

ZONING BOARD OF APPEALS

TOWN OF CLINTON
54 East Main Street
Clinton, Connecticut 06413

MINUTES

Regular Meeting
February 17, 2016

Chair Mark Richards called the February 17, 2016 Regular Monthly Meeting of the Zoning Board of Appeals of the Town of Clinton to order at 7:35 P.M. in the Green Room of the William Stanton Andrews Memorial Town Hall, 54 East Main Street, Clinton, Connecticut.

Members present: Chair Mark Richards, Secretary George Doerrer, Bertram Schmitz, Dylan Walter, Charles McEvoy and Alternate Jay Ciarleglio

Members absent: None

Also present: Zoning Enforcement Officer Eric Knapp (ZEO Knapp), applicants, applicants' agents and members of the public

Richards outlined the order of the meeting including the voting criteria for the granting of a variance then had Doerrer **READ** the Legal Notice of Public Hearing into the record.

Public Hearing: ZBA 15-038 & CAM: 7 Loop Road. Up Doc Ventures, LLC (Applicant & Owner). Application for Certificate of Variance of Sections 25.10.8 (Setbacks Other Than a Front or Rear Setback): 2 requests; Section 25.10.14 (Maximum Ground Coverage) and 27.2.1 (Expansion of a Non-conforming Structure) for an attached garage with living space above. Assessor's Map 70 Block 67 Lot 19. Zone: R-10. ***Extension Granted to February 17, 2016 To Close Public Hearing***

Prior to the start of the continued public hearing, McEvoy stated for the record that he has listened to the audio of the November 18, 2015 Regular Meeting and Walter listened to the audio of the October 21, 2016 Regular Meeting.

Gregg Fedus, P.E., Fedus Engineering, 70 Essex Street, Mystic, Connecticut, presented the technical details of the application for two side setbacks, maximum ground coverage and expansion of a non-conforming structure for an attached garage with living space above. The new plan calling for a side setback on the northwest side of 7.1 feet is a compromise between what was previously granted (9.1 feet) and the applicant's desire to be 3 feet from the property line. The garage has been relocated. The hardship claimed is that they are reducing the ground coverage from the previous variance granted for same. The southwest side variance still stands. The applicant is agreeable with the installation of monitored fire alarms and an EAS Box (Fire Department

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Emergency Access System). The engineering comments have been addressed. As to the CAM application, the project meets the CAM requirements. He then addressed inquiries of the Board.

Doerrler **READ** the following documents into the record:

1. List of Documents received from October 21, 2015 through November 17, 2015. There was no request to have a document from the List read into the record.
2. List of Documents received from November 18, 2015 through December 8, 2015. There was no request to have a document from the List read into the record.
3. List of Documents received from December 10, 2015 through January 19, 2016. There was no request to have a document from the List read into the record.
4. List of Documents received from January 20, 2016 through February 16, 2016. There was no request to have a document from the List read into the record.

There being no testimony or further Board comments, the Board by consensus determined they had enough information to make an informed decision.

Schmitz **MOVED** to close the public hearing for ZBA 15-038 & CAM: 7 Loop Road. Up Doc Ventures, LLC Doerrler seconded the motion. Discussion: none. Voting in favor: Richards, Doerrler, Schmitz, Walter and McEvoy. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Ciarleglio was not seated.

ZBA 16-001: 11 Nod Place. The Neri Corp. Application for Certificate of Variance of Section 25.11.6 (Front Setback) and 26.1.4(m)(1) (Screening for Outside Storage) to allow contractor's outside storage of materials and equipment in the front setback. Assessor's Map 21 Block 7 Lot 2-3. Zone: I-2. ***Continued from January 20, 2016. Last day to Close Public Hearing: February 24, 2016***

Prior to the start of the continued public hearing, Richards stated for the record that he listened to the audio of the January 2016 Regular Meeting.

Kim Neri, applicant's agent, gave an overview of the application asking for a variance of the 50' front setback to allow for storage of contractor's equipment and materials. She noted that there is a 9' strip of land owned by the Town between her front property line and the road. The contractor's Jersey barriers have been located within the setback for many years. The former zoning enforcement officer had no issues with them being there. The hardship claimed are the limitations on space available for storage of materials and equipment due

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to the wetlands on the property and the shape of the property leaves only the area in front of the building and to the sides for the storage of the materials and equipment. It is the applicant's claim that a contractor's storage and outside display are being treated as structures in the current zoning regulations and they are not structures as they are not permanent. Members expressed concern for the variance requested since with a 2015 variance request the applicant was granted substantially all the variances requested (rear and two side setbacks) with the condition of a visual barrier along the front of the property. Neri felt the visual barrier will block the view of the materials in the front setback. She noted that the area in the setbacks being used for the contractor's storage of equipment and materials is a swatch of land only 10 to 15' wide.

Doerrer **READ** the "List of Documents" received from January 20 to February 16, 2016 into the record. No documents were received.

Don Flagg, a property owner on Nod Place, spoke in opposition to the granting of the variance, stating that other property owners on the road are making their properties more appealing visually. The applicant's property is a junkyard and blighted.

Carl Neri, rebutted that the site is not a junkyard. It is a contractor's yard in an industrial zone. The Jersey barriers are new and necessary for his business of heavy construction.

There being no further testimony or Board comments, Board members, by consensus, determined they had enough information to make an informed decision.

Schmitz moved to close the public hearing for **ZBA 16-001**: 11 Nod Place. The Neri Corp. Doerrer seconded the motion. Discussion: none. Voting in favor: Richards, Doerrer, Schmitz, Walter and McEvoy. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Ciarleglio was not seated.

ZBA 16-002 & CAM: 19 Groveway, Robert & Darlene Goldenthal (Applicants & Owners). Application for Variance of Section 25.10.8 (Setback Other than a Front or Rear Setback) and 27.2.1 (Expansion of a Non-conforming structure) for a replacement residence. Assessor's Map 86 Block 72 Lot 137. Zone: R-10. **Postponed from January 20, 2016. Last Day to Open Public Hearing: March 25, 2016**

Prior to the start of the public hearing, Walter **RECUSED** and Richards **SEATED** Ciarleglio in his place.

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Gregg Fedus, P.E., Fedus Engineering, Essex Street, Mystic, Connecticut, Project Engineer, gave a technical presentation on the requests for variances for a replacement residence. The applicant will be reducing the existing non-conformities, by down-sizing the footprint, relocating the proposed structure so the non-conformity on the west side will be eliminated and by removing impervious materials on site. The bump out, which is the reason for the variance request, houses a staircase to the second floor. The staircase is needed because the residence had to be raised to meet the flood zone requirements. The applicant will supply a digital copy of the latest revision to the plans and will release the previous variance granted for this property. All staff comments have been addressed.

As to the engineering comments, Fedus stated that there is a notation about a pipe going out to the seawall. This will be addressed in an application to the state State of Connecticut Department of Energy and Environmental Protection to legalize the existing seawall.

As to the CAM Application, the applicant will be taking steps to reduce or eliminate any temporary and permanent effects on the shore. The application is consistent with the CAM requirements.

Fedus then addressed inquiries of Board members to their satisfaction.

Doerrer **READ** the following documents into the record:

1. List of Documents received through January 19, 2016. There was no request to have a document from the List read into the record.
2. List of Documents received from January 20 through February 16, 2016. There was no request to have a document from the List read into the record. Fedus stated he did not see the February 12, 2016 Letter to Fedus from Hynes and the February 15, 2016 Letter from Jacobson.

As to the Memo from the Fire Department, Fedus agreed to the installation of a monitored fire alarm system and an EAS Box.

There being no testimony or further Board inquiries, by consensus Board members determined they had enough information to make an informed decision.

Schmitz **MOVED** to close the public hearing for ZBA 16-002 & CAM: 19 Groveway, Robert & Darlene Goldenthal. Doerrer seconded the motion. Discussion: none. Voting in favor: Richards, Doerrer, Schmitz, McEvoy and Ciarleglio. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Walter recused.

Walter rejoined the meeting and assumed his seat from Ciarleglio.

ZBA 16-003: 83 West Shore Drive, Vaycheslav “Slavik” Foksha (Applicant & Owner). Application for Certificate of Variance of Sections 25.10.8 (Setback Other than a Front or Rear Setback): 2 Requests, for the construction of a new single-family residence, sanitary septic system and a driveway. Assessor’s Map 14 Block 3 Lot 35. Zone: R-30. **New**

Chuck Mandel, P.E., Thomas Stevens & Associates, Durham Road, Madison, Connecticut, Project Engineer, **SUBMITTED** the following documents:

1. Revised Page 1, Application for Certificate of Variance;
2. Revised Ground Coverage Calculation Sheet;
3. Revised Site Plan dated February 17, 2016;
4. Exterior House Plan dated 12/20/15; and
5. A portion of the Plot Plan for Boulder Lake dated September 1946

He then reviewed the technical details of the application including the hardship claimed of the volume and location of the wetlands on the site, the only location for the sanitary septic system (approved for two bedrooms by the Connecticut River Area Health District) and the lot pre-dates zoning. He noted that the wetlands were flagged by Richard Snarski, PSS. He noted the variances requested including the building square. It was pointed out by the clerk that no variance was requested for the building square. ZEO Knapp stated the need for this variance was overlooked during the staff review, confirmed that this variance request would have to be advertised and the public hearing would have to be continued to allow this. Mandel stated that the applicant is also before the Inland Wetlands Commission and they have called a public hearing for March 1.

Doerrer **READ** the List of Documents received through February 16, 2016. There was no request to have a document from the list read into the record.

Schmitz **MOVED** to waive the re-noticing fees for the publication for the variance request for the building square. Doerrer seconded the motion. Discussion: none. Voting in favor: Richards, Doerrer, Schmitz, Walter and McEvoy. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Ciarleglio was not seated.

Doerrer **MOVED** to **CONTINUE** the public hearing for ZBA 16-003: 83 West Shore Drive, Foksha. Schmitz seconded the motion. Discussion: none. Voting in favor: Richards, Doerrer, Schmitz, Walter and McEvoy. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Ciarleglio was not seated.

ZBA 16-004: 59 Cow Hill Road. Andrew F. & Dawn Piazza (Applicants & Owners). Application for Certificate of Variance of Section 24.2.1 (Use) and 27.1.1 (Expansion of a Non-conforming Use) for a replacement residence and appurtenant structures in an industrial zone. Assessor's Map 31 Block 24 Lot 1B. Zone: IP. **New**

Andrew Piazza presented his application for variances for a replacement residence. These are "use" variances. The hardship claimed is the residence pre-dates zoning, is in a state of disrepair requiring major extensive renovation, lacks a code-compliant sanitary septic system and is a legal non-conforming use in an industrial zone. The proposed house is larger than the existing house, thus the need for an expansion of a non-conforming use.

Doerrer **READ** the List of Documents received through February 16, 2016. There was no request to have a document from the List read into the record.

Carlos Rios, 75 Cow Hill Road, Clinton, spoke in favor.

There being no Board inquiries or further testimony, Board members, by consensus, determined they had enough information to make an informed decision.

Schmitz **MOVED** to close the public hearing for **ZBA 16-004:** 59 Cow Hill Road. Andrew F. & Dawn Piazza. Doerrer seconded the motion. Discussion: none. Voting in favor: Richards, Doerrer, Schmitz, Walter and McEvoy. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Ciarleglio was not seated.

Deliberations and Decisions: ZBA 15-038: 7 Loop Road, Up Doc Ventures, LLC

Walter, Ciarleglio and McEvoy stated they listened to the audios of the previous nights of public hearing.

Following the synopsis of the public hearing by Richards, Schmitz **MOVED** to grant **ZBA 15-038 & CAM:** 7 Loop Road. Up Doc Ventures, LLC (Applicant & Owner). Application for Certificate of Variance of Sections 25.10.8 (Setbacks Other Than a Front or Rear Setback): 2 requests; Section 25.10.14 (Maximum Ground Coverage) and 27.2.1 (Expansion of a Non-conforming Structure) for an attached garage with living space above. Assessor's Map 70 Block 67 Lot 19. Zone: R-10. Subject to the following conditions:

1. The installation of a monitored fire alarm system; and
2. The installation of an EAS (Emergency Access System) Box.

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Doerrer seconded the motion. Discussion: none. Voting in favor: Richards, Doerrer, Schmitz, Walter and McEvoy. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Ciarleglio was not seated.

Deliberation and Decision: ZBA 15-038 CAM: 7 Loop Road, Up Doc Ventures, LLC

Taken up later in the agenda.

Deliberation and Decision: ZBA 16-001: 11 Nod Place, The Neri Corp.

Following the synopsis of the public hearing, members discussed the merits of the substantial request for a reduced front setback from the 50' required and a visual barrier.

Walter **MOVED** to grant a variance of 39 feet (or 11 feet from the property line) for the storage of materials for **ZBA 16-001:** 11 Nod Place. The Neri Corp. Application for Certificate of Variance of Section 25.11.6 (Front Setback) and 26.1.4(m)(1) (Screening for Outside Storage) to allow contractor's outside storage of materials and equipment in the front setback. Assessor's Map 21 Block 7 Lot 2-3. Zone: I-2. subject to the following condition:

1. There shall be a berm along the front of the property of 3 and ½ to 4 feet with evergreens a minimum of 4 feet tall, planted 4 feet apart or a 6 foot fence on the berm.

The hardship demonstrated is the shape of the land and the wetlands. Schmitz seconded the motion. Discussion: none. Voting in favor: Richards, Doerrer, Schmitz, Walter and McEvoy. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Ciarleglio was not seated.

Deliberation and Decision: ZBA 16-002: 19 Groveway, Goldenthal

Following the synopsis of the public hearing by Richards, Walter RECUSED. Richards seated Ciarleglio in his place. Members then discussed the need for the bump out.

Doerrer **MOVED** to grant as requested **ZBA 16-002 & CAM:** 19 Groveway, Robert & Darlene Goldenthal (Applicants & Owners). Application for Certificate of Variance of Section 25.10.8 (Setback Other than a Front or Rear Setback) and 27.2.1 (Expansion of a Non-conforming structure) for a replacement residence. Assessor's Map 86 Block 72 Lot 137. Zone: R-10, the hardship demonstrated being the need for the bump out to accommodate the stairs needed because of the height needed to meet the flood zone requirements on elevation. It is noted that there will be a reduction in the non-conforming ground coverage and one side setback. The variance is granted subject to the following condition:

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1. The release of the variance approval in September 1991 allowing a 6-foot side setback.

Schmitz seconded the motion. Discussion: none. Voting in favor: Richards, Doerrer, Schmitz, McEvoy and Ciarleglio. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Walter recused.

Walter returned and assumed his seat.

Deliberation and Decision: ZBA 16-002 CAM: 19 Groveway, Goldenthal

Taken up later in the meeting.

Deliberation and Decision: ZBA 16-003: 83 West Shore Drive, Foksha

Public hearing continued to March 16, 2016.

Deliberation and Decision: ZBA 16-004: 59 Cow Hill Road, Piazza

Following the synopsis of the public hearing by Richards, Doerrer **MOVED** to grant the use variances requested in ZBA 16-004: 59 Cow Hill Road Andrew F. & Dawn Piazza (Applicants & Owners). Application for Certificate of Variance of Section 24.2.1 (Use) and 27.1.1 (Expansion of a Non-conforming Use) for a replacement residence and appurtenant structures in an industrial zone. Assessor's Map 31 Block 24 Lot 1B. Zone: IP, the hardship demonstrated being the legal non-conforming use in an industrial zone. Schmitz seconded the motion. Discussion: none. Voting in favor: Richards, Doerrer, Schmitz, Walter and McEvoy. Opposed: none. Abstentions: none. The variances were **carried**, 5-0-0. Ciarleglio was not seated.

RETURN TO DELIBERATION AND DECISION: ZBA 15-038 & CAM: 7 Loop Road, Up Doc Ventures, LLC

Doerrer **MOVED** that the CAM application accompanying ZBA 16-038 & CAM: 7 Loop Road, Up Doc Ventures, LLC., be approved as submitted; consistent with all applicable coastal polices and includes all reasonable measures to mitigate adverse impacts. Schmitz seconded the motion. Discussion: none. Voting in favor: Richards, Doerrer, Schmitz, Walter and McEvoy. Opposed: none. Abstentions: none. The Motion was **carried**, 5-0-0. Ciarleglio was not seated.

RETURN TO DELIBERATION AND DECISION: ZBA 16-002 & CAM: 19 Groveway, Goldenthal

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Walter **RECUSED**. Richards **SEATED** Ciarleglio in his place.

Doerrrer **MOVED** that the CAM application accompanying ZBA 16-002 & CAM: 19 Groveway, Goldenthal be approved as submitted; consistent with all applicable coastal polices and includes all reasonable measures to mitigate adverse impacts. Schmitz seconded the motion. Discussion: none. Voting in favor: Richards, Doerrrer, Schmitz, McEvoy and Ciarleglio. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Walter recused.

Walter returned and assumed his seat.

ZBA Minutes: Second Amended Minutes – January 20, 2016 Regular Monthly Meeting

Schmitz **MOVED** to approve as presented the Second Amended Minutes of the January 20, 2016 Regular Monthly Meeting. Walter seconded the motion. Discussion: none. Voting in favor: Doerrrer, Schmitz, Walter and McEvoy. Opposed: none. Abstention: Richards. The motion was **carried**, 4-0-1. Ciarleglio was not seated.

Correspondence/Bills

A thank you letter to Dominic Morelli was approved by consensus.

Additions to Agenda: March 16, 2016: none.

Chair's Comments: none.

There being no further business, Doerrrer **MOVED** to adjourn the meeting. Schmitz seconded the motion. Discussion: none. Voting in favor: Richards, Doerrrer, Schmitz, McEvoy and Ciarleglio. Opposed: none. Abstentions: none. The motion was **carried**, 5-0-0. Walter recused. The meeting was adjourned at 9:40 P.M.

Respectfully submitted,
Sherry Lee Hynes
Sherry Lee Hynes, Clerk

E-mail: Town Clerk
Website
Board of Selectmen