

**MINUTES OF THE ZONING BOARD OF APPEALS
TOWN OF WOODBRIDGE
REGULAR MEETING ON JULY 14, 2008**

A regular meeting of the Zoning Board of Appeals for the Town of Woodbridge was held on July 14, 2008, in Central Meeting Room of the Woodbridge Town Hall, 11 Meetinghouse Lane, Woodbridge, Connecticut.

ROLL CALL

Present: Sandra Elias, Chairman, Philip DeGennaro, Mark Levine, and Mark Kohler

Alternates: Henry Nusbaum, and David Bernard

Excused were: Lynn Piascyk, and Cynthia Gibbons

Also Present: Terry Gilbertson, Enforcement Officer, Carolyn Donovan, Recording Secretary

Meeting commenced at 7:30 p.m.

PUBLIC HEARINGS

**SOUTH CENTRAL CONNECTICUT REGIONAL WATER AUTHORITY (SCCRWA)
1955 LITCHFIELD TURNPIKE**

Variations of Sec. 3.11 and 3.12 to allow use of maintenance facility by the SCCRWA in a Residential A Zone, and variations of Sec. 3.13 Col. 6 to allow a 53.8' front yard where 75' is required and Sec. 6.21 to allow a 99.8' road centerline setback where 125' is required for the maintenance garage/workshop.

Attorney Gregory Sharp, representing the South Central Connecticut Regional Water Authority, was present to speak on behalf of the application. In his presentation he stated:

- That the SCCRWA is seeking two setback variances which are the same variance measured from different points in the roadway; as well as a use variance, and a commercial garage use.
- That most of SCCRWA's facilities predate zoning in the Town of Woodbridge.
- The SCCRWA is trying to consolidate 8 maintenance facilities, and reduce the total square footage of the non-conforming facilities.
- The application has been made based on preceding Supreme Court rulings in prior cases where an independent basis for a variance is the reduction in a non-conforming use.

Donald Smith, Project Engineer, was present to speak on behalf of the application. In his presentation, he stated:

- Overall the SCCRWA is not seeking a change in use, but is seeking to consolidate existing uses.
- The project consists of an 8-bay maintenance garage with refueling systems there, and a bulk-water refilling station, and storage bins for materials (sand, gravel, mulch, topsoil, etc.); which will be located off the watershed.
- There will be approximately 5 buildings demolished on the property including: a barn, garage, treatment chlorine building, pressure reducing building and old hay barn.
- The total square footage of the buildings that are being demolished are less than the square footage of the new maintenance garage being proposed.
- There is a house on the property which is proposed to be renovated for use as offices for SCCRWA, with a new parking lot proposed.
- An existing refueling area at the West River Treatment Plant would be removed and replaced with a new fueling area in the new proposed location.
- The West River Treatment Plant is currently on the watershed and if there were a fuel spill it would get into the reservoir.
- The total area of this SCCRWA parcel is 580-acres, with the project site being about 3.2-acres.
- The refueling area will have an 8,000 gallon tank divided into 2-sections: 4,000 for diesel fuel, and 4,000 for gasoline.
- Currently there is a water filling station (a hydrant) on Rte. 69. A driveway on the project site is being proposed to allow trucks to drive up to a water dispensing machine using a credit-card to pay. This would provide a safe fill-up location off the road.
- The portion of the building which is within the front yard setback is proposed to be built into the hillside, so the building would not be viewed at all from the road.
- The building will have a vegetated roof, and would be set into the embankment.
- An alternative site for the garage would make the garage exposed to the road.

Mr. Bill Andres, Project Engineer, also spoke on behalf of the application noting:

- that the size of the building is necessary in order to house all of SCCRWA's equipment (backhoes, plows, etc.) in one centralized area to make it easier for the SCCRWA workers.
- The SCCRWA has deemed the proposed location the best site on its land for such a project.

Attorney Sharp added:

- That the SCCRWA management is trying to centralize some of the operations.
- An important issue for the Water Co. is to get some of the fueling operations that could be detrimental to the watershed and the water supply, off the water supply watershed.

Terry Gilbertson, Zoning Enforcement Officer (ZEO), stated:

- Presently the way the water trucks are filling up is dangerous.
- Building such a facility with today's technology, as opposed to yesterday's technology gives the SCCRWA an opportunity to use best management practices.

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- That concerns over an oil leak or gasoline leak are extreme.

There being no further comments from the applicant's representatives, Board members, staff or general public the public hearing was closed. Later in the meeting the following action was taken by Board members:

***** Mr. DeGennaro made the motion for approval of the variances of Sec. 3.11 and 3.12 to allow use of a maintenance facility by the SCCRWA in a Residential A Zone, and variances of Sec. 3.13 Col. 6 to allow a 53.8' front yard where 75' is required and Sec. 6.21 to allow a 99.8' road centerline setback where 125' is required for the maintenance garage/workshop.**

***** Mr. Kohler seconded.**

***** In Favor: Kohler, Elias, DeGennaro, Nusbaum, Bernard**

***** Opposed: No One**

***** Recused: No One**

***** Abstained: No One**

Unanimous Approval

LUIS & DANIELLE CASTRO - 45 BEECHER ROAD

Variances of: Sec. 3.13, Col. 6 to allow a 48.7' front yard where 75' is required, Sec.6.21 to allow an 89.7' road centerline setback where 115' is required, and approval per Section 5.11 to extend, expand or enlarge in scope, area of intensity the non-conforming use of the residence for an addition to the residence; and relative to an accessory playhouse a variance of Sec. 3.13, Col. 8 to allow a 10' side yard where 15' is required.

Luis Castro, applicant was present to speak on behalf of the application. In his presentation on the playhouse, he stated:

- That in the corner of the yard where the playhouse is proposed, it would be 10' away from the property line.
- There is an existing grill cover, and a stonewall on the left and to the right of that area.
- Directly in front and to the right is a patio area with three trees that are marked on the wetlands map.
- If the playhouse were located further than 15' from the sideline, it would be directly in the center of the yard.
- The playhouse would be an elevated tree-house type of playhouse, with a slide.
- There are some dangerous trees on the other part of the property.
- The playhouse will be built on pressure treated 4 x 4s, and the 4 x 4 would be cemented in the ground.

ZEO Gilbertson stated that:

- The house is down gradient from Beecher Road.
- The lot is bifurcated with wetlands soils, and there is not a lot of area for a playhouse between the house and the pool area.

Mrs. Danielle Castro, was also present to speak on behalf of the application. In her presentation on the addition for the house, she stated:

- Her father had a major stroke a year ago, and her mother is taking care of him; so she and her husband want to move her parents in to make it easier for them.
- Want to make an addition for them of a bedroom, full bathroom, living room, and wet bar.
- The addition will be 26' x 26', and will come out 1' from the back of the house.
- The house is a raised ranch, and the addition will be on the bottom floor, keeping in line with the house structure; and also making it easier with no stairs for her parents.
- They will enter through the garage and front door, but will not have their own entrance or kitchen.
- The square footage of the existing home is 2,150.
- They want the addition to be ground level so if one of her parents were to become wheelchair bound it would make it accessible.
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There being no further comments from the applicants, Board members, staff or general public the public hearing was closed. Later in the meeting the following action was taken by Board members:

***** Mr. Levine made the motion for denial of a variance for a playhouse relative to Sec. 3.13, Col. 8 to allow 10' side yard where a 15' is required.**

***** Mr. Kohler seconded.**

***** In Favor: Levine, Kohler, Elias, DeGennaro**

***** Opposed: Bernard**

***** Recused: No One**

***** Abstained: No One**

Unanimous Approval

***** Mr. Levine made the motion for approval of the variances of Sec. 3.13, Col. 6 to allow a 48.7' front yard where 75' is required, Sec. 6.21 to allow an 89.7' road centerline setback where 115' is required, and approval per Sec. 5.11 to extend, expand or enlarge in scope, area of intensity the non-conforming use of the residence for an addition to the residence due to the topographical hardship.**

***** Mr. Kohler seconded.**

***** In Favor: Levine, Kohler, Elias, DeGennaro, Bernard**

***** Opposed: No One**

***** Recused: No One**

***** Abstained: No One**

Unanimous Approval

VINCENT & BARBARA ESPOSITO - 382 AMITY ROAD

Relative to construction of a new commercial building, variances of Sec. 3.13, Col 6., to allow a 28.3' front yard where 75' is required and Sec 6.21 to allow a 53.8' road centerline setback where 125' is required, as well as approval per Sec. 5.11 to extend, expand, and enlarge in scope area and intensity the existing non-conforming use of the Blue Check coffee shop/deli by construction of a new commercial building and addition of a drive thru window and expansion of business hours to include early evenings and Sundays.

Attorney Timothy Lee, representing the applicant, was present to speak on behalf of the application. Attorney Nicholas Mingione was also present on regarding the application.

Attorney Lee stated:

- That the applicants were seeking variances for location, size, and use
- The Esposito family has operated the Blue Check Deli for approximately for 35-years.
- Previously to a gasoline station was operated on the site.
- Both the commercial uses predate the enactment of zoning in Woodbridge, therefore they are a pre-existing non-conforming use when it comes to the commercial deli/coffee shop operation.
- The first two variances they are requesting relate to the size and location of the building.
- The applicants would be reducing the non-conformity of the existing building by moving it further away from Amity Road.
- The new building would still need a variance for a front yard setback – but the new setback would be a greater setback than what currently exists.
- The other setback being requested relates to the distance from the centerline of Amity Road; it will be less than what's required of the zoning regulations, but the setback with the new building will be greater than what currently exists right now.
- With regards to those two variances, those variance result in a reduction of the non-conformity; and therefore there is a legal basis for the Zoning Board of Appeals to grant those variances because it reduces the non-conformity.
- The size of the current structure is a little over 1,600 sq. feet, the proposed structure will be 2,275 sq. feet.
- There would be a reduction in the amount of impervious surface on the property from 21,850 sq. feet to 21,258 sq. feet.
- The application will result in a reduction in non-conformity because there will be an elimination in a curb cut on Amity Road, and the curb cut on Center Road will be moved further back towards the rear of the property, creating a safer entry onto the property.
- The applicants are also seeking an expansion of the operation in two regards: one, in terms of operation from current business hours of Monday through Friday 6 a.m. – 5 p.m., and Saturday 6 a.m. – 3 p.m. to Monday through Sunday 6 a.m. to 8p.m., and also the addition of a drive-thru window.
- These two expansions would allow the Blue Check Deli to be competitive to be competitive in today's market and economy.
- Preliminarily the State Department of Transportation (DOT) has approved the site plan, but approvals from the Zoning Board of Appeals Town Plan and Zoning Commission are

needed before a final sign-off can be obtained from the DOT.

- DOT has suggested that they relocate one of the driveways, and the drainage pond closer to Amity Road because that creates better site lines and better traffic flow for the intersection, and the elimination of one of the curb cuts.
- They plan to eliminating the curb cut closest to traffic light, because that presents a safety issue; and they're retaining the entrance/exist on Amity Road.

ZEO Gilbertson addressed the Board members and noted:

- That they had been distributed copies of records of minutes from the Zoning Board of Appeals for previous variance requests which were denied for extensions and expansion of the non-conforming commercial use of the property on June 25, 1962, another on July 30, 1962, and last November 13, 1973.
- That the denial from July 30, 1962, had a rather remarkable set of minutes which he encouraged all parties to review.

Mrs. Elizabeth Bell, abutting property owner residing at 5 Center Road, spoke in opposition to the application noting:

- That she had lived at her residence for 55-years, which is adjoining the Blue Check property.
- There is so much change being asked in this application between the new building, the drive-thru window, and the new hours.
- The additional business hours and a drive-thru window would create more traffic in the area; therefore creating a dangerous situation.
- She has emphysema and should not be exposed to fumes from a lot of cars.

Ms. Tracy Lane, who resides at 377 Amity Road, spoke in opposition to the application, noting:

- That her main concern is the environmental impact on a residential community.
- The drive-thru window would have a environmental auditory impact on everyone.
- Since it is a residential neighborhood she did not think that they should be able to extend their hours to seven days a week.
- Adding lighting, sounds, fumes, etc. will have a grave impact on the surrounding residential neighborhood.
- If people keep wanting more and more, the local residents will lose what they have.

Mr. Walter Mazaka, who resides at 11 Center Road, spoke in opposition to the application noting:

- He lives less than 200-feet away from the picnic area in the back of the Blue Check Deli, and he does not agree with the Blue Check Deli staying open all weekend.
- That the Blue Check Deli is the main artery between three towns and does draw traffic, and people; so he ends up picking up quite a bit of litter on a regular basis from his yard.
- The noise pollution, fumes, traffic, etc., would increase, and life would become unmanageable.

Mr. Douglas Futane, who resides at 383 Amity Road, spoke in opposition to the application, noting:

- That in this area of the town the traffic is so congested, that the expansion of the Blue Check Deli would make the area much worse.
- That the neighbors around the Blue Check Deli would be negatively impacted if the hours of operation are extended.

Note: With an extension of time granted by the applicant the hearing on the application was continued until the next meeting of the Zoning Board of Appeals on September 8, 2008.

NORTHROP ROAD PROPERTIES, LLC. - 54 NORTHROP ROAD

Relative to a proposed four lot subdivision, a variance of Sec. 3.13 Col 3 footnote 6 to allow a 118' buildable square for proposed Lot #4 where a 150' buildable square is required and variances of Sec. 3.13, Col. 3, footnote 7, to allow contiguous buildable lot area of 1.68 acres for proposed Lot #4 and 1.84 acres for proposed Lot#3 where 2 acres of contiguous buildable lot area are required within a drinking water supply watershed.

Attorney Alan Tyma, representing the applicant, was present to speak on behalf of the application. In his presentation, he stated:

- His client had purchased the property in July of 2007.
- His client is proposing a subdivision with 4-building lots.
- The third lot has been configured to try to utilize the same type of configuration as the first two lots. It has some small wetlands over in the back; and so as a result of that instead of 2.0-contiguous acres of buildable area it would actually have 1.84 acres, which is 92% of what is required in terms of contiguous acres.
- The watercourse on the property eventually gets down to the Wepawaug River.
- The fourth lot has 1.68-acres or 84% of what would be required for contiguous buildable area; but in and of itself there actually are contiguous building acres that equal 2-acres on the lot on the other side of the watercourse.
- The basic issue for the fourth lot is the square – a 150-foot building square is required and the lot would have a square of about 118-feet.
- His client is trying to keep the subdivision development in conformity with the neighborhood so the homes themselves would be modest, in the 2,500 to 3,500 sq. foot range.
- The legal hardship of the property is that the particular characteristics of the property i.e. it's topography, location, watercourse, and it's wetlands are different from any other property in the area so that the strict application of the zoning regulations as they currently exist in the Town, as applied to the property create again that exceptional difficulty or unusual hardship.
- The reasonable use of the property in light of the overall zoning regulations is 5-lots, if one wanted to be as conscious of the full economics and full developmental potential of the property.

- To keep the integrity of the property in tact his clients are only looking to develop 4-lots.
- When the prior owner of the land, Mr. Mazzaro gave his adjoining property to the Town of Woodbridge in 1995, the zoning laws were different.
- The fourth lot is deficient due to the wetlands. The developer is trying to stay away from them and protect them.

Michael Barbaro, environmental consultant for the applicant, spoke on behalf of the application noting:

- That when the property was purchased the wetlands flagging indicated significant areas. on the documents that were provided to him at the purchase.
- The applicant has subsequently hired his own engineers whom have increased the flagged wetlands area.

Michael Luther, who resides at 128 Northrop Road, spoke in opposition to the application noting:

- That for 44 years he has lived in Woodbridge.
- What is being proposed does not meet the regulations, and it is not applicable.
- The applicant has failed to meet the regulations.
- On the surrounding property there are salamanders, and other species.
- There should be concern by the Board to enforce the existing zoning regulations of the Town.

Note: With an extension of time granted by the applicant the hearing on the application was continued until the next meeting of the Zoning Board of Appeals on September 8, 2008.

ACTION ON PREVIOUS MINUTES

Minutes of Regular Meeting on March 10, 2008

- *** **Ms. Elias moved approval of the minutes as submitted.**
- *** **Mr. Kohler seconded.**
- *** **In Favor: Kohler, Elias, DeGennaro**
- *** **Opposed: No One**
- *** **Recused: No One**
- *** **Abstained: No One**

Unanimous Approval

Minutes of the Regular Meeting on June 9, 2008

- *** **Mr. Kohler moved approval of the minutes as submitted.**
- *** **Mr. Levine seconded.**
- *** **In Favor: Levine, Kohler, Elias, DeGennaro, Nusbaum**
- *** **Opposed: No One**
- *** **Recused: No One**
- *** **Abstained: No One**

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Unanimous Approval

ADJOURNMENT

***** Ms. Gibbons moved to adjourn the meeting at 10:55 p.m.**

***** Mr. DeGennaro seconded**

***** In Favor: Unanimous**

***** Opposed: No One**

***** Recused: No One**

***** Abstained: No One**

Unanimous Approval

Accordingly, the meeting was adjourned at 10:55 p.m.

Respectfully submitted,

Carolyn Donovan
Recording Secretary