

ZONING BOARD OF APPEALS
TOLLAND, CONNECTICUT
REGULAR MEETING MINUTES OF SEPTEMBER 22, 2011

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

MEMBERS ABSENT: Kuhrt Bidorini, Alternate

OTHERS PRESENT: Stephen Lowrey, Zoning Enforcement Officer & Wetlands Agent
Linda Farmer, Director of Planning & Community Development
Applicants

CALL TO ORDER

Mr. McDermott called the meeting to order at 7:30p.m. in Council Chambers. He explained the two-part process of the meeting and confirmed all Board members had visited the sites. Mr. Avino read the legal notice into the record.

MOTION: Peg Boyajian/Steve Caron motion to open the Public Hearing. Motion was unanimously approved.

PUBLIC HEARING

1. ZBA #11-14 – Collin & Julie Fluckiger; 63 Virginia Lane; Variance from Sec. 5-4.E. to allow an 8' x 16' front porch to be 37' from the front property line where 40' are required. Julie and Collin Fluckiger attended the hearing and turned in receipts showing notifications to neighbors. Ms. Fluckiger said they are proposing to build a front porch 16' wide by 8' deep and they presented a plot plan. There is a another addition going onto the house that did not require a variance and that will tie everything together. She said right now, if you open the front door to let someone in, the person has to step back to allow room for the door. Therefore they need the porch to be a little deeper and the 3' extra exceeds the allowable distance to the front property line by 3 feet.

There were no questions from the Board and no questions or comments from the public.

MOTION: Peg Boyajian/Steve Caron to close the Public Hearing. Motion was unanimously approved.

MOTION: Vin Avino/Peg Boyajian to open the Business Meeting. Motion was unanimously approved.

BUSINESS MEETING

1. ZBA #11-14 – Collin & Julie Fluckiger: 63 Virginia Lane; Variance from Sec. 5-4.E. to allow an 8' x 16' front porch to be 37' from the front property line where 40' are required.

MOTION: Peg Boyajian/Vin Avino motion to approve ZBA App. #11-14 to allow a front porch to be built onto the existing house at 63 Virginia Lane to be no closer than 37' from the front property line, the hardship due to the position of the house on the lot and the size of the lot. Motion was unanimously approved.

2. ZBA #10-8 Betty Webber: 124 Browns Bridge Road; Discussion and possible ruling concerning whether this address has complied with the conditions set forth at the September 23, 2010 meeting. Bob Green recused himself and Mr. McDermott seated Bill Eccles for this discussion.

Mr. Avino said he visited the site and could see there were additional plantings of Christmas trees and other plants. Mr. Caron said he thought there were more plantings than last year, so there has been some progress. Mr. McDermott said he visited the site twice and asked if the applicant is required to have two acres of agricultural cultivation. Mr. Lowrey read the definition of a farm, which is a tract of land a minimum of two acres that is used principally for agriculture. Ms. Boyajian said she expected there to be more plantings and it didn't appear that there is an intention to make the farming on the property viable. Mr. Avino said it is hard to determine how someone might conduct a business. Ms. Boyajian said she would expect the objective is to make a profit. Mr. Eccles said they have to determine if this is an agricultural use of this property.

Mr. Caron said he looked in the garage building and there appeared to be a truck and a lawn mower—not a commercial mower, but one to mow the property. Mr. Eccles said it looked like there was either a small farm or very large garden on the property. Mr. Avino said he feels what is presently on the property meets the requirement of agricultural use.

Mr. Lowrey noted that they have a lot of farms in town that have faded away. However, this farm use has just been established and so he would expect it should not fade away any time soon or it would be easy to question why it was established in the first place. He suggested any affirmative motion should mention that. He said if someone is claiming an agricultural use on a property just to justify the existence of a building on the property, then it should not disappear soon. Mr. McDermott agreed that there did not appear to be a good effort to expand the agricultural use.

Ms. Boyajian asked if the town ever sets a schedule by which an agricultural use must meet to determine if properties are in compliance. Mr. Lowrey was asked to get the minutes of the

September, 2010 to see what requirements were asked of the applicant. Mr. Avino read the September 23, 2010 meeting minutes related to this application into the record.

Joe Matteis, the property owner, brought receipts for the extra plantings he purchased since the Board last met and discussed this matter. He said he has planted 300 Christmas trees, 50 white pines, 100 miscellaneous plants, such as hostas, lilies and irises. He said he also planted pumpkins but they were destroyed by deer. He also got a sales tax identification number for farming under Brookside Acres. Mr. Matteis said he also has another two acres of tillable land that he is attempting to grow pumpkins on and he has gotten an agri-viability grant for deer fencing to protect the pumpkin crop. He said he cannot make an income until he has a tax identification number and then the State gives you two years to make a certain amount of money. He said the pumpkins are a way to make money quickly, while the Christmas trees take 5 to 7 years to be able to sell, so that is more a long term goal.

Mr. Avino and Ms. Boyajian said it appears he has a business plan laid out. Mr. McDermott agreed saying the intention for a business appears to be valid.

MOTION: Peg Boyajian/Bill Eccles to eliminate the Cease and Desist order for ZBA #10-8 as the property owner has demonstrated an intention and plan for an agricultural use of the property, and therefore it justifies the building on the property to not be in violation of the zoning regulations. Motion unanimously approved.

Mr. Lowrey said he will put an advertisement in the newspaper to close this out. He recommended that the applicant keep the landscaping equipment off the property and separate from the farming operation and to remove the landscaping signs and to change the name on the mailbox. Mr. Lowrey also asked Mr. Matteis if he needed to get a Certificate of Occupancy on the building. Because the town has a new Building Official, Mr. Lowrey said he will have him call Mr. Matteis to arrange an inspection of the building.

Mr. McDermott unseated Bill Eccles and reseated Bob Green for the remainder of the meeting.

ACCEPTANCE OF MINUTES - Approve minutes of August 23, 2011.

MOTION: Vin Avino/Peg Boyajian to approve the minutes of the August 23, 2011 meeting. Motion was unanimously approved.

EXECUTIVE SESSION

MOTION: Steve Caron/Vin Avino motion to enter into Executive Session at 8:15p.m. to discuss pending litigation and to invite Steve Lowrey and Linda Farmer into the meeting. Motion was unanimously approved.

MOTION: Peg Boyajian/Bob Green to exit Executive Session at 8:43 p.m.

MOTION: Bob Green/Steve Caron to accept the settlement agreement for Bahler vs Tolland ZBA dated September 15, 2011. The agreement includes a required chimney height of no less than 30', restricting the burning period to between October 1 and May 1, burning only seasoned wood, wood pellets or other materials allowed in 22A-174K of the Connecticut General Statutes and all other items specified in the September 15, 2011 settlement document. Motion was unanimously approved.

GENERAL

Linda Farmer, Director of Planning and Community Development said the Planning and Zoning Commission has been discussing allowing the keeping of chickens as an As-of-Right use on lots as small as one acre; no roosters will be allowed. This will go to Public Hearing on October 24, 2011.

ADJOURNMENT

MOTION: Vin Avino/Peg Boyajian to adjourn the meeting and pay the clerk at 8:50p.m. Motion was unanimously approved.

Respectfully submitted,

Annie Gentile
Clerk