adoption of the zoning regulations. It was recently sold at auction by the Town of Montville. The existing size and shape of the lot make it difficult to develop given the current setback requirements of the Industrial zone. After applying setback requirements to the property, the area left for a potential structure is slightly less than 20' wide. In order to make use of this property within the industrial district the variances requested are needed."

At the request of the Board Chairman MacNeil, Owner/Applicant Michael Steifel remarked on his intended use of the property but given its size and shape is not developable. Instead, the property will be used to construct a storage container and use of the existing for equipment and product storage for his snowplowing business. The property is ideal as it is six (6) miles from his home. There is also no need for water or sewage per a question from the Board Chairman. The problem was deemed problematic needing to meet building and inlands/wetlands codes. ZEO Badalucca noted the property does not need to meet setbacks. Discussion followed between the Board and the Owner/Applicant about an option that would forego need for a variance; the Owner/Applicant indicated his intentions for the property given his discussion with the person who created the map for storage of his trucks and plows. The proximity of the property to a slope hinders expansion and modifications would require notice to the public. Options for making the property more appealing and easier for resell were considered as part of the Board's job to mention a proposal that would not require a variance

Board Chairman MacNeil asked three (3) times if anyone wished to speak in opposition of the application. He also asked three (3) times if anyone wished to speak in opposition to the application. There were no responses. There were no additional questions for the Applicant or the ZEO.

Motion by Chairman MacNeil; seconded by Board Member Adams to close the Public Hearing, 23 ZBA 1. Discussion: none. Voice vote: 5-0, all in favor. Motion carried.

- b. Discussion & Decision 23 ZBA 1** – Owner/Applicant Michael T. & Gilda L. Steifel for a variance of Zoning Regulations 13.6 (front & rear yard setbacks) to construct a storage building and storage container a distance of 18 – 20 feet from property lines at 314 Route 163 (082-062-000), Uncasville, CT (*DRD 65 days from close of public hearing*).

Motion by Chairman MacNeil; seconded by Board Member Adams to I make a Motion to GRANT a variance of Zoning Regulations Section 13.6 (Industrial District Minimum Setbacks) as requested in Application #23 ZBA 1 including supporting documents and as shown on a plan entitled “Conceptual Improvement Plan Prepared for Michael T. Stiefel & Gilda L. Stiefel, #314 Route #163, Montville, Connecticut, dated December 6, 2022.” As follows: a 10’ variance of the required 30’ Front Yard to allow for the construction of a storage building and location of a storage container.

The findings for the granting of the variances are:

The unique conditions and circumstances associated with the request are not the result of actions of the Applicant taken subsequent to the adoption of the Montville Zoning Regulations and the variance would be in harmony with the general intent & purpose of the Montville Zoning Regulations and would conserve the public health, safety, convenience, welfare and property values; and

The exceptional difficulty or unusual hardship on which the decision is based is as follows: The lot has existed in its present form since prior to zoning and has been a legally pre-existing, non-conforming lot in terms of total lot area. This limits the location and size of structures on the lot that would meet the Industrial Zone required minimum setbacks.

Discussion: ZEO Badalucca noted hardship must be included in the motion. Roll Call Vote: *In favor*: Board Members Adams, Attwater-Young, Berardy, Gladue, and MacNeil, . *Opposed*: None. 5-0 vote. Motion carried.

7. **New Business:** -- *None*

8. **Old Business:** -- *None*

9. **Other Business:**

Board Chairman MacNeil inquired about the training required for the Board members discussed at the January meeting. Board Member Attwater-Young attended an 8-hour training session via Zoom on a Saturday. ZEO Badalucca remarked on seminars given by UConn on different sections that are four (4) hours long—she will send the UConn link to the Board who can take them at their leisure. The Board must get an email confirmation that verifies their registration for the sessions and forward it to the ZEO. One (1) hour of training must be devoted to affordable housing. The Board Chairman noted there is no end of class acknowledgement.

10. Adjournment

Motion by Board Chairman MacNeil; seconded by Board Member Adams, to adjourn the meeting at 6:48 p.m. Discussion, none. Voice vote: 5-0; all in favor. Meeting adjourned.

Respectfully submitted by:

Gloria J. Gathers
Recording Secretary, Town of Montville

**AN AUDIO RECORDING OF THE MEETING IS AVAILABLE ON THE
TOWN WEBSITE.**