

ZONING BOARD OF APPEALS
MINUTES
JUNE 10, 2015
TOWN HALL ANNEX – COMMUNITY ROOM 1

Chairman Stebbins called the meeting to order at 7:02 p.m.

I. ROLL CALL

Present: Grady, Kravits, Manning, Mencer (7:05), Stebbins, Russotto

Absent:

Staff: Cullen, Attorney Edward O'Connell, Gilot

Chairman Stebbins called the meeting to order at 7:02 p.m. and explained the public hearing procedures.

The Chairman stated that he was informed this evening that a lawsuit was filed against the Town by Stonington Behavioral Health. The Town's insurance attorney, Mr. Girard requested to meet with the Board in executive session.

Motion to add executive session to the agenda was made by Manning and seconded by Russotto. Board member Grady will sit on the two new public hearings. After the second public hearing of the evening is heard, the Board will go to executive session. Motion passed unanimously.

II. PUBLIC HEARINGS

1. ZBA#15-05 - 15 Oakland Court, Andrew and Donna Klucky/Owners, Suburban Remodelers/Applicant, for a variance to Section 5.2 to allow 8 feet instead of 12 feet required for a side yard setback for a residential addition. PIN#169811669778, R-12 zone

Secretary Manning read the call of the hearing. Mr. Manning said all the mailings were in order.

Andrew Klucky and Donna Klucky, owners, and Bob Valiquette, Lebanon CT, presented the application.

Mr. Klucky presented a plot plan showing the site. The house is too small, and they need more space to accommodate their family. An 8 x 18' addition is proposed to expand the kitchen and add a laundry room, which is currently in the kitchen. An existing deck prohibits them from building the addition in the rear. Mr. Valiquette said they need the additional space in the kitchen, not in the bedrooms which are adjacent to the existing deck. The house was built in 1942, prior to zoning regulations.

The Chairman asked if anyone in the public had any comments. There were none.

The Planning Commission had no comment.

2. ZBA#15-06 – 76 Route 27, Old Mystic, Peter and Panayiota Costakos/Owners, Mercer & Bertsche Architects/Applicant, for a variance to Section 5.2 to allow 11 feet instead of 25 feet required for a side yard setback (East side), to Section 5.2 to allow 18 feet instead of 25 feet required for a side yard setback (West side), for a residential addition. PIN#271015549557, RU-80 zone

Staff said the applicant requested the hearing be continued to June 24th, to allow the applicant to properly complete their mailings.

3. ZBA#15-07 – 212/214 Cedar Road, Mystic, Nutmeg Building & Remodeling/Applicant, 214 Cedar Road LLC/Owner, for a variance to Section 5.2 for 18' 6" instead of 30 feet required for a front yard setback and 24 feet instead of 30 feet required for a rear yard setback, for a proposed second story addition. PIN#261813041014, RS-12 zone (Coastal Area Management)

Secretary Manning read the call of the hearing. Mr. Manning said all the mailings were in order.

Denise Nott, Nutmeg Building & Remodeling, 4 Blacksmith Lane, Ledyard, CT, James Maxson, 43 Stanton Drive, New York, the owner, and James Freschette, 150 Sawmill Road, Sterling CT, presented the request for a variance.

Mr. Maxson, the owner, explained the two previous variances requested. The first was for a two-car garage, and was rejected by a neighbor, who objected to losing their view. Mr. Maxson then proposed a 1½ car garage. This third proposal is with a different contractor who proposed a different roofing system. They applied for a building permit, but the Building Official decided it was too much of a change to approve under his jurisdiction, and recommended they go back to the Zoning Board of Appeals. The owner intends to add more bedroom and bath space, and eventually a garage. Mr. Freschette explained the building details. He stated that the footprint stays the same, but the design is simpler. Mr. Maxson showed the existing structure and the proposed elevations. The previously approved plans were compared to the new design. The configuration is the same, the setbacks remain the same. This request is for the same variances as the previous applications, but the architectural details are vastly different, and the Building Official felt that it would be the right thing to have the new design approved. Manning said he was not involved in the previous variance granted in June, 2014. Staff said she had no comments. There were no comments from the public. The hardship remains the same; the original structure predates zoning.

The Planning Commission had no comment. Staff said the coastal site plan had no changes from the previous application, and no adverse impacts identified on coastal resources or systems.

The public hearing was closed at 7:35 p.m.

MOTION: To enter into executive session at 7:36 to discuss the legal case of "*Stonington Behavioral Health Inc. dba Stonington Institute, et al. v Town of Groton Zoning Board of Appeals; Kevin Quinn Case Number 3:15-CV-00859.*"

Motion made by Russotto, seconded by Kravits. Motion passed unanimously.

Zoning Board of Appeals members Kravits, Manning, Mencer, Stebbins and Russotto, Attorney O'Connell, and Attorney Girard were invited to be in attendance for the executive session. Staff left the room.

MOTION: To end the executive session at 8:53 p.m.

Motion made by Russotto, seconded by Manning. Motion passed unanimously.

Each Board member stated for the record that no action was taken during the executive session.

III. MEETING FOLLOWING PUBLIC HEARINGS

Decision on Public Hearing Applications

1. ZBA#15-02 – 40 High Rock Road, Bright Horizons Children Centers LLC/Owner, Stonington Behavioral Health, Inc./Applicant

Attorney O'Connell distributed a memorandum regarding the standards of review applicable to the variance request under the Federal Fair Housing Act. Attorney O'Connell read the memorandum into the record.

The Board discussed the normal hardship criteria in Section 8.5-2B of the regulations and concurred that none of the criteria applied to this application. The Board was not convinced that this would be considered a dwelling. The Board also felt that this application was for an experimental use, the Institute currently has 19 smaller residences, and all information submitted indicated that smaller group homes were successful and available, therefore no accommodation would not be necessary in order to protect the clients.

MOTION: To grant the variance as requested.

Motion made by Russotto, seconded by Mencer.

Motion denied unanimously.

The Commission concurred that no hardship was found, and the applicant did not demonstrate that a reasonable accommodation under the Fair Housing Act was necessary. Regarding the dwelling issue, the Board agreed with Attorney Carey's testimony that the proposed building was not a dwelling.

The Chairman said no action would be required on the CAM application, as the variance was denied.

Attorney O'Connell left at 9:31 p.m.

2. ZBA#15-05 - 15 Oakland Court, Andrew and Donna Klucky/Owners, Suburban Remodelers/Applicant

MOTION: To grant the variance as requested.

Motion made by Russotto, seconded by Kravits. Motion passed unanimously.

The property predates zoning regulations.

3. ZBA#15-06 – 76 Route 27, Old Mystic, Peter and Panayiota Costakos/Owners, Mercer & Bertsche Architects/Applicant

The application was continued to the next meeting.

4. ZBA#15-07-212/214 Cedar Road, Mystic, Nutmeg Building & Remodeling/Applicant, 214 Cedar Road LLC/Owner

MOTION: To grant the variance as requested.

Motion made by Grady, seconded by Russotto. Motion passed unanimously.

MOTION: To accept the CAM report.

Motion made by Russotto, seconded by Kravits, and passed unanimously.

IV. CORRESPONDENCE - None

V. APPROVAL OF THE MINUTES OF MINUTES OF May 13, 2015

MOTION: To approve the minutes of May 13, 2015 as amended.

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

VI. OLD BUSINESS - None

VII. NEW BUSINESS

a) New Applications

Staff said there are two new applications, as well as ZBA #15-06, which was continued to June 24th.

VIII. REPORT OF STAFF - None

IX. ADJOURNMENT

Motion to adjourn made at 9:45 p.m. by Russotto, seconded by Grady. Motion passed unanimously.

Tom Manning, Secretary
Zoning Board of Appeals

Prepared by Debra Gilot
Office Assistant III