

Town of Montville Zoning Board of Appeals
Regular Meeting Minutes of Wednesday, December 5, 2012
Town Hall – Town Council Chambers

1. **Call to Order**

Chairman MacNeil called the regular meeting of the Zoning Board of Appeals to order at 7:02 p.m. after establishing a quorum.

2. **Roll Call**

Present were Board members Adams, Bassetti, alternate Freeman, Lakowski, McNally and MacNeil. Alternate member Wittkofske was absent. Also present was Town Attorney Michael Carey. Chairman MacNeil stated that Alternate Board member Freeman did not have voting rights for the meeting.

3. **New Business -- None**

4. **Public Hearings**

a. Leonard and Kathleen Johnson 212-ZBA-5: An application for variances of Section 4.13.6 for the construction of a garage with a five (5') foot side yard setback (reduced from twenty-five (25') feet required) and a twenty-five (25') foot front yard setback (reduced from sixty (60') feet required) on the property located at 87G Cottage Road, Montville, CT, as shown on Assessor's Map 63 Lot 3.

Chairman MacNeil distributed to Board members a copy of the application and assessor's map pertaining to the request for variances. He also noted and gave to the Board Recording Secretary ("BRC") the in order mailings and notices and aforementioned as exhibits.

Applicant L. Johnson stated that he had previously petitioned the Zoning Board of Appeals ("ZBA") regarding construction of a garage at his Cottage Road property. He spoke of a small man-made wetlands on his property that had been surveyed and flagged to maintain a proper distance from the wetlands and closer to the adjoining St. Thomas property for the proposed garage. He also commented that the location proposed for the garage petitioned previously would have impacted the neighbor on the opposite side of his property and was too near his septic. The current location is a flat area with closer access to private road.

Chairman MacNeil asked three times if there was anyone present who would like to speak in favor of the application. He presented to the BRC as an exhibit a letter of support from a neighbor of the applicants. Susan Mattern of Preston, a surveyor for the applicants, clarified points made by applicant L. Johnson regarding the proximity of the wetlands and dry well and power pole hindrances of the previous location for the garage as opposed to the new location that does not interfere with the wetlands although is

harder for the applicants to access. The applicants and Ms. Mattern responded to questions from the Board regarding the total acreage of the property and lots associated with it and the location of the proposed garage. The applicants presented as an exhibit a copy of their property deed showing the merger of their parcels concurred by Attorneys Carey and Heller.

Chairman MacNeil asked if there was anyone present who would like to speak in opposition to the application. Attorney Harry Heller spoke on behalf of an abutting property owner T. Sanders about alternate locations for placement of the garage with variances as referenced in the case *Greenfield v. Town of Montville*. He presented as exhibits a site plan prepared for the applicants on April 8, 2008 and a wetlands permit issued on May 15, 2012. Attorney Heller spoke in opposition to the variance for the front yard setback and not being warranted based on the alternate design of 2008. The applicants and S. Mattern responded to the same indicating the new design location would make snow removal easier, would be in closer proximity to the common road and would be easier to construct as well as esthetically pleasing. Additionally, health reasons also necessitated the garage placement.

Motion made by Chairman MacNeil, seconded by Board Member Adams to close public hearing 212-ZBA-5; discussion, none; voice vote, 5-0, all in favor, motion carried and the public hearing was closed.

5. Old Business

a. Leonard and Kathleen Johnson 212-ZBA-5: An application for variances of Section 4.13.6 for the construction of a garage with a five (5') foot side yard setback (reduced from twenty-five (25') feet required) and a twenty-five (25') foot front yard setback (reduced from sixty (60') feet required) on the property located at 87G Cottage Road, Montville, CT, as shown on Assessor's Map 63 Lot 3.

Motion made by Chairman MacNeil, seconded by Board Member Adams to deny Application #212-ZBA-5 for 87G Cottage Road, Montville, CT as shown on Assessor's Map 63, Lot 3 because the hardship demonstrated was not sufficient to warrant additional variances when other alternatives were available ; discussion, Chairman MacNeil questioned the applicant's location of the garage and its proximity away from their residence, advocated the use of a plow for snow removal and stated it was the Board's duty to try to reduce variances; Board member Adams stated that health reasons did not qualify as a hardship to which Attorney Carey concurred; Board member McNally commented that a sound variance would be the easiest route for construction; Board member Lakowsky questioned if the location would affect the applicants' neighbors; Chairman MacNeil added that the decision would have been easier if the prior plan had not surfaced; roll call vote; all in favor; 5-0, motion carried and application denied.

6. **Motion**

- a. Acceptance of the minutes from the Regular meeting of June 6, 2012.

Motion made by Chairman MacNeil, seconded by alternate Board member Freeman, to approve the Regular Meeting minutes of June 6, 2012; discussion, none; roll call vote, 5-0; all in favor, motion carried and minutes approved.

7. **Communications** -- None

8. **Other Business**

- a. Approval of 2013 Meeting Calendar.

Motion made by Chairman MacNeil, seconded by alternate Board member Freeman, to approve the 2013 Meeting Calendar; discussion, none; voice vote 5-0, all in favor, motion carried.

- b. Election of officer.

Motion made by Board member McNally; seconded by Board member Lakowsky, to retain John MacNeil as chairman of the Board; discussion, none; roll call vote, 5-0, all in favor; motion carried.

9. **Adjourn**

Motion made by Chairman MacNeil, seconded by Board member McNally to adjourn the meeting at 8:07 p.m., discussion, none; voice vote, 5-0, all in favor, motion carried.

Respectfully Submitted by:

Gloria J. Gathers, Recording Secretary for the Town of Montville.