

From: Lois Laczko March 12, 2009 10:58:32 AM  
Subject: Zoning Board of Appeals Minutes 12/17/2008  
To: SimsburyCT\_ZBAMin  
Cc:

ADOPTED

ZONING BOARD OF APPEALS  
REGULAR MEETING  
December 17, 2008

I. CALL TO ORDER

Chairman Peter Stempien called the regular meeting of the Zoning Board of Appeals to order at 7:30 P. M. in the Main Meeting Room of Simsbury Town Hall. The following members were present: Tegan Blackburn, Nancy Haase, Thomas Horan, Craig MacCormac, and John McCann. Also present were Lynn Charest, Zoning Compliance Officer; Howard Beach, Conservation Officer; Lisa Arakelian, Commission Clerk, and other interested parties.

II. APPOINTMENT OF ALTERNATES

Chairman Stempien appointed Craig MacCormac to serve for Lou George, and Tegan Blackburn to serve for Katie Martin.

IV. PUBLIC HEARINGS

A. 08-17 Application of Jeffrey S. Palazzo, Owner, requesting a side yard variance for an addition to the garage, pursuant to Article Eight, Section A of the Simsbury Zoning Regulations on property located at 322 Bushy Hill Road. R-40 Zone.

Jeffrey Palazzo explained that he is requesting a six-foot side yard variance for construction of an addition. Because of the positioning of the house on the lot and the fact that the leaching fields and septic system are located at the rear of the lot, this is the only feasible location for the addition.

Chairman Stempien opened the hearing to public comment.

Andrew Imzi, 326 Bushy Hill Road, informed the Board that he has no objection to the application or variance.

Hearing no further comments, Chairman Stempien closed the public hearing.

A motion was made by Mr. Horan to grant the variance due to the existing side yard limitations and other issues preventing reasonable use of the property. The motion was seconded by Mr. MacCormac, and unanimously carried.

B. 08-18 Application of John J. Royce, 10 Winslow Place Simsbury, LLC – Owner, Asbjorn Gjertsen, Applicant, for a variance to erect a directional sign in the Town Right of Way, pursuant to Article Ten, Section C.3.g of the Simsbury Zoning Regulations on property located at 10 Winslow Place.

B-1 Zone.

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Asbjorn Gjertsen explained that, since the opening of his conference facility, Riverview, earlier this year, he has experienced great difficulty with patrons trying to locate the facility with existing signage. He is requesting additional signage on town-owned property at the northeast corner of Winslow Place and Hopmeadow Street that would provide better identification of the location of the facility.

Chairman Stempien stated his belief that, since the proposed signage would be placed on property owned by the Town of Simsbury, the Town must apply for the variance, not the business owner.

Chairman Stempien read into the record a memo from First Selectman Mary Glassman indicating the Board of Selectmen's approval and adoption of a resolution authorizing placement of the sign, as requested.

Mr. Gjertsen further stated his belief that inadequate signage creates a safety hazard in that it causes confusion for drivers, thereby requiring them to make additional turns and u-turns in an effort to find the facility. Emergency vehicles, especially those that may be from adjacent towns, may also have difficulty finding the facility at critical times.

Chairman Stempien opened the hearing to public comment and read a letter in opposition to the variance from Austin Barney.

Hearing no further comments, Chairman Stempien closed the public hearing.

A motion was made by Mr. MacCormac to approve the variance based on the aforementioned safety issues, the uniqueness of the property, and the

traffic associated with such a unique facility, in order to promote public safety and the welfare of the general public. The motion was seconded by Mr. Horan. Chairman Stempien was opposed because he believed that, because the sign was proposed to be placed on property owned by the Town of Simsbury, the Town of Simsbury should have been the applicant. Motion carried.

C. 08-15 Application of Richard J. and Bronislawa A. Kulikowski, Owners, requesting a variance from Article Eight, Section A (height and area requirements), from the Simsbury Zoning Regulations with regard to frontage requirements for a lot located on property at 82 Climax Road. R-40 Zone.

Attorney T. J. Donohue explained that the owner is seeking a variance to construct a home on a newly created parcel which was created by statutory right of a "first cut". The original 6.2-acre lot had no frontage; therefore, the newly created parcel has no frontage.

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The owner is seeking a variance to be compliant with frontage requirements per zoning regulations.

After extensive discussion, Chairman Stempien opened the hearing to public comment.

Attorney Timothy Fury, representing Robert J. Michalski of 31 Tall Wood Hollow (Avon), spoke in opposition to the variance, stating that the first cut created an illegal lot, and there is insufficient access from the existing right-of-way, Tall Wood Hollow.

Peter Agnesi, 25 Tall Wood Hollow (Avon), spoke in opposition to the variance, and informed the Board that Tall Wood Hollow is simply a dirt road and that it has a very steep grade that makes for difficult access.

Bob Michalski, 31 Tall Wood Hollow (Avon), spoke against the variance because he is opposed to additional travel and/or improvements on Tall Wood Hollow.

Bill Nelson, 37 Tall Wood Hollow (Avon), informed the Board that others have had an interest in developing this property into more than the proposed two lots and that this proposal is preferable and may prevent further development from happening.

Greg Mascoli, 9 Tall Wood Hollow (Avon), asked if a decision tonight would prevent him and his neighbors from negotiating a deal for an improved road or right-of-way in the event of future subdivision.

Chairman Stempien responded that, if the owner decided to further subdivide the property, he would have to negotiate with the residents of Tall Wood Hollow regarding any improvements to the road.

Dan Emrick, 69 Blue Ridge Drive, expressed his concern that this proposal would affect his well.

Attorney Donohue submitted letters in favor of the variance from Ron and Joanne Sims Pomeranz, 65 Blue Ridge Drive, and Laura Palmer, 80 Climax Road.

Joe and Christine Kopyt, 34 Castlewood, spoke in opposition to the variance and noted that the Pomeranz' and the Palmers are not the authors of the letter they signed – that they were simply presented with the letter and they signed it.

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With respect to access, Attorney Donohue stated that the residents of Tall Wood Hollow have been contacted regarding improvements to the road that would accommodate the additional home and, upon approval of the variance tonight, the residents will be contacted again in an attempt to achieve a result that will be agreeable to all parties.

Chairman Stempien asked for clarification of the applicant's hardship. Attorney Donohue replied that, when zoning regulations were created, they created a hardship in that the free-cut lot cannot be used unless the applicant receives a variance on the frontage requirement.

Hearing no further comments, Chairman Stempien closed the public hearing.

A motion was made by Mr. Horan to approve the variance based on the fact that the creation of zoning laws prevents reasonable use of the property. The motion was seconded by Ms. Haase. Board members did not agree that the imposition of zoning laws created a hardship for the applicant. It was the

Board's belief that the hardship was self-imposed when the first cut was made. All voted against the motion. Motion failed.

IV. APPROVAL OF MINUTES

A. November 19, 2008

A motion was made by Mr. McCann to approve the minutes of the November 19, 2008 meeting, as presented. The motion was seconded by Mr. MacCormac, and unanimously carried.

V. ADJOURNMENT

A motion was made by Mr. MacCormac to adjourn the meeting at 10:36 P. M.

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Peter Stempien, Chairman