

Town of Montville
Zoning Board of Appeals
Special Meeting Minutes for Wednesday, April 1, 2015
7:00 p.m. – Town Council Chambers – Town Hall

1. Call to Order:
Chairman MacNeil called the Special Meeting of the Zoning Board of Appeals meeting to order at 7:00 p.m.
2. Roll Call:
Present were Board Members Douglas Adams, Joe Aquitante III, Carl Freeman (Alternate), John MacNeil, and Wills Pike. Absent was Ellen Lakowsky. Board Member Freeman was seated for Board Member Lakowsky. Also present was Assistant Town Planner/Zoning Enforcement Officer Tom Sanders.
3. New Business:
 - a. Election of Officers
Motion made by Board Member Adams, seconded by Board Member Freeman, to maintain the current slate. Discussion: None. Voice vote, 5-0, all in favor. Motion carried.
 - b. Approve the remaining Meeting Dates for 2015.
Motion made by Board Member Adams, seconded by Board Member Aquitante. Discussion: None. Voice vote, 5-0, all in favor. Motion carried.
4. Public Hearings:
 - a. **Christian E. Funk and Donna Bond Funk 215-ZBA-1:** An application requesting the granting of a 14' access strip width variance from requirements of Section 17.20.4 of the Montville Zoning Regulations to allow the creation of a second residential interior building lot at 75 Beckwith Road, Montville, Connecticut. Shown on Assessors Map 018 Proposed lot number to be Lot 006-001

ZEO Officer Sanders reported that all mailings have been completed and are in order. He distributed the Staff Report and explained the location and property owners' request for a variance for this and the following Public Hearing (215-ZBA-2). The granting of the variance for the non-conforming pre-existing property would allow the owners to add an additional lot. The total width of an access point, as required under the Zoning Regulations, is 25' and the total width of the access point of the property is 22.7'. There is an existing easement providing access to the City of New London to the Reservoir as well as the existing home. With the additional property, they would be required to have 50' total (25' for each lot) to accommodate the required access width for both properties. The additional lot will meet or exceed all other requirements of the Zoning Regulations.

Attorney Harry Heller, 736 Route 36, Uncasville, representing the applicants, stated that the applicants are requesting the granting of a variance for a new interior building lot for the following reasons:

- 1) the existence of an unusual hardship with respect to the lot that does not exist to lots generally in the district and
- 2) should the variance be granted, the property would be in harmony with the comprehensive plan that is embodied in the Town's Zoning Regulations and Map and would not be injurious to the health, safety, and welfare of the residents in the area.

The hardship is created by the configuration of the lot, which existed prior to the adoption of the Zoning Regulations and does not contain the necessary lot width at the constriction point to satisfy the 25' continuous strip requirement of Section 17.20.4 of the Regulations. In addition, the existing topographic constraints limit the ability to allow for the creation of a 50' wide continuous maneuverable access drive (25' for each lot) onto the property. There being no prohibition against a shared driveway in the regulations, they are proposing a driveway that would provide access to the Funk's existing home, continue along the right-of-way to the City of New London Reservoirs, and provide access to the proposed home for the Funk's daughter. With the exception of their inability to meet the minimum continuous strip requirement for an interior building lot (Section 17.20.4), both lots comply in all other respects with the Regulations within the Water Resources Protection District (WRP-160), including the lot size and frontage area. The proposed home will be located over 200' away from any boundary lot and no physical impediments exist that would impede access to the property by emergency vehicles.

Atty. Heller requested that the Board incorporate the evidence as presented for this Hearing (215-ZBA-1) for the following hearing (215-ZBA-2), which is an identical request for the lot accommodating the existing dwelling house.

Chairman MacNeil asked three times if there was anyone present who would like to speak in favor of the application.

Chairman MacNeil asked three times if there was anyone who would like to speak in opposition to the application.

ZEO Sanders reported that he received a telephone call from Edith Reagan Fletcher, an abutting property owner, and addressed her concerns regarding the application.

Chairman MacNeil asked if there were any questions or comments from the public.

Zoning Board of Appeals Special Meeting Minutes
Wednesday, April 1, 2015

Jeff Johnson, adjacent property owner, requested a copy of the package that was presented to the Board. In response to Mr. Johnson, Atty. Heller clarified that the granting of the 14' access strip width refers to the amount of relief the applicant is requesting for each lot.

Chairman MacNeil asked if anyone would like to speak in favor or opposition to the application. There being no additional remarks, he asked if there was anyone on the Board who had any questions.

Motion made by Board Member MacNeil, seconded by Board Member Adams, to close the Public Hearing for 215-ZBA-1. Voice vote, 5-0, all in favor. Motion carried.

- b) **Christian E. Funk and Donna Bond Funk 215-ZBA-2:** An application requesting the granting of a 14' access strip width variance from requirements of Section 17.20.4 of the Montville Zoning Regulations to allow the creation of a second residential interior building lot at 75 Beckwith Road, Montville, Connecticut. Shown on Assessors Map 018 Lot 006.

ZEO Sanders stated that the same information presented in the previous application (215-ZBA-1) applies to this application.

Atty. Harry Heller, 736 Route 36, Uncasville, representing the applicants, stated that this is a reciprocal request to the previous Public Hearing with the same issues of hardship, compliance with the comprehensive plan, and issues of health, safety and welfare. He asked that the Board incorporate the record from the first Public Hearing to this Public Hearing.

Chairman MacNeil asked three times if there was anyone present who would like to speak in favor of the application.

Chairman MacNeil asked three times if there was anyone who would like to speak in opposition to the application.

ZEO Sanders entered Mrs. Fletcher's telephone call, as previously presented.

Chairman MacNeil asked if there were any questions or comments from the public.

Chairman MacNeil asked if anyone would like to speak in favor or opposition to the application. There being no additional remarks, he asked if there was anyone on the Board who had any questions.

Motion made by Board Member MacNeil, seconded by Board Member Freeman, to close the Public Hearing for 215-ZBA-1. Voice vote, 5-0, all in favor. Motion carried.

Motion made by Chairman MacNeil, seconded by Board Member Adams, to amend the Agenda and enter into Old Business. Voice vote, 5-0, all in favor. Motion carried.

- c) **Paul E. Chase 215-ZBA-3:** An application for an appeal of the decision of the Zoning Enforcement Officer for the collection of fee for renewal of Zoning Permit #212-006 to Green Falls Associates, LLC for a three bedroom home on the property located at 310 Cherry Lane, (Oakdale) Montville, CT. As shown on Assessor's Map 53 Lot 3.

Copies of the application were distributed to the Board.

Chairman MacNeil stated that, because this is a request to reverse the decision of the Zoning Enforcement Officer, Atty. Michael Carey would be assisting the Board.

Atty. Jon Chase, 34 Church Street, Mystic, representing the appellants, noted that he has confirmed that the requisite mailings to the abutting and adjacent property owners and the property owners, themselves, are in order. In reviewing the publication notice for the Public Hearing, he stated that, though there are two appellants, only Paul E. Chase is noted as the appellant constituting a notice defect. Because the notice does not state the names of both appellants, a short recess was proposed to discuss the issue.

Motion made by Chairman MacNeil, seconded by Board Member Adams, to take a short recess at 7:48 p.m. Voice vote, 5-0, all in favor. The meeting was reconvened at 7:52 p.m.

In conferring with Atty. Chase, Atty. Carey stated that, because the notice defect exposes the parties concerned with a future claim based upon the insufficiency of the notice resulting in the voiding of the proceedings and resulting decision, Atty. Chase has agreed to provide a written consent to the Board to extend the time for the Public Hearing, allowing for the re-publication of the notice as required.

Motion made by Chairman MacNeil, seconded by Board Member Adams, to continue the hearing to May 6, 2015. Voice vote, 5-0, all in favor. Motion carried.

5. Old Business:

- a. **Christian E. Funk and Donna Bond Funk 215-ZBA-1:** An application requesting the granting of a 14' access strip width variance from requirements of Section 17.20.4 of the Montville Zoning Regulations to allow the creation of a second residential interior building lot at 75 Beckwith Road, Montville, Connecticut. Shown on Assessors Map 018 Proposed lot number to be Lot 006-001215-ZBA-1

Motion made by Chairman MacNeil, seconded by Board Member Adams. Discussion: Discussion ensued regarding the need to deliberate upon 215-ZBA-2 prior to voting upon 215-ZBA-1.

Motion made by Chairman MacNeil, seconded by Board Member Adams, to table the motion so that a decision may be made on the primary lot. Voice vote, 5-0, all in favor. *Motion tabled.*

- b. **Christian E. Funk and Donna Bond Funk 215-ZBA-2:** An application requesting the granting of a 14' access strip width variance from requirements of Section 17.20.4 of the Montville Zoning Regulations to allow the creation of a second residential interior building lot at 75 Beckwith Road, Montville, Connecticut. Shown on Assessors Map 018 Lot 006.

Motion made by Chairman MacNeil, seconded by Board Member Freeman, to grant the approval of Application 215-ZBA-2 to reduce the minimum width of the access strip from 25 feet to 11.35 feet as required by Section 17.20.4 of the Zoning Regulations. The findings for granting the variance are:

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

Discussion: Chairman MacNeil noted that the current existing road serving the New London Reservoir does have an access width that is sufficient at the entrance of the driveway from the street, but that the strip narrows resulting in the pinch point, which he would consider an unusual hardship. Roll Call vote, 5-0, all in favor. Voting in Favor: Board Members Adams, Aquitante, Freeman, MacNeil, and Pike. Voting in Opposition: None. Application granted.

Christian E. Funk and Donna Bond Funk 215-ZBA-1: An application requesting the granting of a 14' access strip width variance from requirements of Section 17.20.4 of the Montville Zoning Regulations to allow the creation of a second residential interior building lot at 75 Beckwith Road, Montville, Connecticut. Shown on Assessors Map 018 Proposed lot number to be Lot 006-001215-ZBA-1

Motion made by Chairman MacNeil, seconded by Board Member Freeman, to grant the approval of Application 215-ZBA-1 to reduce the minimum width of the access strip from 25 ft. to 11.35 feet as required by Section 17.20.4 of the Zoning Regulations. The findings for granting the variance are:

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

Zoning Board of Appeals Special Meeting Minutes
Wednesday, April 1, 2015

Discussion: None. Roll Call vote, 5-0, all in favor. Voting in Favor: Board Members Adams, Aquitante, Freeman, MacNeil, and Pike. Voting in Opposition: None. Application granted.

6. Minutes:
 - a. Acceptance of the minutes from the Meeting of October 6, 2014.
Motion made by Board MacNeil, seconded by Board Member Adams. Discussion: None. Voice vote, 5-0, all in favor. Motion carried.
8. Communications – *none*
9. Other Business and Applications to come before the Zoning Board of Appeals – *none*
10. Adjourn:
Motion made by Board Member MacNeil, seconded by Board Member Adams, to adjourn the meeting at 8:01 p.m. Discussion: None. Meeting adjourned.

Respectfully Submitted by:

Agnes Miyuki, Recording Secretary for the Town of Montville

**AN AUDIO RECORD OF THE MEETING IS ON FILE IN THE MONTVILLE TOWN
CLERK'S OFFICE**