



TOWN OF
North Stonington, CT
ZONING BOARD OF APPEALS

TUESDAY, OCTOBER 17, 2017

REGULAR MEETING

**SENIOR CENTER
HOLLY GREEN PLAZA
391 NORWICH-WESTERLY ROAD
NORTH STONINGTON, CT 06359**

DRAFT MINUTES

1. **CALL TO ORDER:** Chairman Charlie Burger called the Regular Meeting of the North Stonington Zoning Board of Appeals to order at 7:25 p.m. at the Sr. Center, Holly Green Plaza.

BOARD MEMBERS PRESENT: Charlie Burger, Chairman, James Lord, Vice-Chair, Robin Hall, Secretary, Heather Chrissos (arrived at 7:22 p.m.) and Candy Palmer

COMMISSIONERS ABSENT: Alternate Members Amy Kimball and Gary Thompson

STAFF PRESENT: Administrative Assistant Cheryl Konsavitch Planning, Development & Zoning Official Juliet Hodge

Chairman Burger read the Rules of Procedure into the record.

2. **ADDITIONS TO THE AGENDA:**

MOTION by C. Palmer, SECOND by R. Hall to amend the agenda to move to Item 10 on the agenda to review the minutes.

3. **MINUTES:**

Review minutes of July 18, 2017 meeting

**MOTION C. Palmer, SECOND by J. Lord to approve the minutes of July 18, 2017 as written.
MOTION CARRIED UNANIMOUSLY**

4. **PUBLIC HEARINGS:**

A. ZBA Application #17-006 (Variance), In a matter involving property owned by Thomas W. Burdick, Sr., 10 Old Depot Rd., Charlestown, RI 02813, for property located on the north side of Armstrong Pentway approximately 710 feet east from the intersection of Wyassup Lake Rd. with Armstrong Pentway known as 44Q Wyassup Lake Rd. in an R-80/SUO Zone. Tax Map #70, Lot #3935. Applicant is requesting a variance to Section 313.1C (Driveway Width) to reduce from 12 feet to 10 feet and Section 404.1B (Setback Dimensions) Driveway to be 10 feet from

abutting property line. Reduce from 10 feet to 1 foot. The variance is needed to construct a seasonal single family residence.

Seated: C. Burger, J. Lord, R. Hall, H. Chrissos, C. Palmer

Mr. Tony Nenna, of On-Site Engineering was present representing the applicant and submitted his proof of mailings to abutters.

Mr. Nenna went over the variance request and stated the applicant had received a variance back in 2007 for lot access not on a Town approved road and for the reduction of the required minimum lot size and width, given that the lot predated zoning.

Mr. Nenna stated that Mr. Burdick was not able to acquire land from the abutting property owner to the west who owns the vacant lot to allow the driveway to be conforming. The property also slopes steeply to the water along the western and central portion of the property which forced the location of the driveway and septic system to the southern portion of the lot, outside the buffer and in the flattest location.

The Board asked general questions pertaining to the application.

J. Hodge went over her review of the variance request and discussed some zoning regulation issues pertaining to the driveway regulation. J. Hodge stated the misplacement of Sections B-D will be addressed in December when the Commission cleans up some other errors and omissions that were recently discovered.

Chairman Burger asked if there was anyone from the public speaking for this application. There were none.

Chairman Burger asked if there was anyone speaking against this application. There were none.

Chairman Burger asked if there were any questions or comments from the public pertaining to this application. There were none.

Chairman Burger asked if the applicant had any general remarks or summarization. Mr. Nenna stated that he had covered everything in his presentation.

MOTION by C. Palmer, SECOND by R. Hall to close the Public Hearing on application #17-006. MOTION CARRIED UNANIMOUSLY

5. PENDING APPLICATIONS:

A. ZBA Application #17-006 (Variance), In a matter involving property owned by Thomas W. Burdick, Sr., 10 Old Depot Road, Charlestown, RI 02813, for property located on the north side of Armstrong Pentway approximately 710 feet east from the intersection of Wyassup Lake Road with Armstrong Pentway known as 44Q Wyassup Lake Road in an R-80/SUO Zone. Tax Map #70, Lot #3935. Applicant is requesting a variance to Section 313.1C (Driveway Width) to reduce from 12 feet to 10 feet and Section 404.1B (Setback Dimensions) Driveway to be 10 feet from abutting property line. Reduce from 10 feet to 1 foot. The variance is needed to construct a seasonal single family residence.

MOTION by C. Palmer, SECOND by R. Hall to approve application #17-006 for a variance to Section 313.1C (Driveway Width) to reduce from 12 feet to 10 feet and to Section 404.1B (Setback Dimensions) to reduce location requirement for the driveway from abutting property line from 10 feet to 1 foot for the purposes of constructing a seasonal single family residence for the following reasons:

The reasons to approve are as follows:

1. The applicant has presented a hardship. The lot is a legal building lot that pre-dates zoning and is constrained by ledge, wetlands and limited lot width.

2. The variance requested is in harmony with the general purpose and intent of the Regulations (*Only a seasonal home is proposed on the undersized lot*)

3. Approval of the variance would not adversely affect the public health, safety, welfare, and value of the surrounding properties.

MOTION CARRIED UNANIMOUSLY

Atty. Matthew Berger asked if the Board would consider hearing application #17-005 next as the applicant would like to continue their hearing to November in the hopes of having a full Board.

MOTION by C. Burger, SECOND by R. Hall to amend the agenda to hear application #17-005 before application #17-004. MOTION CARRIED UNANIMOUSLY

6. PUBLIC HEARINGS:

B. ZBA Application #17-005 (*Appeal*), In a matter involving property owned by Robert Broccolo, 32 Denison Hill Rd. N. Stonington, CT 06359, located on the east side of Denison Hill Rd. approximately 2100 feet north from the intersection of Rt. 216 & E. Clarks Falls Rd., with E. Clarks Falls Rd. in an R-80 Zone. Tax Map #98, Lot #3033. Applicant is appealing the decision made by the Zoning Enforcement Officer regarding the improper use of the property by having multiple units in violation of Section 107 of the regulations.

Seated: C. Burger, J. Lord, R. Hall, H. Chrissos

C. Palmer – Recused

Atty. Matthew Berger representing the applicant stated that since Ms. Palmer will be recusing herself as she is an abutter, the applicant would like to continue their appeal until November in hopes of having a full board present.

C. Burger asked if there was anyone from the public here for this application. There were none.

MOTION by J. Lord, SECOND by C. Burger to continue application #17-005 to November. MOTION CARRIED

C. ZBA Application #17-004 (*Variance*), In a matter involving property owned by Courtney Gumbiner, 156 Mystic Rd., N. Stonington, CT 06359, located on the northerly side of Rt. 201 approximately 1200 feet west from the intersection of Jeremy Hill Rd. with Rt. 201 in an R-60 Zone. Tax Map #107, Lot #9664. Applicant is requesting a variance to Section 404.1 (Setback Dimensions) to reduce the front yard setback from 50' to 5' from corner of house to southwesterly boundary. The variance is needed to bring the existing breezeway & patio into zoning compliance to resolve pending enforcement. **(PH scheduled to open on 10/17/17; received on 09/19/17 & PH must close on or by 11/20/17)**

Seated: C. Burger, J. Lord, R. Hall, H. Chrissos, C. Palmer

Keith & Courtney Gumbiner were present for this application.

Ms. Gumbiner submitted their proof of mailings to abutters.

Mr. Gumbiner stated he had an existing patio that he had improved with new pavers and also had a sloping berm that he added new pavers around it and backfill to create an entrance to the front door instead of going off a hill. Mr. Gumbiner stated the berm was created because of safety issues as they had a few cars drive into their front yard. Mr. Gumbiner stated a new breezeway was also constructed on the property. Mr. Gumbiner submitted a picture of the patio (Exhibit A) and a picture of the breezeway (Exhibit B) which he submitted for the record.

The Board asked Mr. Gumbiner why he did not secure the proper zoning and building permits for the second time and he stated he didn't think he would get them, so he just built it.

J. Hodge went over her review of the application and stated the applicant is requesting a variance to allow existing structures built and/or partially built without permits and within setbacks to remain. J. Hodge stated the applicant came before the Board in 2010 to reduce the front and rear setbacks to allow a 745 square foot, third floor addition, an 8' x 10' deck off the third floor addition; and an 8' x 20' addition to the existing 12' x 20' garage that was located approximately 2-3' from the northern property.

J. Hodge stated the applicant was ordered to remove the third floor deck and was instructed to obtain zoning and building permits for the addition to the garage and for the home occupation use taking place in the garage that had never been formally permitted. J. Hodge stated the applicant was also instructed to remove a small shed from the property and discontinue the portion of the driveway to the east that was never formally permitted either, though it has existed for many years.

J. Hodge stated she reopened the enforcement case when she returned to her position as Zoning Official earlier this year because she noticed that no Building Permit or Zoning Permits for the garage or home occupation had ever been obtained and she noticed that a new structure (breezeway) had been constructed. ZEO Hodge stated reducing the front setback to 5 feet along the property line west of the house will eliminate all enforcement issues.

Chairman Burger asked if there was anyone from the public speaking for this application. There were none.

Chairman Burger asked if there was anyone speaking against this application. The following person spoke.

Shawn Murphy stated that how does building without a permit constitutes a hardship.

Chairman Burger asked if there were any questions or comments from the public pertaining to this application. There were none.

Chairman Burger asked if the applicant had any general remarks or summarization. He did not.

**MOTION by C. Palmer, SECOND by H. Chrissos to close the Public Hearing on application #17-004.
MOTION CARRIED UNANIMOUSLY**

7. PENDING APPLICATIONS:

ZBA Application #17-004 (Variance), In a matter involving property owned by Courtney Gumbiner, 156 Mystic Rd., N. Stonington, CT 06359, located on the northerly side of Rt. 201 approximately 1200 feet west from the intersection of Jeremy Hill Rd. with Rt. 201 in an R-60 Zone. Tax Map #107, Lot #9664. Applicant is requesting a variance to Section 404.1 (Setback Dimensions) to reduce the front yard setback from 50' to 5' from corner of house to southwesterly boundary. The variance is needed to bring the existing breezeway & patio into zoning compliance to resolve pending enforcement.

MOTION by C. Palmer, SECOND by J. Lord to deny application #17-004 for a variance to Section 404.1 (Setback Dimensions) to reduce the front yard setback from 50' to 5' from corner of house to southwesterly boundary for the following reasons.

The reasons to deny are as follows:

- 1. No valid hardship exists that is unique to the site.**
- 2. The variance requested is not in harmony with the general purpose and intent of the Regulations (that all structures be placed within the established setbacks and that non-conforming structures not be enlarged).**

3. Denial of the variance requested would not prevent the applicant from reasonable use of his property in conformance with the regulations.

MOTION CARRIED UNANIMOUSLY

8. NEW APPLICATIONS: None

9. NEW BUSINESS: None

10. OLD BUSINESS: None

11. CORRESPONDENCE: None

12. ADJOURNMENT:

MOTION by C. Palmer, SECOND by J. Lord to adjourn the meeting at 8:10 p.m. MOTION CARRIED UNANIMOUSLY.

Respectfully Submitted,

Cheryl Konsavitch

Cheryl Konsavitch, Administrative Assistant
Zoning Board of Appeals