

Town of Montville Zoning Board of Appeals
Regular Meeting Minutes – December 7, 2016
Town Hall – Town Council Chambers

1. Call to Order.

Chairman MacNeil opened the regular meeting of the Zoning Board of Appeals at 7:02 p.m.

2. Roll Call.

Present were Board members Joseph Aquitante III, Joseph Berardy, Denise Gladue, Richard Gladue, Alternate Carl Freeman, and Chairman John MacNeil. Also present was Zoning and Wetlands Officer (“ZWO”) Elizabeth “Liz” Burdick. Chairman MacNeil stated that all permanent Board members were present thus Alternate Carl Freeman would not have voting rights.

3. Minutes: Approve the Minutes of the July 6, 2016 Meeting.

Motion by Chairman MacNeil; seconded by Board member Aquitante; to amend the agenda to move Item 3, approval of Minutes of July 6, 2016 following Item 5.A Public Hearing. Discussion, none. Voice vote, 5-0, all in favor. Motion carried.

4. New Business:

- A. #216ZBA04 – 63 Lake Drive (Map 108 Lot 92), Oakdale, CT**—Application of Susan Green for Variances of Zoning Regulations Section 7.6.1 (R-80 Min. Front Yard Setback) and Section 7.6.2 (R-80 Min. Side Yard Setback) to construct a two-story addition and decks. *(PH must be held by February 9, 2016 – DRD 65 Days from Close of PH – Table to January 4, 2017 Regular Meeting.)*

ZWO Burdick reported the applicant had asked that the public hearing be held on February 1, 2016 and recommended the application be received and set for a public hearing on said date.

Motion by Chairman MacNeil; seconded by Board member R. Gladue, to set the public hearing for Application #216ZBA04 to February 1, 2016. Discussion, none. Voice vote: 5-0, all in favor. Motion carried.

- B. #216ZBA05 – 56 Teecomwas Drive (Map 95, Lot 16), Uncasville, CT** Applicant, Amity Construction & Design – Property Owners, Scott & Jennifer Sanford for Variances of Zoning Regulations Section 9.6.1 (R-20 Min. Front Yard Setback) and Section 4.13.6 (Non-Conforming Lots, Uses & Structures – Min. Side Yard Width). *(Table Consideration to After Close of Public Hearing – DRD 65 Days from close of PH.)*

Motion by Chairman MacNeil; seconded by Board member R. Gladue, to table consideration of Application #216ZBA05 until after the Public Hearing. Discussion: none. Voice vote: 5-0, all in favor. Motion carried.

Motion by Chairman MacNeil; seconded by Board member R. Gladue to deny Application #216ZBA05 as follows: After giving due consideration to all relevant factors, including those in Section 22.2 of the Montville Zoning Regulations (“Regulations”) and Sections 8-6 & 8-7 of the Connecticut General Statutes, I make a motion to DENY the variance as requested in Application #216ZBA05 as follows: A 1.7’ variance of the minimum 12.5’ side yard setback required per ZR Sec. 4.13.6 (Non-Conforming Lots, Uses & Structures) and an 8’ variance of the minimum 40’ front yard setback required per ZR Sec. 9.6.1 (R-20 Front Yard Setback) to allow the construction of an addition for a new front porch, new garage, and a new addition to the rear to include a new first floor bedroom, bath, family area, powder room, laundry/utility area and mud room entry from garage, great room and master suites a distance of 10’ to 11.6’ to the easterly side boundary line and 32’ to the southerly front boundary line. Discussion: Chairman MacNeil stated that the reasons for the denial on which said decision is based is that there is no finding of unusual difficulty or exceptional hardship in that the applicant has not stated a hardship—there is a desire for a two-car garage and ADA concerns that are not relevant at this time. There was an applicant that became before the Board a few months ago with a similar situation who realized she had other options that she could consider. That application was denied. Future ADA concerns is not a hardship as ramps can be installed. Regulations exist and were in place when the house was purchased. There is also plenty of property in the rear of the home. Alternate Freeman concurred that the regulations must be complied with as they exist. Board member R. Gladue commented that a 20’ garage would fit their circumstances and a sideyard variance would not be needed, but at present there is not a hardship that exists. Roll call vote: all in favor, Board members Aquitante, Berardy, D. Gladue, R. Gladue, and Chairman MacNeil; 5-0. Motion carried.

Approve the Minutes of the July 6, 2016 Meeting. (Item 3.)

Motion by Chairman MacNeil; seconded by Board member R. Gladue; to approve the July 6, 2016, meeting minutes. Voice vote; 5-0, all in favor. Motion carried.

5. Public Hearing:

- A. **#216ZBA05 – 56 Teecomwas Drive (Map 95, Lot 16), Uncasville, CT** Applicant, Amity Construction & Design – Property Owners, Scott & Jennifer Sanford for Variances of Zoning Regulations Section 9.6.1 (R-20 Min. Front Yard Setback) and Section 4.13.6 (Non-Conforming Lots, Uses & Structures – Min. Side Yard Width).

The Public Hearing began at 7:05 p.m. Chairman MacNeil asked ZWO Burdick whether all notifications were in order pertaining to application #216ZBA05. ZWO Burdick confirmed the dates for the notifications and acknowledged the certified mail receipts stating all legal requirements for the application were met. She then acknowledged applicant’s presence and the applicant’s maps and report attached to her staff report that she read into the record as follows:

Above-referenced application is for: 1. A 1.7' variance of the minimum required 12.5' side yard setback per ZR Sec. 4.13.6 (Non-Conforming Lots, Uses & Structures); and 2. An 8' variance of the minimum required 40' front yard setback per ZR Sec. 9.6.1 (R-20 Front Yard Setback) to allow the construction of an addition for a new front porch, new garage, and a new addition to the rear to include a new first floor bedroom, bath, family area, powder room, laundry/utility area and mud room entry from garage, great room and master suites a distance of 10' to 11.6' to the easterly side boundary line and 32' to the southerly front boundary line.

56 Teecomwas Drive (M95 L16) is an existing, non-conforming lot with regard to lot area (about 11,787SF/.21 acres) and lot frontage (80') and contains an existing single-family residence that is non-conforming with regard to its front yard setback (35.9'). The site is served by public water & sewer.

Applicant proposes to construct a covered front porch and a one-story, 2-car garage and rear addition that will result in the dwelling extending 3.9' further into the front yard and .9' to 1.7' further into the easterly sideyard setback, which setback is already reduced by 2.5 feet per Zoning Regulations Section 4.13.6.

Said Section 4.13.6 gives side yard setback relief to non-conforming lots that have a total lot area or lot frontage less than the minimum required in the district. The R-20 zone requires a minimum 20,000SF of lot area and 100 feet of lot frontage. The subject property has about 11,787SF of lot area and 80 feet of lot frontage, subsequently it is allowed a reduction in sideyard setback by the Regulations to 12.5', but the sum of both sides shall not exceed 33% of the lot width (26.4'). Applicant is requesting the ZBA further reduce the sideyard setback.

The Applicant states, "In summary: The clients desire a stay in town, but want to improve the home for potential future needs and aging in place. As this is an existing nonconforming lot, and the house is located as shown on the site plan, there would be a definite hardship if required to comply with the current regulations. The physical characteristics of the lot dimensions and the topography of the property also contribute to the hardship specific to this lot. The improved property will be in harmony with the neighborhood, and the reduced setback for side yard is reduced only by 1.7 ft. The front set back is already noncompliant as existing and the improvements proposed will be a betterment to the value and function of the home, which also improves the neighborhood values."

Please be advised the plan entitled "Proposed Zoning Location Survey, Prepared for Scott C. & Jennifer Sanford, 56 Teecomwas Drive, Montville, CT, Prepared by Michael J. Riordan, LLS, Dated Sept. 19, 2016, Revised to Nov. 29, 2016" has been revised to address the comments in my original memo dated November 22, 2016.

In closing, C.G.S. Section 8-7 states, in relevant parts, "Whenever a zoning board of appeals grants or denies any special exception or variance in the zoning regulations

applicable to any property ...it shall state upon its records the reason for its decision and the zoning bylaw, ordinance or regulation which is varied in its application or to which an exception is granted and, when a variance is granted, describe specifically the exceptional difficulty or unusual hardship on which its decision is based". [Staff Report concluded]

At the request of Chairman MacNeil, he asked the applicants and their design consultant to come forward and speak on their application. Russ Smith of Amity Construction & Design with an office in Old Lyme, CT, read into the record a summary for the zoning appeal that was attached to the application. Afterwards, R. Smith stated that he also had a letter from neighbors in support of the application, David West and Patty Long of 46 Teecommas Drive. ZWO Burdick stated she had possession of said letter and with the Chairman's permission would enter the letter into the record as Exhibit 1. She then read the neighbors' letter into the record. R. Smith concluded that he has someone in the audience who wanted to speak on behalf of the application as well as additional documents, as needed.

Per discussion, Chairman MacNeil asked why the current setback of 1.7' could not work. Further, he stated that accessibility is not a hardship clarifying that neither of the property owners are handicapped at this time. He also questioned why a one-car garage was not feasible. Chairman MacNeil referenced an applicant that came before the Board a few months earlier who had a similar request but eventually realized that there were other options that were available. R. Smith responded that the property did not have a garage and a two-stacked car or one-car would not work and would compromise the function of the house. When asked by Chairman MacNeil whether the hardship related to not being able to fit a garage, R. Smith responded, "Yes." Chairman MacNeil questioned the applicant further about a porch in the overall combination of proposed improvements. R. Smith stated that all viable points for the application had been stated and asked Chairman MacNeil whether the Board would make a decision this evening. Chairman MacNeil replied, "Yes." He also spoke to the completeness of the application.

Chairman MacNeil then asked whether anyone else wanted to speak in favor of the application. Georgia Tracy, a resident of 53 Teecommas drive for 51 years, stated that the property owners kept their home maintained and in "wonderful" condition. She said she was in favor of the application as it would improve the neighborhood and the owners' home. Chairman MacNeil then asked two times whether anyone was opposed to the application—there were none. The Chairman then asked if there were any other comments. Property owner Scott Sanford spoke stating that his goal was to remain here in Montville. He said that his daughter goes to Tyl Middle School and he has a great family and neighbors. S. Sanford spoke about his odd working hours and about having to park on the street as well as rotate cars with his wife. He concluded that he and his wife had parents in their 90's that they also wanted to accommodate. Chairman MacNeil asked if there any other questions. R. Smith responded that the motivation of the ZBA was to provide for hardship that he felt he presented on behalf of the property owners this evening. Alternate Freeman asked R. Smith to restate his reason for the hardship. R. Smith stated that the

owners' property is an existing, non-conforming lot, lot configuration, size, topography, and placement of house, built before the current regulations were in place.

Motion by Chairman MacNeil; seconded by Commissioner Aquitante to close the Public Hearing at 7:34 p.m. Discussion: none. Voice vote: 5-0, all in favor. Motion carried.

6. **Old Business.** -- None

7. **Communications.** -- None

8 **Other Business.**

A. **Election of Officers.**

Motion by Chairman MacNeil; seconded by Board member R. Gladue; to approve the 2017 Meeting Schedule. Voice vote, 5-0; all in favor. Motion carried.

B. **Election of Officers.**

Motion by Chairman MacNeil; seconded by Board member D. Gladue; to reelect J. McNeil as Board Chairman and Carl Freeman as Vice-chairman of the Zoning Board of Appeals. Voice vote, 5-0; all in favor. Motion carried.

9. **Adjournment**

Motion made by Chairman MacNeil; seconded by Board member R. Gladue, to adjourn the meeting at 7:47 p.m. Discussion, none. Voice vote, 5-0; all in favor. Motion carried.

Respectfully Submitted by:

Gloria J. Gathers
Recording Secretary, Town of Montville

AN AUDIO RECORD IS AVAILABLE THE TOWN CLERK'S OFFICE.