

The Stratford Board of Zoning Appeals held an Administrative Session, following a public hearing, on Tuesday, March 4, 2014, in the Council Chambers, Town Hall.

MEMBERS PRESENT: Mr. Hyatt, Mr. Dempsey and Ms. Collier

ALTERNATES PRESENT: Mr. Fredette (sitting for Ms. Brooks) and Mr. Secskas (sitting for Mr. Kelemen)

OTHERS PRESENT: Gary Lorentson (Planning & Zoning Administrator) and Christopher Smedick (Town Attorney's Office)

- Chairman Dempsey called the administrative session to order at 10:52 p.m..

PETITION 1
JOHN & LAURIE GOODSSELL
462 HOUSATONIC AVENUE
VARIANCE OF SECTION 3.14

- On motion by Mr. Fredette and seconded by Ms. Collier, Petition 1 was taken off the table.

- Petitioners seek to install an above ground swimming pool 60 feet from the tidal wetlands alongside an existing detached garage which is also 60 feet from the tidal wetlands. The State DEEP suggested locating the pool behind the house and deck near the retaining wall. Petitioners disagree. Their property slopes down toward the river and they feel that next to the garage is the only level area to put the pool. Also, this location will not infringe on anyone's views of the water and Petitioners can use the power from the garage. No one spoke for or against the Petition.

- MR. FREDETTE MOVED TO WAIVE THE 75 FT. SETBACK TO A TIDAL WETLAND TO 60 FT. IN ORDER TO INSTALL AN ABOVE GROUND POOL ON PROPERTY LOCATED IN AN RS-4 DISTRICT BECAUSE NEXT TO THE GARAGE APPEARS TO BE THE ONLY PLACE TO LOCATE THE POOL. MR. SECKAS SECONDED THE MOTION AND ADDED THAT THE HARDSHIP WAS THE TOPOGRAPHY AND SLOPE OF THE PROPERTY. MR. FREDETTE ACCEPTED THIS FRIENDLY AMENDMENT AND THE MOTION AS AMENDED CARRIED 5-0.

JOHN COTTER JR.
269 BRUCE AVENUE
VARIANCE OF SECTION 5.2

- Before the public hearing Chairman Dempsey recused himself as he has a conflict.
- On motion by Mr. Fredette and seconded by Mr. Seckas, Petition 2 was taken off the table.

- Applicant was represented by Attorney Tom Cotter. The existing lot is extremely non-confirming, being only 25 feet wide, and the existing house does not comply with either side-yard setback. Applicant seeks to remove a small enclosed porch in the rear and replace it with a deck and small addition that will square off the back of the house. No one spoke for or against the petition.

- MR. FREDETTE MOVED TO WAIVE TWO SIDEYARDS FROM 10 FT. TO 2.2 FT. AND 6.3 FT. IN ORDER TO CONSTRUCT ADDITIONS ON PROPERTY LOCATED IN AN RM-1 DISTRICT BASED ON THE TOPOGRAPHY OF THE LOT. MR. SECKAS SECONDED THE MOTION AND ADDED THAT THE WIDTH OF THE LOT WAS ALREADY NON-CONFORMING AND THE ADDITION WOULD NOT ENCROACH ANY CLOSER TO NEIGHBORS AND WAS IN LINE WITH THE EXISTING HOUSE. MR. FREDETTE ACCEPTED THIS FRIENDLY AMENDMENT AND THE MOTION AS AMENDED CARRIED 4-0.

**PETITIONS 3 & 4
MISTY BLUE, LLC AND 177 GROVE STREET, LLC
177-207 GROVE STREET
LOT 3 AND LOT 5
VARIANCE OF SECTIONS 3.3.1.7 AND 3.14**

- Before the public hearing Mr. Seckas recused himself from voting on Petitions 3 and 4 due to earlier statements he had made.

- At the public hearing Petitioners were represented by Attorney Barry Knott. Property is approximately 3.5 acres of land off the end of Grove Street sandwiched between tidal wetlands. In a prior petition Petitioners had sought to construct a nine lot subdivision and new road consisting of two existing homes and seven new single family residences. The Board denied that petition based on concerns about the tidal wetlands and the lack of a finding of hardship. Tonight Petitioners are seeking a variance for a five lot subdivision consisting of the two existing homes and three new single family residences with access to the three rear lots by means of a common private driveway under the rear lot provisions of Section 3.3. The only house requiring a variance would be Lot 3 where the house would be located 60 feet from the tidal wetlands instead of the required 75 feet. In addition, Lot 3 would need a variance for the accessway which is only 15 feet wide instead of the required 25 feet. Lot 5 also needs a variance for the accessway which is only 15.01 feet wide. Attorney Knott explained that both accessways will actually share a 10 foot easement across Lot 1 to obtain the required 25 feet width. The three new homes will all be built on rear lots and four of the five lots will exceed the 7500 sq. ft. minimum lot size requirement. In addition, all the lots will be surrounded by a thirty foot wetland buffer and conservation easement. The property is actually 3.59 acres in total but approximately 30,000 sq. ft. of tidal wetlands on the southwest side of the property is below the mean high water and belongs to the State of Connecticut Public Trust. Mr. Rooney's deed to this property in 1954 included this 30,000 sq. ft. and he has been paying taxes on it all these years.

Phil Tiso, a land surveyor with Rose Tiso and Co. in Fairfield, spoke about how the new layout reduces the environmental impact. Megan Raymond, a soil scientist with William Kenney Associates, stated that there would be no adverse impacts. In fact, the 30 foot conservation easement and upland wood buffer would be an improvement over existing conditions where lawn area currently extends right up to the tidal wetlands. Ms. Raymond pointed out that the house on Lot 3 would only be 60 feet from the tidal wetlands at its closest point and there should be no adverse impact with the buffer and removal of lawn area. Kate Gill of 270 Curtis Avenue spoke on behalf of the petition as a representative of the Rooney family. Attorney Knott stated that the hardship was the size, shape and topography of the property and the fact that it is surrounded on three sides by tidal wetlands. This hardship was not created by the Petitioners. The hardship is unique to the Rooney property and does not apply to other parcels on Grove Street which have wetlands in the rear and a road in front of their property. Petitioners' property is surrounded on three sides by wetlands.

- At the beginning of the public hearing Mr. Lorentson read into the record several letters in support of this revised petition and one letter in opposition. In addition several people spoke in favor of the petition citing that this new petition was a big improvement over the earlier petition and the fact that the subdivision respects the wetlands and would be in character with the neighborhood. Several people also spoke in opposition to the petition pointing out that the only hardship was financial and that this property was not unique because all the properties on Grove Street had wetlands in the rear. The opposition also pointed out that two new houses and an accessway could be built without a variance and the hardship was created by the Petitioners seeking to subdivide their property into five lots.

- In his rebuttal Attorney Knott stated that although the property always had wetlands on it, Section 3.14 did not go into effect in its current form until 1990. Prior to 1990 the regulation dealt with flood prevention. After that it changed to a wetland protection regulation. Therefore, the hardship was created after the Rooneys

purchased the property in 1954. Mr. Fredette questioned moving the house on Lot 3 up about 18 feet to get it out of the tidal wetlands setback. Attorney Knott explained that if the house on Lot 3 was moved up it would need a variance of the 25 foot front setback requirement.

- ON MOTION BY MR. FREDETTE AND SECONDED BY MS. COLLIER PETITIONS 3 AND 4 REMAINED ON THE TABLE.

PETITION 5
SNIFFENS LANE & MAIN STREET

- Ira Bloom, Special Counsel for Bridgeport, and Ed Schmidt, Assistant Bridgeport City Attorney, addressed the Board. MTM Classic Home Builders, represented by Nick Owen, had originally petitioned the Board for a variance of Section 3.14 to relocate an accessway used as a private driveway on Sniffens Lane on property owned by the City of Bridgeport. Bridgeport was not an original party to the petition although MTM has since transferred all its rights to the City of Bridgeport. The Board granted the variance and Breakwater Key Condominium and John Kucej appealed. Mr. Kucej has since passed away. Judge Radcliffe upheld the appeal and determined that there was insufficient evidence to support a finding of hardship. That decision is on appeal. Bridgeport has now reached a settlement with Breakwater Key and also has new information to present to the Board supporting a finding of hardship. Attorneys Bloom and Schmidt explained that the Airport must be brought up to national standards or it will be shut down. As part of the \$40 Million project Route 113 is being relocated and the old accessway will no longer have access to it. In addition, the new driveway is further away from Runway 6-24 and will improve Airport safety. As part of the settlement agreement with Breakwater Key there will be a restrictive covenant preventing further expansion of Runway 6-24. In addition Bridgeport has agreed to spend \$20,000 for landscaping and fencing to screen the Condominium and will reimburse Breakwater Key for their legal and engineering costs. Attorneys Bloom and Schmidt also referenced a package of documents that the Board members had received relating to the Airport and the FAA and stated that these documents did not exist at the time of the original appeal when Judge Radcliffe made his decision. They passed out a draft Resolution for the Board to approve so they could present it to Judge Radcliffe. Bridgeport needs the Board to approve the settlement under Conn. Practice Book Section 14-7A and to make a finding of hardship based on the evidence presented tonight. Time is of the essence as there is a Congressional Mandate to comply with Phase A of the Airport Safety Zone Project by December 31, 2015 or the Airport is at risk of being shut down. Attorney Richard Saxl, representing Breakwater Key, also spoke about relocating the accessway and improving Airport safety which is a big concern for the Condominium. Nick Owen addressed the Board on behalf of MTM which has a claim against Bridgeport for legal expenses. Mr. Owen stated that he was not opposed to a settlement but he felt a new application should be filed with the Board and questioned the Board's jurisdiction to hear new evidence as part of the settlement.

- Three of the Board members were not familiar with the history of the original application and appeal. Mr. Seckas asked several questions about the location of the accessways and hardship and asked if the Attorneys had a map of the area in question. Counsel for Bridgeport did not have a map.

- ON MOTION BY MR. FREDETTE AND SECONDED BY MR. HYATT PETITION 5 REMAINED ON THE TABLE.

[Board took a recess from 10:52 to 11:01 p.m.]

2. EXECUTIVE SESSION – SETTLEMENT OF BREAKWATER KEY – No business

3. APPROVAL OF MINUTES – JANUARY 7, 2014 MEETINGS

- ON MOTION BY MR. HYATT AND SECONDED BY MS. COLLIER, THE MINUTES OF THE ORGANIZATIONAL AND REGULAR MEETINGS OF JANUARY 7, 2014 WERE APPROVED 5-0.

4. C.A.M. SITE PLAN REVIEW – No business
5. MEMBERS CONCERNS – no business
6. ADJOURNMENT
 - On motion by Mr. Hyatt and seconded by Ms. Collier, the Board voted to adjourn at 11:06 p.m.

Respectfully submitted,

Gail J. Nobili
Secretary