

The Stratford Board of Zoning Appeals held an Administrative Session, following a public hearing, on Tuesday, April 1, 2014, in the Council Chambers, Town Hall.

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

ALTERNATES PRESENT: Mr. Fredette (sitting for Mr. Hyatt), Mr. Grega (sitting for Ms. Brooks), and Mr. Secskas

OTHERS PRESENT: Gary Lorentson (Planning & Zoning Administrator) and Attorneys Christopher Smedick, Bryan LeClerc, and Ryan Driscoll (Town Attorney's Office)

- Chairman Dempsey called the administrative session to order at 8:10 p.m..

PETITION 1
PHILIP PECCERILLI
8 SHORELINE DRIVE
VARIANCE OF SECTION 3.14 and 14.2

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

- Petitioner owns a seasonal cottage at the Beach Drive Condominiums. It has been damaged by storms and he now seeks to demolish the cottage and build a new two-story, year-round residence with front and rear decks. He intends to elevate the structure one foot above FEMA requirements. The Beach Drive Condominium has approved the project. The hardship is that it is a pre-existing non-conforming structure and it does not conform with FEMA or local regulations. No one spoke for or against the petition.

- The Board discussed the petition. They noted that the Petitioner will elevate the new structure to comply with FEMA, the cottage conforms with the rest of the neighborhood and has been approved by the Condominium Association. In addition, there was no opposition from neighbors. **BASED ON THE FOREGOING REASONS, MR. FREDETTE MOVED TO WAIVE THE SETBACK FROM A COASTAL BEACH FROM 75 FT. TO 0 FT. AND WAIVE SECTION 14.2 IN ORDER TO DEMOLISH, REBUILD AND EXPAND A NON-CONFORMING RESIDENCE ON PROPERTY LOCATED IN AN RS-3/RS-4 DISTRICT. MR. GREGA SECONDED AND THE MOTION CARRIED 5-0.**

PETITION 2
DREW & MARTHA BODINGTON
69 STILES STREET
VARIANCE OF SECTION 3.17 & 4.2

- On motion by Mr. Fredette and seconded by Mr. Grega, Petition 2 was taken off the table.

- Petitioner was represented by Attorney Barry Knott. Petitioner had recently constructed a small breezeway connecting the garage to the house and then converted the detached garage into living space, all without permits and in violation of the Zoning Regulations. Also on the property are a shed, pool and pool deck which violate setback requirements and a fence that violates the height requirement. Attorney Knott explained that the lot is oversized at 9,314 sq. ft., but all the improvements made by the former owner were built on the right side of the lot, leaving a big sideyard on the left. Petitioner is moving the shed to conform with the placement of accessory structures on front lots and also reducing the six foot fence to four feet as required. Petitioner thought he was also going to have to move the pool and remove part of the pool deck, but a recent amendment to Section 8-13a of the C.G.S. allows a building or structure that has existed for more than three years without prosecution to be considered a non-conforming use. In Section 8-13a, pools and decks are

defined as “structures.” Mr. Bodington built the deck in 2009, and both he and Mrs. Bodington signed an affidavit stating that the pool has been in the same location since 2005. As to the conversion of the garage, Mr. Bodington didn’t realize he needed a permit until he hired an electrician who applied for an electrical permit. Building coverage for the entire lot is only 17.8% although 25% coverage is allowed in this District. The house was built in 1920 and the detached garage received a variance for a sideyard setback in 1975. The hardship is the fact that the house and garage were oddly located on the lot when built by the prior owners.

- A neighbor across the street stated that he had no problem with the application. No one else spoke for or against the petition.

- The Board discussed the petition. The only issue before them tonight is the setback for the garage that was recently converted to living space. Attorney Knott addressed the other issues and Petitioner will get all required permits for the garage. MR. FREDETTE MOVED TO WAIVE TWO SIDEYARDS FROM 10 FT. TO 6.3 FT. AND 1.5 FT. IN ORDER TO ALLOW A DETACHED GARAGE THAT WAS CONVERTED TO LIVING SPACE REMAIN ON PROPERTY LOCATED IN AN RS-4 DISTRICT. MR. KELEMAN SECONDED and then asked if he could include a Stipulation that no further improvements to the garage would be allowed? Mr. Lorentson explained that the Board was only approving the use of the garage as living space and could not prohibit future improvements. Ms. Collier stated that she was against approving this petition and repeating the mistakes of the past when there was a lot of space on the other side of the lot to make improvements. MOTION CARRIED 4-1 WITH MS. COLLIER OPPOSED.

**PETITIONS 3 & 4
IVADEAN D’AMATO
295 REITTER STREET
LOTS 96 & 97
VARIANCE OF SECTION 4.2**

- On motion by Mr. Fredette and seconded by Ms. Collier, Petitions 3 and 4 were taken off the table.

- Petitioner was represented by Nick Owen. Both lots are 5,600 sq. ft. instead of the required 7,500 ft. The lots are pre-existing non-conforming as they were created in 1915 prior to the adoption of zoning in Stratford. Mr. Owen presented a letter from the Tax Assessor stating that these two lots have been taxed separately since 1949. In addition, on all deeds the legal description for these two lots is always referenced as “First Piece” and “Second Piece. The 1915 map shows that all lots in that area are small, 50 ft. by 100 ft., so these two lots and houses would be consistent with the neighborhood.

- Two neighbors spoke against the petition. One was concerned that the proposed houses would be too big for the lots and would not fit in with the neighborhood. The other neighbor lives to the rear of the subject property and was concerned that noise from construction would interfere with the sleep of his brother who works nights.

- The Board discussed the petition. MR. FREDETTE MADE A MOTION TO WAIVE LOT AREA FROM 7,500 SQ. FT. TO 5,600 SQ. FT.; LOT WIDTH FROM 60 FT. TO 56 FT.; ONE SIDEYARD OF 10 FT. TO 7.1 FT.; AND MAXIMUM BUILDING COVERAGE OF 25% TO 26.9% IN ORDER TO ALLOW A RESIDENCE TO REMAIN ON LOT 96 LOCATED IN AN RS-4 DISTRICT; AND TO FURTHER WAIVE LOT AREA FROM 7,500 SQ. FT. TO 5,600 SQ. FT. AND LOT WIDTH FROM 60 FT. TO 56 FT. IN ORDER TO CONSTRUCT A SINGLE-FAMILY RESIDENCE ON LOT 97 LOCATED IN AN RS-4 DISTRICT, AS THE PROPOSED LOTS WERE IN CHARACTER WITH THE NEIGHBORHOOD. He also stated that a similar variance had been approved for a couple of lots down the street. MR. GREGA SECONDED AND THE MOTION CARRIED 5-0.

2. ITEMS LISTED ON PUBLIC HEARING AGENDA OF MARCH 4, 2014:

PETITIONS 5 & 6
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

- Since there were only four voting members present, Attorney Knott requested that this petition remain on the table. ON MOTION BY MR. FREDETTE AND SECONDED BY MS. COLLIER, PETITIONS 5 AND 6 REMAINED ON THE TABLE.

PETITION 7
SNIFFENS LANE & MAIN STREET

- On motion by Mr. Fredette and seconded by Mr. Grega, Petition 7 was taken off the table.

- MR. FREDETTE MOVED TO GO INTO EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION, SAID SESSION TO INCLUDE THE MEMBERS OF THE BOARD, MR. LORENTSON, AND ATTORNEY SMEDICK. MR. GREGA SECONDED AND THE MOTION CARRIED 5-0.

EXECUTIVE SESSION COMMENCED 8:24 P.M. AND ENDED 8:47 P.M.

- Both Ms. Collier and Mr. Kelemen stated on the record that they had watched the CD of the March 4, 2014 meeting and were able to vote on this Petition. It was also noted that Mr. Seckas would be voting on Petition 7 in place of Mr. Grega.

- MR. FREDETTE MOVED TO ACCEPT THE FOLLOWING RESOLUTION IN SETTLEMENT OF THE CASE, *BREAKWATER KEY ASSOCIATION, ET AL V TOWN OF STRATFORD BOARD OF ZONING APPEALS*, PRESENTLY PENDING IN THE APPELLATE COURT:

RESOLUTION OF STRATFORD BOARD OF ZONING APPEALS

RESOLVED, that the settlement in the case of *Breakwater Key Association, et al v. Town of Stratford Zoning Board of Appeals*, original Docket No. CV-12-6030503-S, presently pending in the Appellate Court bearing Docket No. AC36273, is hereby approved, the terms of which are found to be fair and equitable.

FURTHER, the Stratford Board of Zoning Appeals concludes that new information presented to this Board as part of this settlement, and which was not seen by this Board at the prior hearing on the variance application for the subject access-way, supports the finding of a hardship to justify all necessary variances of Section 3.14 of the Stratford Zoning Regulations to legalize the subject access-way.

More specifically, the new evidence recently submitted to this Board, includes the following:

1) Congressional mandate that airport runway safety areas in "Phase A" must comply with FAA Design Standards by December 31, 2015.

2) Intergovernmental Agreement dated March 14, 2013, which required relocation of Route 113 and eliminated any connection of the dirt access way to Route 113.

3) DEEP Permit dated November 14, 2013, which approved removing approximately 1,685 feet of the existing Route 113, relocating Route 113 further from the airport runway, and eliminating any connection between the old dirt access way and the new portion of Route 113.

4) Demonstration of hardships affecting the five residential lots and the Raymark waste area, that could result in the closure of the airport.

5) Hardship caused by the unique shape, topography and elevation of the subject airport property.

MS. COLLIER SECONDED THE MOTION AND IT CARRIED 5-0.

- MR. FREDETTE MOVED TO ACCEPT THE FOLLOWING RESOLUTION IN SETTLEMENT OF THE COMPANION CASE, JOHN C. KUCEJ V TOWN OF STRATFORD BOARD OF ZONING APPEALS, ET AL, PRESENTLY PENDING IN THE APPELLATE COURT:

RESOLUTION OF STRATFORD BOARD OF ZONING APPEALS

RESOLVED, that the settlement in the case of John C. Kucej v. Town of Stratford Zoning Board of Appeals, Et Al, original Docket No. CV-12-6030499-S, presently pending in the Appellate Court bearing Docket No. AC36273, is hereby approved, the terms of which are found to be fair and equitable.

FURTHER, the Stratford Board of Zoning Appeals concludes that new information presented to this Board as part of this settlement, and which was not seen by this Board at the prior hearing on the variance application for the subject access-way, supports the finding of a hardship to justify all necessary variances of Section 3.14 of the Stratford Zoning Regulations to legalize the subject access-way.

More specifically, the new evidence recently submitted to this Board, includes the following:

1) Congressional mandate that airport runway safety areas in "Phase A" must comply with FAA Design Standards by December 31, 2015.

2) Intergovernmental Agreement dated March 14, 2013, which required relocation of Route 113 and eliminated any connection of the dirt access way to Route 113.

3) DEEP Permit dated November 14, 2013, which approved removing approximately 1,685 feet of the existing Route 113, relocating Route 113 further from the airport runway, and eliminating any connection between the old dirt access way and the new portion of Route 113.

4) Demonstration of hardships affecting the five residential lots and the Raymark waste area, that could result in the closure of the airport.

5) Hardship caused by the unique shape, topography and elevation of the subject airport property.

MS. COLLIER SECONDED THE MOTION AND IT CARRIED 5-0.

3. EXECUTIVE SESSION – SETTLEMENT BARRY DRAZEN V TOWN OF STRATFORD

- MR. FREDETTE MOVED TO GO INTO EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION, SAID SESSION TO INCLUDE THE MEMBERS OF THE BOARD, MR. LORENTSON, AND ATTORNEYS LECLERC AND DRISCOLL. MR. KELEMEN SECONDED AND THE MOTION CARRIED 5-0.

EXECUTIVE SESSION COMMENCED 8:57 P.M. AND ENDED 9:13 P.M.

- MR. FREDETTE MOVED, SECONDED BY MR. GREGA, TO ACCEPT THE TOWN ATTORNEY'S RECOMMENDATION FOR SETTLEMENT IN THE MATTER OF BARRY DRAZEN V TOWN OF STRATFORD. MOTION CARRIED 5-0

4. APPROVAL OF MINUTES – MARCH 4, 2014 MEETINGS

- ON MOTION BY MR. KELEMEN AND SECONDED BY MR. FREDETTE, THE FOREGOING MINUTES WERE APPROVED 5-0.

5. C.A.M. SITE PLAN REVIEW

1) 177-207 Grove Street – no business

2) 8 Shoreline Drive

- ON MOTION BY MR. FREDETTE AND SECONDED BY MR. KELEMEN, THE CAM SITE PLAN FOR 8 SHORELINE DRIVE WAS APPROVED 5-0.

6. MEMORANDUM OF DECISION – FRANCES ERICA LANE, INC. V BOARD OF ZONING APPEALS RE: PATRICIA DRIVE

- Mr. Lorentson reviewed the decision with the Board. No formal action required.

7. REQUEST FOR NEW HEARING FOR 2362 MAIN STREET

- Mr. David Salik previously submitted an application to the Board to convert a commercial building into five apartments. That application was denied in January 2014 due to lack of parking and recreational space. Mr. Salik is now requesting a new hearing as the parking variance no longer applies and there are recreational facilities within walking distance of the building. As a residential property only seven parking spaces are required as opposed to 16 parking spaces for commercial use. Application would actually reduce the parking non-conformity. Mr. Lorentson also brought up the fact that this is urban property located in the proposed Transit District so the Board needs to weigh the importance of on-site recreational space.

- MR. KELEMEN MOVED TO ALLOW A REHEARING OF THE PETITION WITHIN SIX MONTHS. MR. FREDETTE SECONDED AND THE MOTION CARRIED 5-0.

8. RULES OF ORDER

- Mr. Lorentson has redone the Rules of Order to include the changes previously suggested by Mr. Kelemen (Board will not hear petition if applicant does not submit Proof of Mailing) and the Town Attorney (Re-hearing allowed within 6 months to conform with State statute).

- ON MOTION BY MR. GREGA AND SECONDED BY MR. FREDETTE, THE RULES OF ORDER AS AMENDED ABOVE WERE ADOPTED 5-0.

9. MEMBERS CONCERNS/COMMENTS – no business

10. ADJOURNMENT

- On motion by Mr. Fredette and seconded by Mr. Grega, the Board voted to adjourn at 9:30 p.m.

Respectfully submitted,

Gail J. Nobili
Secretary