

MINUTES
TOWN OF GROTON
ZONING BOARD OF APPEALS
NOVEMBER 18, 2015 - 7:00 P.M.
TOWN HALL ANNEX - COMMUNITY ROOM 2

Chairman Stebbins called the meeting to order at 7:00 p.m.

I. ROLL CALL

Regular members present: Stebbins, Manning, Grady, Russotto, Kravits
Absent: Mencer
Staff present: Cullen, Allen, Silsby

Public hearing procedures were reviewed by Chairman Stebbins. Manning stated that the public hearing for ZBA#15-15 will be postponed until the next meeting on December 9, 2015, as the Applicant missed the mailings deadline.

MOTION: To postpone the public hearing for ZBA#15-15

Motion made by Scott, seconded by Grady, so voted unanimously

II. PUBLIC HEARING

1. ZBA#15-14 - 13 Water Street, Mystic, Ledge Real Estate, LLC/Owner, for a variance to Section 5.2 to allow zero feet instead of 10 feet for the front yard setback and to allow 4.1 feet instead of 10 feet for a side yard setback. PIN#261918306235, WDD zone.

Secretary Manning read the call of the hearing and stated that the mailings are in order.

Dan Meiser, 396 North Main Street, Stonington, representing Mystic Ledge Real Estate and Architect Matthew Williams, 897 Boston Post Road, Madison, CT were present for this application. Meiser reviewed the plans to enclose the outdoor seating area. There will be no changes in footprint. He noted that the application to the Historic District Commission (HDC) has been approved. The intent is to use the dining area in that location year round.

Williams reviewed the plans, pointing out that the large amount of ledge that exists on the property has caused a hardship. Setbacks were reviewed. Concerns raised by the Planning Commission about having more visibility from the street were addressed. Details were given about the original lot line agreement and coverage limits. Photos, sketches and architectural plans were presented. Specifics were given about the concrete wall, the loading platform, roof line, and profile of the building. Williams noted that the HDC felt this plan is a positive one and pointed out the importance of keeping the outer wall in line with other nearby buildings.

Manning noted the following exhibits:

- Exhibit 1 - Site plans
- Exhibit 2 - Architectural plans
- Exhibit 3 - Seven (7) photos

Discussion followed about the intent of enclosing the outdoor seating area. Grady expressed concerns about the intensification of use and asked Staff for clarification.

Williams referred to changes in regulations since site plan approval was given to the Oyster Club. Staff gave background information about the original building, which was built in 1902. Information was given about the party line agreement. The Board asked why this variance request has come to them since no changes in setbacks are being requested. Staff explained why and noted that a special permit and site plans had previously been approved.

Setbacks and regulations were discussed. Concerns were raised about covering an existing patio that is not considered a structure. The Board did not see a hardship due to existing ledge. Information was given about the WDD zone. The existing lot line agreement was discussed. Regulations were reviewed and concerns were raised about a lack of hardship. Staff stated that the owner is not above the lot coverage limit.

Staff referred to the MacKenzie Court Decision from 2013, which has to do with granting relief to properties in the WDD zone. Staff explained the Town Attorney's opinion, that any relief or exception of zoning regulations should be decided by the Zoning Board of Appeals and not the Planning Commission. Board members continued to express concerns as to why this application has been brought to the Board.

Chairman Stebbins asked the public if anyone would like to speak in favor or against this application.

Jim Mathias who resides at the Powerhouse, inquired about the sidewalk and curb location.

Secretary Manning read the Planning Commission memo dated 11/17/15, whereby concerns were raised by the Planning Commission.

The Public Hearing closed at 7:45 p.m.

2. ZBA#15-15 - 120 Walker Hill Road, Community of Hope/Owner, for a variance to Section 2 (Definitions) to vary the definition of family to allow 12 persons instead of 8 persons to be housed in the existing two family home. PIN#168911554431, R-12 zone.

The public hearing has been postponed until the next meeting scheduled on December 9, 2015, as the Applicant missed the mailings deadline.

III. MEETING FOLLOWING PUBLIC HEARING

1. ZBA#15-14 - 13 Water Street, Mystic, Ledge Real Estate, LLC/Owner

Discussion followed about the history of the original foundation, footprint, setbacks, and how the property has evolved throughout the years. Concerns were reiterated about the front foundation and how the MacKenzie Decision has affected the role of the Zoning Board of Appeals. The lack of hardship was expressed.

Russotto explained that the hardship is in the "process". He feels that if the owner needs a variance now, they should have needed a variance originally. He

pointed out that it would be unfair to the applicants because the rules have changed in recent years.

Stebbins doesn't feel there is an intensification of use as the foundation is already permanent. Grady again expressed her belief that this is an intensification of use and that there is a lack of a hardship.

How procedures have changed over the years was discussed. Parking problems in downtown Mystic were brought up.

Manning noted how well the establishment/restaurant is doing.

Stebbins agreed with Russotto about the hardship being in the process. He too noted that no footprint changes are being made.

Russotto reiterated that the hardship has been created by the situation and the new court decision that is in place.

MOTION: To grant a variance as requested

Motion made by Russotto, seconded by Kravits, so voted 4 -1 (Grady). Motion Carried

IV. CORRESPONDENCE

Staff distributed the approved 2016 meeting schedule.

V. APPROVAL OF MINUTES

1. October 14, 2015

MOTION: To adopt the minutes of October 14, 2015 as written

Motion made by Russotto, seconded by Grady, so voted unanimously

VI. OLD BUSINESS

Staff stated that members of Christ United Church are present to request clarification as to why their variance was denied at the last meeting. Staff distributed information about Pequot Health Center signs and variances that were previously granted.

The Board stated that any discussion on this subject should not take place outside of a public hearing. The Board referred church members to the ZBA minutes of 10/14/2015 and requested Staff to provide a copy.

VII. NEW BUSINESS

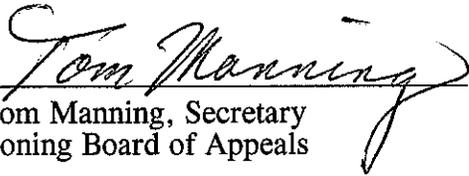
1. New Applications

Staff noted that the public hearing for the Community of Hope application will be held on December 9, 2015.

VIII. REPORT OF STAFF - None.

IX. ADJOURNMENT

Motion to adjourn at 8:25 p.m. made by Grady, seconded by Russotto, so voted unanimously.


Tom Manning, Secretary
Zoning Board of Appeals

Prepared by Robin Silsby
Office Assistant II