

Town of Montville Zoning Board of Appeals
Regular Meeting Minutes – September 6, 2017
Town Hall – Town Council Chambers

1. Call to Order.

Chairman MacNeil opened the regular meeting of the Zoning Board of Appeals at 7:01p.m.

2. Roll Call.

Present were Board members Joseph Berardy, Denise Gladue, Richard Gladue, alternate Carl Freeman, and Chairman John MacNeil. Also present was Zoning and Wetlands Officer (“ZWO”) Liz Burdick. Board member Joseph Aquitante III was absent.

Chairman MacNeil stated alternate Carl Freeman would be seated as a full member for a quorum of the Board with voting rights.

3. Minutes: Approve the Minutes of the March 1, 2017 Meeting.

Motion by Board member Freeman; seconded by Board member Freeman; to approve the minutes of March 1, 2017, as written. Discussion: The minutes will be revised to reflect the meeting date as March 1, 2017. **Voice vote, 5-0, all in favor. Motion carried.**

4. Executive Session. *None*

5. New Business:

6. Public Hearings/Applications.

- A. Application #217ZBA-02 – 48 Pollys Lane (Map 103, Lot 46), Uncasville, CT – Applicant/Property Owner Glen S. Almeida for Front Yard and Side Yard Variances to Construct an Attached Garage.**

Present was Applicant Glen S. Almeida and his counsel Attorney Harry Heller.

For the record, the staff report for **Application #217ZBA-02 – 48 Pollys Lane (Map 103, Lot 46), Uncasville, CT – Application of Glen S. Almeida for Front Yard and Side Yard Variances to Construct an Attached Garage** is as follows: The above-referenced application is for a 1.67’ variance of the minimum required 40’ front yard setback per ZR Sec. 9.6.1 (R-20 Front Yard Setback) and a 1.77’ variance of the minimum required 15’ side yard setback per ZR Sec. 9.6.2 (R-20 Side Yard Setback) to allow the construction of 24’ x 30’ attached garage located a distance of 31.98’ to the (west) front boundary line and 13.23’ to the (north) side boundary line.

48 Pollys Lane (Map 103, Lot 46) is a legally existing, non-conforming lot located in the R-20 residential zone on .42 acres (18,361SF) with 100.07 feet of frontage on Pollys Lane. The site is developed with a single-family residence that is non-conforming with regard to its front yard setback, which, at its closest point from the front landing, is

located 33.65' to the front boundary line. The site is served by a private well and public sewer.

Applicant proposes to construct an attached, 24' x 30' garage to the existing dwelling, which garage is proposed to be located 31.98' to the front boundary line and 13.23' to the north side boundary line as shown on a plan entitled "Sketch Plan to Accompany Variance Application, Glen S. Almeida, 48 Pollys Lane, Uncasville, CT, Prepared by Mattern & Stefon, Dated August 2017: and more further described on a floor plan, dated September 1, 2017.

The Applicant states, "The property on which the current house sits was created prior to the enactment of zoning regulations in the Town of Montville and is validly non-conforming in area. Due to the configuration of the lot, the placement of the house on the lot prior to the enactment of zoning regulations and the location of the basement egress to the dwelling house, there is no other location on the lot for the placement of an attached garage. The proposed garage cannot be moved further from the street line without compromising ingress to and egress from the basement in the existing dwelling home."

In closing, C.G.S. Section 8-7 state, 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."

ZWO Burdick identified herself for the record and stated that the Notice of Public Hearing was published in *The Day* as required by Connecticut General Statutes on Friday, August 25, 2017, and Friday, September 1, 2017. She also confirmed that the adjacent property owners were noticed per proof of receipt of certified mail submitted to her office. ZWO Burdick then summarized her staff report as written into the hearing minutes stating that the Applicant is asking for two (2) variances as noted in the application. Chairman MacNeil noted, and ZWO Burdick clarified from the staff report map that the relief for the front and side setbacks was measured from stairs and the landing, which are part of the structure.

Attorney Heller, counsel for the Applicant, 736 Route 32, Uncasville, CT presented to the Board two (2) maps, blown up versions of the two (2) maps submitted with the application, therefore not required to be marked as exhibits. ZWO Burdick confirmed the same. In his presentation, Attorney Heller noted the "exceptional difficulty or hardship" as defined by statute concerning the variances requested in the application. He specified that the setbacks would be consistent with the neighborhood and the site plan; would require much less relief to construct on the south side versus the north side of the property; the house was constructed and built closer to the street prior to the enactment of zoning regulations for a R-20 district, and the garage would be moved back so the rear elevation of the house and yard would be in sync with the rear elevation. Attorney Heller

introduced as evidence the original sketch plan dated December 2016 with a proposed 28' x 30' garage with a reduced side yard of 9.87.' Attorney Heller also stated that the 30' depth of the garage was necessary due to the stairwell that would reduce the size of the garage to one bay. For the record, ZWO Burdick introduced the original sketch plan dated December 2016 as Applicant's Exhibit 1.

Chairman MacNeil deemed that Attorney Heller and ZWO Burdick had fully summarized the intent for the application. He then asked three times if anyone wanted to speak in favor of the application—there was no response. He then asked three times if anyone wanted to speak in opposition to the application—there was no response. Chairman MacNeil concluded by asking whether anyone had questions for staff or the Applicant—there were none.

Motion by Chairman MacNeil; seconded by Board member D. Gladue, to close the public hearing for Application #217ZBA-02. Discussion, none. **Voice vote: 5-0, all in favor. Motion carried.**

Motion by Chairman MacNeil; seconded by Board member Freeman, to **GRANT** Application #217ZBA-02 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 and 8-7 of the Connecticut General Statutes, I make a motion to GRANT the variance as requested in Application #217ZBA-02 as follows: 1.67' variance of the minimum required 40' front yard setback per ZR Sec. 9.6.1 (R-20 Front Yard Setback) and a 1.77' variance of the minimum required 15' side yard setback per ZR Sec. 9.6.2 (R-20 Side Yard Setback) to allow the construction of 24' x 30' attached garage located a distance of 31.98' to the (west) front boundary line and 13.23' to the (north) side boundary line. Discussion: Chairman MacNeil addressed the existence of the house before pre-existing non-forming zoning regulations; the adjacent house is closer than the proposed addition and has a similar site line and is less than 2' feet in each direction which is a clear and valid hardship or request.

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 and 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 proximity to the other existing non-conforming structures in the neighborhood and that the topography of the lot is restricted. **Roll Call vote, 4-0-1. In favor: Board members Berardy, Freeman, D. Gladue and MacNeil. Opposed: None. Abstained: R. Gladue. Motion granted.**

B. Application #217ZBA-03 – 1920 Route 32 (Map 99, Lot 44), Uncasville, CT – Applicant, Artfx Signs – Property Owner, Strand Holdings, LLC for variance of Zoning

Regulations Section 20.3.4 (Signs in Commercial Districts – Sign Location) to construct freestanding sign.

The Applicant, Lauren Rosen, of Artfx Signs, was present.

For the record, the staff report for **Application #217ZBA-03 – 1920 Route 32 (Map 99, Lot 44) Uncasville, CT – Applicant, Artfx Signs – Property Owner, Strand Holdings, LLC for variance of Zoning Regulations Section 20.3.4 (Signs in Commercial Districts – Sign Location) to construct a freestanding sign** is as follows:

Above-referenced application is for a 8’ variance of the minimum required 10’ setback from any property line per ZR Sec. 20.3.4 (Signs in Commercial District) to allow the construction of 11’ wide x 18’ high columns, a distance of 2’ southerly front boundary adjacent to Fielding Terrace.

This site is located in the C-1 commercial zone on .63 acres (27,279SF) with 135.35 feet of frontage on CT Route 32 and 200 feet of frontage on Fielding Terrace and the Applicant has constructed a new 5,456SF commercial building with associated parking, drainage, landscaping and lighting.

The Applicant states, “The sign will not be visible and would take up existing parking the lot” if it were constructed 10’ from the boundary line. The site is bounded by two (2) public streets and a portion of the front parking area is, and historically has been, in the State of CT Route 32 Right of Way.

The location of the sign is shown on a plan entitle “Sign Variance Site Plan at 1920 Route 32, Uncasville, CT, Prepared for Stand Holdings, LLC, Prepared by Fedus Engineering, LLC, Dated August 1, 2017.”

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.”

ZWO Burdick identified herself for the record reported that the Notice of Public hearing was published in *The Day* Friday, August 25, 2017, and Friday, September 1, 2017, according to Connecticut General Statutes and she that was in receipt of the certified mail receipts of notices to the abutting property owners. She gave the Board larger sets of the plan for them to share. ZWO Burdick stated the site was approved by Planning & Zoning ten (10) months ago (November 2016) and was the site of the old BT Tile that was demolished and rebuilt. She explained the proposed parking lay out and constraints within the boundary line for a sign that would not impose elimination of existing parking in the lot. ZWO Burdick also said that the building is near completion and the owners

have met with her to devise a location for a visible sign from the Route 32 corridor. Chairman MacNeil asked about the location of the former BT Tile sign but ZWO Burdick she had no knowledge of it during her tenure in the Town.

Applicant Rosen stated that his company is actually entitled Artifacts, Inc. located in the Hartford area and certain parts of the U.S. He stated space for a sign in the lot encompasses 22 feet between the sign and Route 32 and Fielding Terrace left only a few feet between it for parking. Applicant Rosen explained the design for a perpendicular sign with a narrow width of 6 ½' strands. He also stated that 37 parking spaces are needed in the lot. ZWO Burdick reported the sign would be comprised of three (3) parts, "monolithic tryptic" as described by Applicant Rosen. As a point of reference, Applicant Rosen said that his company did the original signs for the Mohegan Sun and its expansion that he described as "an artistic, fun look." Thereafter, Chairman MacNeil asked three times if anyone wanted to speak in favor of the application—there was no response. He then asked three times if anyone wanted to speak in opposition to the application—there was no response. Chairman MacNeil concluded by asking whether anyone had questions for staff or the Applicant. Board member R. Gladue said he had some concern about Route 32 but the plan for the sign seemed fine.

Motion by Chairman MacNeil; seconded by Board member R. Gladue, to close the public hearing for Application #217ZBA-03. Discussion, none. **Voice vote: 5-0, all in favor. Motion carried.**

Motion by Chairman MacNeil; seconded by Board member Freeman, to **GRANT** Application #217ZBA-03 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 and 8-7 of the Connecticut General Statutes, I make a motion to GRANT the variance as requested in Application #217ZBA-03 as follows: a 8' variance of the minimum required 10' setback from any property line per ZR Sec. 20.3.4 (Signs in Commercial District) to allow the construction of 11' wide x 18' high columns, a distance of 2' southerly front boundary adjacent to Fielding Terrace. Discussion: Chairman MacNeil stated the proposed sign looked great and that a sign is for the business is needed. The noted as hardships are the lot, existing building and the State of Connecticut. After the discussion, Chairman MacNeil stated the findings.

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 and 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 proximity to the existing structure to adjacent streets and lack of opportunities for a sign. **Roll Call vote, 5-0; all in favor. Motion granted.**

7. **Old Business.** -- *None*

8 **Other Business.**

ZWO Burdick mentioned the need for a meeting to elect officers and 2018 meeting schedule. Chairman MacNeil said that typically is held after elections in November or even December or January.

9. **Adjournment**

Motion made by Chairman MacNeil; seconded by Board member Freeman, 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 OF THE MEETING IS AVAILABLE ON THE TOWN
WEBSITE.**