

ZONING BOARD OF APPEALS
WINDHAM, CT.

MINUTES

June 5, 2008

The Zoning Board of Appeals held it's meeting on June 5, 2008 in Town Hall. Vice-Chairman Al Beaulieu called the meeting to order at 7:05 P.M. Members present were Susan Fiegel-Rapp, Jerry Hart, Renee Harris, Steven Edelman and Al Beaulieu. Also present was Town Planner James Finger.

- 1) **Public Hearing – continuation for Jeffrey Machie, 17 Russ Drive, Willimantic** seeking a variance from setback restrictions to build a large addition to the existing house that is a non-conforming property.

James Machie, father of the applicant, said at the last meeting the board had concerns about the edge of the building being too close to the roadway and asked if we could move it back 30 feet. Mr. Machie said he revised the plan and relocated the reserve leach field to the front yard leaving enough room for a future leach field. He said Bill Sawicki, Town Sanitarian, has approved the revised plan. He referred to a letter from Mr. Sawicki which states that on May 22, 2008 permission was granted to construct a 30 X 30' and 10' X 17' garage addition and enclosed connector as shown in the plan dated 5/12/08. This approval indicates compliance with the Connecticut Public Health Requirements, said Sawicki, but any other permits required from Zoning, Inland Wetlands or Building Officials are not insured by this approval.

Planner Finger explained that originally they had the building in the same alignment as the existing house, but it was too close to the street (it was only 11 feet from the street line). I asked them to pull it back because they had not demonstrated a hardship, said Finger. The existing house is 30 feet from the edge of the pavement of the street at its closest point. In this alignment it shows that they meet the 30-foot setback from the street. The only variance they need is for the internal property line for the corner of the building. According to the rules you need to be 20 feet away from the property line. In this case it is an internal property line. They own all three lots. He said there is practical difficulty in complying with the 20' side-yard setback because of the configuration of the small non-conforming lots that were created prior to the zoning regulations. These other lots cannot be conveyed out as building lots because they ate too small, he concluded. I would urge the Board that if you are favorably inclined that you make a stipulation that all the lots serve this house.

Board member Al Beaulieu asked did I see on the plans that your garage doors are going to be coming in off the other side. Mr. Machie said they are going

to be on the Russ Drive side. I don't want to go across the leach field, he added.

Since there was no one in the audience to speak for or against the request and since there were no other comments or questions from Board members the public hearing was closed.

Susan Fiegel-Rapp made a motion to grant Jeffrey Machie, 17 Russ Drive, Willimantic a variance from the setback restrictions to build a large addition to the existing house that is a non-conforming property and stipulated that all three lots will be a single property.

Board member Edelman said he had some comments to make.

Susan Fiegel-Rapp with drew her motion.

Steven Edelman said he wanted to advise the applicant that the application falls outside of the scope of this board. It is my opinion that you (Mr. Machie) would have served yourself better had you not come here at all. I understand that you were concerned about the cost of filing a new deed. Mr. Machie said I had thought about that awhile back but found there is no tax advantage to not do it. I have to do it in this case because the building touches the internal property line. Mr. Edelman said he found himself in similar circumstances with multiple lots. In 1988 or so he said he had a number of approved building lots for which he had no intention of keeping them as building lots so he moved the lot boundary and combined them and this had a substantial tax savings for me. Instead of getting charged for 5 building lots I got charged for one building lot with just a little over because of the excess acreage. He urged the applicant to adjust his deed to eliminate the internal boundary line stating there might be a substantial tax saving.

Mr. Machie said that is what is going to happen here. I have to change the boundary line. I have to get a variance to make it one lot. Mr. Edelman said you don't have to get an attorney to do this. Mr. Machie said he had asked about doing that but was told he needed to have a lawyer draw up the plan. Mr. Edelman told Mr. Machie he did not need a lawyer to do that. All you will need to do is file a new description (taking the middle lot out) and re-write the middle section and have a notary sign it.

Planner Finger explained the background regarding this. He said he wasn't aware that he didn't have to have an attorney. I didn't bring it up. Actually the applicant's attorney called me and asked if he needed to do this and if there was some advantage. I checked with the Assessor's Office and they said there would be no change in the assessed valuation of the property. He said he called the applicant's attorney and said that if Mr. Machie is going to pay the attorney he could probably make the payment less just going to the ZBA.

At that time I told him that he didn't have to remove the internal property line unless he wants to build something. Mr. Edelman said the only way to find out for sure is to go to the Assessor's Office and they will tell you the facts.

Susan Fiegel-Rapp made a motion to grant the variance from the setback requirements to Jeffrey Machie build a large addition to the existing house that is on a non-conforming property (17 Russ Drive) with a condition that all three lots will be combined into one lot. Steven Edelman seconded the motion. Unanimous vote to grant the variance.

2) Routine Business

a) The minutes of May 1, 2008 were approved. Motion by Jerry Hart and seconded by Susan Fiegel-Rapp. Voting in favor of the motion were Jerry Hart, Susan Fiegel-Rapp, Renee Harris and Al Beaulieu. Steven Edelman abstained. So voted.

b) Correspondence

Planner Finger distributed a copy of the Federation of Planning & Zoning Newsletter. He also included copies of court cases.

c) Misc.

Steven Edelman said he received a printout of the duties of the ZBA. He said he felt that the Board has have exercised our powers judicially. Strict adherence to the rules sometimes hurts people, he said. Planner Finger said there has been some criticism recently that the Board is granting too many variances. Mr. Edelman said the Board has latitude because circumstances can exist. Mr. Edelman cited some decisions by the Appellate court in 1993.

Since there was no other business, the meeting was adjourned at 7:40 P.M. Motion by Susan Fiegel-Rapp and seconded by Steven Edelman. Unanimous vote to adjourn.

Respectfully submitted,

Lillian Murray, Clerk