

## MINUTES

Zoning Board of Appeals

September 2, 2010

Waterford Town Hall Auditorium

6:30 PM

Members Present: E. Peter Bendfeldt, Barbara Panciera, Howard Edwards  
Members Absent: Chairperson Denise Ansell, Joshua Friedman  
Alternates Present: Cathy Newlin, Joseph Filippetti  
Alternates Absent: Jeffrey Picardi  
Staff present: Michael Glidden, Zoning Official, Carol Libby, Secretary

### 1. CALL TO ORDER/APPOINTMENT OF ALTERNATES

E. Peter Bendfeldt called the meeting to order at 6:35 PM and appointed Cathy Newlin to sit for Chairperson Ansell and Joseph Filippetti to sit for Joshua Friedman.

### 2. PUBLIC HEARINGS

**Application #ZBA2010-009**, Appeal of Scott F. Horr, owner and applicant at 164R Clark Lane, R-20, Zone. Variance is requested from Zoning Regulations sections 4.4.1, 4.4.2, 3.10a, 3.10b. (1) 40 ft. variance to front yard setback (2) 10 ft. to northern side yard setback (3) variance to allow an accessory building in the front yard (4) variance to allow solar panels in front yard. Variances are needed to construct free standing pole mounted solar panels per plan submitted.

E. Peter Bendfeldt read the following exhibit list into the record:

Exhibit A: Application and supporting documentation.

(Application; List of Property Owners Within 150'; Deed; Portion of Assessor's Map; Tax Assessor's Street Card; Certificates of Mailing; A-2 Site Plan).

Exhibit B: Notice of Public Hearing published in The Day newspaper on August 19<sup>th</sup> and August 26<sup>th</sup>, 2010.

Exhibit C: Copy of notification letter to applicant dated August 6<sup>th</sup>, 2010 regarding the requirement to mail the notice of Public Hearing to property owners within 150' of the property.

Exhibit D: Condensed comment sheet.

Exhibit E: Letter dated August 12, 2010 from Michael Glidden, Zoning Official to Michael Tranchida, New London City Clerk. The letter services as notification of an application before the Waterford Zoning Board of Appeals for property located within 500 feet of the New London border.

Copies also sent to Harry Smith, City Planner and Michelle Greiner, Zoning Enforcement Officer.

Exhibit F: Letter received August 12, 2010 from Kathryn Willis, New London Public Utilities regarding digging over the water transmission main.

Exhibit G: Letter from Richard LaCombe, received August 26, 2010 strongly objecting to the subject appeal and it be rejected by the Zoning Board of Appeals based upon three reasons stated in his letter.

Exhibit H: Aerial of subject property

William Kent and Scott Horr were present to represent the variance request. The proposed solar panels will provide electricity to the existing large home and also an apartment. The panels are 10 feet wide, 13 feet tall and 71-1/2 feet long. The most efficient location of the panels is calculated and determined by the solar professionals.

W. Kent presented Exhibit I, a brochure from Professional Solar Products illustrating a flat grade system.

W. Kent also explained a side yard variance is requested because the water main easement is approximately 8 feet deep and they would like to keep the solar panels as far north of the main easement. Also, the topography for the northwestern portion of the property drops off approximately 20 feet and it would be very difficult for the construction of the solar panels.

W. Kent presented Exhibit J, K, L and M which are various photographs looking down the driveway of 164R Clark Lane and pictures of solar panels which are located on the abutting property.

C. Newlin questioned if the size of the solar panels can be reduced to meet the setbacks and if two separate panels could be installed side by side, two pieces.

S. Horr stated he did not know the answer and it would be a design question. He also had concerns encroaching on the water main and boundary line. If the panels were not as long as requested, they would be much higher and more visible from the road.

W. Kent explained that the existing slope drops off 17 feet in the back yard and the water main which is approximately 120 – 130 years old are the hardships of this variance.

M. Glidden stated the department had approved an application for solar panels which meets the current setback.

M. Glidden wanted to know why the applicant can no longer meet the setbacks.

S. Horr stated that the contractor who applied for the permit was unaware of the 50 foot setback.

E. Peter Bendfeldt questioned on three occasions if anyone present wished to speak in favor of the variance. No one came forward.

E. Peter Bendfeldt questioned on three occasions if anyone present wished to speak in opposition of the variance.

R. LaCombe came forward to speak in opposition of granting of the variance.

He presented Exhibit N, an affidavit of property owner signatures from Windy Ridge Place and Clark Lane stating the solar panels in the front yard at 164R Clark Lane will create an unsightly view and will affect quality of life and property values in the neighborhood and should be disapproved. Also presented were Exhibit O, which was a letter from Richard LaCombe, not dated and P and Q, 2 photographs of existing solar panels.

E. Miller of 168 Clark Lane came forward stating she was not against the granting of the variance.

W. Kent stated property owners living on Windy Ridge will not be able to see the solar panels.

D. Horr of 6 Chapman Avenue came forward stating he was in favor of granting the variance.

The Public Hearing closed at 7:30 PM.

**Application #ZBA2010-010**, Appeal of John Hoult owner and applicant at 5 Jordan Cove Circle, R-20 Zone. Variance is requested from Zoning Regulations sections 4.4.1 and 4.4.2 (1) 33 foot variance to front yard setback (2) 1 foot to northern side yard setback. Variances are needed to construct an addition to the existing home per plans submitted. Peter Bendfeldt read the following exhibit list into the record:

Exhibit A: Application and supporting documentation.

(Application; List of Property Owners Within 150'; Deed; Portion of Assessor's Map; Tax Assessor's Street Card; Certificates of Mailing; A-2 Site Plan).

Exhibit B: Notice of Public Hearing published in The Day newspaper on August 19<sup>th</sup> and August 26<sup>th</sup>, 2010.

Exhibit C: Copy of notification letter to applicant dated August 6, 2010 regarding the requirement to mail the notice of Public Hearing to property owners within 150' of the property.

Exhibit D: Condensed comment sheet.

Exhibit E: Aerial of subject property

W. Kent and owner, John Hoult were present to represent the variance request. The property was purchased in 2005 and was built in 1935. It was built as a summer home and presently needs a lot of work/improvements. The north side of the home will be taken down and rebuilt, the existing roof leaks and there is no permanent foundation.

W. Kent submitted exhibits F, G, H, I, J, and K which are three photographs of the existing home and a three letters supporting the variance from J. Robinson, P. Ward and T. Wilson.

E. Peter Bendfeldt questioned on three occasions if anyone present wished to speak in favor of the variance. No one came forward.

E. Peter Bendfeldt questions on three occasions if anyone present wished to speak in opposition to the variance. No one came forward.

The Public Hearing closed at 7:40 PM.

**Application #ZBA2010-011**, Appeal of Efpihia Georgiadis, owner and applicant at 23 Twin Lakes Drive, R-20 Zone. Variances are requested from Zoning Regulation Section 3.10d (1) 2 ft. variance to the 10 ft. setback for detached accessory structures (2) 50 sq. ft. variance to the 250 sq. ft. maximum size for detached accessory structures.

Variances are needed to legalize a pergola and wall constructed without the benefit of a permit per plans submitted.

E. Peter Bendfeldt read the following exhibit list into the record:

Exhibit A: Application and supporting documentation.

(Application; List of Property Owners Within 150'; Deed; Portion of Assessor's Map; Tax Assessor's Street Card; Certificates of Mailing; A-2 Site Plan).

Exhibit B: Notice of Public Hearing published in The Day newspaper on August 19<sup>th</sup> and August 26<sup>th</sup>, 2010.

Exhibit C: Copy of notification letter to applicant dated August 16, 2010 regarding the requirement to mail the notice of Public Hearing to property owners within 150' of the property.

Exhibit D: Condensed comment sheet.

Exhibit E: Facsimile Transmittal Sheet, dated 7/29/10 from M. Glidden to R. Gerrick listing all properties within 150 feet of the subject property.

Exhibit F: Facsimile Transmittal Sheet dated 8/10/10 from M. Glidden to Morris Borea regarding e-mail sent on 8/10/10. The e-mail stated the application is not complete and the reasons the application needs to be updated and resubmitted.

Exhibit G: Facsimile Transmittal Sheet dated 8/17/10 from Michael Glidden to Morris Borea regarding the requirement to mail the notice of Public Hearing to property owners with 150 feet of the subject property.

Exhibit H: Memorandum from Michael Glidden dated 8/ 20/10 regarding the history of the enforcement case dating back to 2006.

Morris Borea came forward to represent the variance request.

G. Thibeau of 23 Pond Edge Drive came forward to speak against the application.

E. Peter Bendfeldt questioned M. Borea if there would be any objection with letting Ms. Thibeau speak at this time of the meeting.

M. Borea had no objection.

G. Thibeau totally objected to the variance being granted stating past history of the property and building without benefit of permits. She is now getting water in her family room due to construction at 23 Twin Lakes Drive.

M. Borea continued to speak on the variance request and giving a history of conditions at the property. The swimming pool contractor built the pool in the wrong location. The pool was partially built on 21 Pond Edge Road. This mistake has been an issue for the property owners for a few years. Most of the issues have finally been resolved through the property owner's attorneys and a settlement has been reached. The wall which is over 6 feet high and pergola have been on the property since the summer of 2006.

M. Borea submitted Exhibit I – plan of planting of trees to block the view of the pergola and wall, Exhibit J – Michler v. Planning & Zoning Board of Appeals, August, 2010.

M. Borea stated the following hardship reasons: the left side of the pergola is conforming, it was built 3 to 4 years ago, the swimming pool location is the error of the pool contractor and the property line jags at the boundary line.

M. Glidden explained to the Board Members the history of 23 Twin Lakes Drive which dates back to July, 2005.

C. Newlin questioned if one section of the wall could be taken down to make the accessory structure conforming.

M. Glidden questioned if the wall could be lowered below the height of 6 feet tall so that it would not be considered a structure.

M Borea replied his client said it would be difficult to remove a section of the wall.

E. Peter Bendfeldt questioned if anyone in the audience wished to speak in favor of the variance request. No one came forward.

E. Peter Bendfeldt questioned if anyone in the audience wished to speak in opposition of the variance request. No one came forward.

The Public Hearing closed at 8:20 PM.

A recess was taken until 8:25 PM.

### 3. APPLICATION REVIEWS

**Application #ZBA2010-009**, Appeal of Scott F. Horr, owner and applicant at 164R Clark Lane, R-20, Zone. Variance is requested from Zoning Regulations sections 4.4.1, 4.4.2, 3.10a, 3.10b. (1) 40 ft. variance to front yard setback (2) 10 ft. to northern side yard setback (3) variance to allow an accessory building in the front yard (4) variance to allow solar panels in front yard. Variances are needed to construct free standing pole mounted solar panels per plan submitted.

**MOTION:** Motion made by E. Peter Bendfeldt, seconded by C. Newlin to deny the variance request.

**VOTE:** 5-0

**REASON:** There are other locations which meet setback requirements.

**Application #ZBA2010-010**, Appeal of John Hoult owner and applicant at 5 Jordan Cove Circle, R-20 Zone. Variance is requested from Zoning Regulations sections 4.4.1 and 4.4.2 (1) 33 foot variance to front yard setback (2) 1 foot to northern side yard setback. Variances are needed to construct an addition to the existing home per plans submitted.

**MOTION:** Motion made by J. Filippetti, seconded by C. Newlin to approve Application #ZBA2010-010

**VOTE:** 5-0

**REASON:** The addition is not increasing beyond the existing encroachment and it will improve the character of the neighborhood.

**Application #ZBA2010-011**, Appeal of Efpihia Georgiadis, owner and applicant at 23 Twin Lakes Drive, R-20 Zone. Variances are requested from Zoning Regulation Section 3.10d (1) 2 ft. variance to the 10 ft. setback for detached accessory structures (2) 50 sq. ft. variance to the 250 sq. ft. maximum size for detached accessory structures. Variances are needed to legalize a pergola and wall constructed without the benefit of a permit per plans submitted

**MOTION:** Motion made by C. Newlin, seconded by J. Filippetti to approve with conditions Application ZBA2010-011.

Condition: The planting plan as submitted by applicant will be required, Exhibit I.

**VOTE:** 4-1, (H. Edwards voted to deny)

**REASON:** The owners have made every reasonable effort to bring the property in compliance and outstanding issues are being resolved.

**4. APPROVAL OF MINUTES OF THE JULY 1, 2010 MEETING MINUTES**

**MOTION:** Motion made by H. Edwards, seconded by E. Peter Bendfeldt to approve the July 1, 2010 meeting minutes.

**VOTE:** 4-0-1, J. Filippetti abstaining as he was not in attendance of the meeting.

**5. OLD BUSINESS**

M. Glidden informed the Board that the applicant of 7 David Street has constructed a covered porch to the structure in violation of the ZBA approval.

**6. NEW BUSINESS**

M. Glidden stated that there is one new application for next month's meeting.

**7. CORRESPONDENCE**

Memorandum from Michael Glidden CZEO, Zoning Official dated 7/29/10 regarding David Peikes, et al V.ZBA of the Town of Waterford, et al; ZBA2008-25, 15 West Street and a copy of the court's Memorandum Of Decision from Attorney Jeffrey T. Londregan.

Low Impact Development Workshop, The Niantic River Watershed Advisory Group, Wednesday, September 29<sup>th</sup> 2010 at 7 PM, Oswegatchie Elementary School, 470 Boston Post Road, Waterford. Tour Low Impact Development Practices at the Oswegatchie School with Waterford Planner, Tom Wagner at 6:30 PM.

**8. STATUS OF PENDING APPLICATIONS**

**9. ADJOURNMENT**

**MOTION:** Motion made by H. Edwards, seconded by E. Peter Bendfeldt to adjourn the meeting at 8:40 PM.

**VOTE:** 5-0

Respectfully Submitted,

Carol Libby, Recording Secretary