

ZONING BOARD OF APPEALS
TOLLAND, CONNECTICUT
REGULAR MEETING MINUTES OF JUNE 23, 2011

MEMBERS PRESENT: Warren McDermott, Chair
Peggy Boyajian, Vice Chair
Vin Avino, Secretary
Robert Green
Stephen Caron

MEMBERS ABSENT: Bill Eccles, Alternate
Kuhrt Bidorini, Alternate

OTHERS PRESENT: Stephen Lowrey, Zoning Enforcement Officer & Wetlands Agent
William and Terry Troy, residents

1. **CALL TO ORDER:** Warren McDermott, Chair, called the meeting to order at 7:45p.m. in Council Chambers. He explained the two-part process of the meeting and confirmed the Board members had visited the sites. Mr. Avino read the legal notice into the record. Mr. McDermott noted that ZBA Application 11-9 was withdrawn.

MOTION: Robert Green/Vin Avino to open the Public Hearing. Motion was unanimously approved.

2. PUBLIC HEARING

- A. ZBA #11-8 Frank Staples: 81 Virginia Lane, Variance from Sec. 170-85.B.1 to allow a raised deck to be 16' from the side property line and 71' from the streetline where 25' and 75' respectively, are required.

Mr. Staples was not in attendance at the Public Hearing.

The hearing was opened to public comment. William and Terry Troy of 89 Virginia Lane submitted a letter to the Board. Mr. Troy read the letter which indicated he and his wife live directly next door to the Staples and oppose approval of the requested variance. Mr. Troy said the location of the structure violates their property rights by 9 feet and the town's property rights by 4 feet. He said they feel if the structure is allowed to stay in its current location, it will negatively impact the resale value of their home and they would like the structure removed. Mr. Troy said that Mr. Staples brought in a contractor to build the structure.

Mr. Lowrey said he had sent Mr. Staples two cease and desist orders. Mr. Troy asked what would happen if the Board voted to deny the variance application. Mr. McDermott said Mr. Staples then would have to take the structure down. Ms. Boyajian said they could also move the structure to a location within the allowable setbacks. Mrs. Troy asked what time period Mr. Staples would be allowed to accomplish this if the variance was denied. Mr. Lowrey said he would allow two weeks to do this, after which if Mr. Staples did not take the structure down, the matter would be referred to the town attorney. Mr. Lowrey said the sanitarian had asked Mr. Staples to locate his leach field, but that has not been done, so the town does not know if the present location of the structure or any other location on the property is far enough away from the field.

Ms. Boyajian asked what would happen if the Board voted to deny based on an unknown location of the leach field. Mr. Lowrey said State law says the Board would not have to hear a second request for a variance for six months, unless there is a significant difference in facts. Mr. McDermott noted that if the applicant moved the structure back 9' and 4' respectively to be within allowable setbacks, the undetermined location of the leach field would still be an issue.

There were no other questions or comments.

- B. ZBA #11-10 – Town of Tolland: 227 Hartford Turnpike; Variance from Sec. 170-52.A & C to allow a non-conforming lot to be reduced in size from .273 acres to .256 acres, and the setback from the streetline of Industrial Park Road West to be reduced to 16.7'.

Steve Lowrey, Zoning Enforcement Officer, representing the Town of Tolland provided a map and certifications of mailings.

Mr. Lowrey said the Town purchased the subject property in 2003 for the purpose of using part of the property to increase the radius of Industrial Park Road West. The tight turn created a problem for tractor trailers entering Industrial Park Road West. The town therefore widened the intersection and the State eventually installed a traffic light. Mr. Lowrey said the Town would like to divest itself of the property. He said a new leach field was put in a few years ago and a sewer line is not applicable there.

Mr. Lowrey said the sanitarian has approved making the property smaller. He added that he believes there is a buyer for the property but the buyer would not want the property with a town road located on it. Therefore, the town is requesting a variance, and to radius the road they would need to cut the property by 17/1000 of an acre and reduce the street setback along Industrial Park Road West. Mr. Lowrey said the hardship is because the radius had to be increased to accommodate the type of traffic from Industrial Park Road West and the fact that the road was already there.

Ms. Boyajian asked Mr. Lowrey if the town is asking the Board to make a non-conforming lot even more non-conforming. Mr. Lowrey said this is the case, but it is

within their purview to do so. Ms. Boyajian asked if the lot would remain residential. Mr. Lowrey said it is in a commercial zone, so it could be used as a commercial property; however, with very limited parking, the most it could accommodate would be a very small office.

There were no other questions or comments.

MOTION: Steve Caron/Robert Green to close the Public Hearing. Motion was unanimously approved.

MOTION: Peg Boyajian/Robert Green to Open the Business Meeting. Motion was unanimously approved.

3. BUSINESS MEETING

- A. ZBA #11-8 Frank Staples: 81 Virginia Lane, Variance from Sec. 170-85.B.1 to allow a raised deck to be 16' from the side property line and 71' from the streetline where 25' and 75' respectively, are required.

Ms. Boyajian said her initial feelings are that the structure under discussion is a free standing structure, not attached to any tree, and that it should be moved. Mr. Avino agreed saying there are other trees on the property within the allowable setbacks where it could be moved to. Mr. McDermott said there is ample wooded area on the property to move the structure.

MOTION: Peg Boyajian/Steve Caron to deny ZBA #11-8 as the property does not have any restrictions that prevent the structure from being moved to conform to established setbacks. Motion was unanimously approved.

- B. ZBA #11-10 – Town of Tolland: 227 Hartford Turnpike; Variance from Sec. 170-52.A & C to allow a non-conforming lot to be reduced in size from .273 acres to .256 acres, and the setback from the streetline of Industrial Park Road West to be reduced to 16.7'.

MOTION: Peg Boyajian/Steve Caron to approve ZBA #11-10 to allow a non-conforming lot to be reduced in size from .273 acres to .256 acres, and the setback from the streetline of Industrial Park Road West to be reduced to 16.7'. The hardship is due to the configuration of the lot, the position of the house on the lot, the location of the Industrial Park and the safety factor regarding the road radius. Motion was unanimously approved.

MOTION: Robert Green/Peg Boyajian to close the Business Meeting. Motion was unanimously approved.

4. ACCEPTANCE OF MINUTES

MOTION: Peg Boyajian/Robert Green to accept the minutes of the May 26, 2011 ZBA meeting. Motion was unanimously approved.

5. GENERAL – EXECUTIVE SESSION

MOTION: Peg Boyajian/Steve Caron to enter into Executive Session at 8:05p.m. to discuss pending litigation. Motion was unanimously approved.

MOTION: Peg Boyajian/Steve Caron to exit Executive Session at 8:21p.m. Motion was unanimously approved.

6. ADJOURNMENT

MOTION: Peg Boyajian/Steve Caron to adjourn the meeting and pay the clerk at 8:22p.m. Motion was unanimously approved.

Respectfully submitted,

Annie Gentile
Clerk