

ZONING BOARD OF APPEALS
TOLLAND, CONNECTICUT
REGULAR MEETING MINUTES OF FEBRUARY 25, 2010

MEMBERS PRESENT: Warren McDermott, Chair (effective with 2/25/10 election)
Peggy Boyajian, Vice Chair (effective with 2/25/10 election)
Vin Avino, Secretary (effective with 2/25/10 election)
Robert Green
Stephen Caron

MEMBERS ABSENT: Kuhrt Bidorini, Alternate

OTHERS PRESENT: Steve Lowrey, Zoning Enforcement Officer & Wetlands Agent
Linda Farmer, Director of Planning & Community Development
Beverly Bellody, Director of Human Services

CALL TO ORDER

Ms. Boyajian called the meeting to order at 7:30 p.m. in the Hicks Memorial Municipal Center, 1st Level Community Room. She invited members to make nominations for the election and seating of new officers.

MOTION: Warren McDermott/Vin Avino to open the Public Meeting. Motion was unanimously approved.

MOTION: Vin Avino/Robert Green motion to nominate Warren McDermott for Chair. Mr. McDermott accepted the nomination. A vote was taken and all were in favor. Motion passed.

MOTION: Warren McDermott/Robert Green motion to nominate Peggy Boyajian as Vice Chair and Vin Avino as Secretary. Both Ms. Boyajian and Mr. Avino accepted their nominations. A vote was taken and all were in favor. Motion passed.

Mr. McDermott explained the two part process of the meetings. Mr. Avino read the legal ad.

PUBLIC HEARING

1. ZBA #10-1 – Town of Tolland: 15 Old Post Road. Variance from Sec. 170-43. D. to allow an existing house to be 11.7’ from the streetline of a planned road, the required setback is 40’.

Linda Farmer, Director of Planning and Community Development and Beverly Bellody, Director of Human Services both attended for the Town of Tolland. Ms. Farmer explained that the Town is in the process of purchasing 7.2 acres of property at 15 Old Post Road. The Town is exempt from zoning and this property has a little over 40’ of frontage. However, after doing an A-2 survey, it was found that the property line was not exactly where it was originally thought. At last month’s meeting, the ZBA granted the Town a variance to allow a sideyard to be 11.7’ from a house, where 15’ are required in the Village Center Zone. At that

time the Town was also requesting the ZBA grant a variance to allow a house to be 11.7' from the streetline of a planned road when the required setback is 40'.

Ms. Farmer said that initially this entry will be an access road to elderly housing, but it is planned to ultimately become a road. She said last month Vin Avino had questioned if it would be necessary to grant this second variance as the regulations may change by the time the access road becomes a town road. Ms. Farmer said in the purchase and sale agreement, it was agreed that the Town of Tolland as the buyer must get the appropriate variances, so that there does not become a situation where the seller would have to come before the Board for that variance himself. Ms. Farmer further explained that because the seller signed the agreement, it is understood that he is in agreement with the Town's request for the variance.

Ms. Boyajian asked Mr. Lowrey if they granted the variance, but it is not acted upon in a year's time, would the variance become void. Mr. Lowrey said it would only become void if the variance was not filed with the Town. If they were granted the variance and it was filed, they do not have a time limit on which to act. Beverly Bellody, Director of Human Services said she would expect the variance would be helpful to have when applying for the HUD grant as well.

Mr. Avino said his only concern would be that the centerline of the road be 25' from the easterly boundary line of the lot to be sold to the town. There was no other discussion on this application.

2. ZBA #09-1 – Lloyd and Jane Bahler: 97 Cook Road. Appeal from the Zoning Officer's Order to: 1) remove an Outdoor Wood-burning Furnace pursuant to Sec. 170-84 B., and 2) remove an accessory building erected without a permit, pursuant to Sec. 170-85 B. and 170-124. The Bahlers are also seeking variances from Sec. 170-84 B & Sec. 170-85B. should the appeal fail.

The applicants and their representative were not present at this hearing. Mr. Lowrey said he spoke with the Town Attorney, Rick Conti, and asked him a few questions. Mr. Lowrey said Attorney Conti advised that the town does have the authority under 8-2 of the Connecticut General Statutes to regulate outdoor woodburning furnaces (OWFs), because the PZC can enact legislation for the health, safety, and welfare of the Town.

Mr. Lowrey said Attorney Conti would like to do further research before advising whether or not the town can prohibit OWFs entirely. He said the law does not say the town can or cannot further regulate them. It was also noted that none of the towns in Connecticut who have an ordinance to prohibit them has ever been sued on the matter.

After talking with Attorney Bruce Fader, the applicant's counsel, Mr. Lowrey said he was not yet ready to discuss the application and they agreed it would not be worthwhile to only discuss a portion of the application. Attorney Fader has sent an email which gives his client's consent to continue the hearing to March 25, 2010.

MOTION: Vin Avino/Peggy Boyajian to table ZBA 09-1 to the March 25, 2010 meeting. Motion was unanimously approved.

MOTION: Peggy Boyajian/Vin Avino to close the Public Hearing portion of the meeting. Motion was unanimously approved.

BUSINESS MEETING

1. ZBA# 10-1 – Town of Tolland: 15 Old Post Road. Variance from Sec. 170-43.D. to allow an existing house to be 11.7' from the streetline of a planned road, the required setback is 40'. There were no further questions or comment on this application.

MOTION: Vin Avino/Peggy Boyajian to grant a variance from Sec. 170-43.D. to allow an existing house to be 11.7' from the streetline of a planned road, where the required setback is 40'. A condition of the variance is to place the road within the 40' ROW, skewed westerly from the house so the centerline of the road will be 25' from the easterly boundary line of the lot to be sold to the Town. The hardship is due to the position of the house on the lot and the availability of access to the property. A vote was taken and the motion was unanimously approved.

ACCEPTANCE OF MINUTES

MOTION: Vin Avino/Steve Caron motion to approve the minutes of the January 28, 2010 meeting. Motion was unanimously approved.

GENERAL

1. Mr. McDermott said he would like alternates to plan to attend all meetings in the future. Mr. Caron asked who he should notify if there was a reason that he could not attend. He was advised to either contact Steve Lowrey in the Planning Office or Warren McDermott, Chair.
2. Ms. Farmer provided copies of a memo she has sent to all Boards and Commissions served by the Development Group that spells out the realities of a reduced staff and the demands placed on them. She acknowledged that the level of support may need to drop off somewhat, but said they will do their best to provide assistance in a timely fashion. She asked that Boards and Commissions can assist the Development Group by prioritizing their needs.

ADJOURNMENT

MOTION: Peggy Boyajian/Vin Avino motion to adjourn the meeting and pay the clerk at 7:53p.m. Motion was unanimously approved.

Respectfully submitted,

Annie Gentile
Clerk