



**Town of Cromwell
Zoning Board of Appeals**


Jean Alliquant-Cost
TOWN CLERK

***PUBLIC HEARING AND REGULAR MEETING
7:00 P.M. TUESDAY, NOVEMBER 23, 2010
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET***

AGENDA

1. **Call to Order**
2. **Roll Call**
3. **Seating of Alternates**
4. **Approval of Agenda**
5. **Public Comments**
6. **Public Hearing:**
 - a. Application #10-16: Variance from Article 8.1 (minimum rear yard setback) to construct an attached deck onto the existing house at 3 Cedar Drive. Jason LeBlanc, owner/applicant.
 - b. Application #10-17: Variance from Article 11.3.b.4 (minimum buildable square) to enable approval of a rear lot on North Road. Sebastian and Penelope Damiata, owner/applicant.
 - c. Application #10-19: Variance from Article 8.1 (minimum side yard setback) to connect the existing detached garage to the existing house at 58 Field Road. James Morrissey, owner/applicant.
7. **Old Business:** None.
8. **New Business:** None
9. **Approval of Minutes:**
 - a. September 28, 2010
10. **Adjourn**

Memo

To: Zoning Board of Appeals
From: Craig Minor, AICP
Town Planner 
Date: November 17, 2010
Re: ZBA meeting on November 23, 2010

6. Public Hearing:

a. Application #10-16: Variance from Article 8.1 (minimum rear yard setback) to construct an attached deck onto the existing house at 3 Cedar Drive. Jason LeBlanc, owner/applicant.

The applicant would like to build a deck onto the back of his house.

The property is on the inside of a very sharp bend in the road, so the 40' front yard setback and the 50' rear yard setback leaves the owner with very little buildable land. Also, the property is banked into the side of a hill so the topography is rather severe.

The result of all these factors is a very small back yard. The situation certainly meets the "unusual" requirement for a hardship, not of the applicant's own making. I have no objection to approval.

b. Application #10-17: Variance from Article 11.3.b.4 (minimum buildable square requirement for a rear lot) to enable approval of a rear lot on North Road. Sebastian and Penelope Damiaata, owner/applicant.

The new owners of this parcel would like to cut it in half. They would like to merge the south half with their existing property next to it, and then either sell or build a house on the north half. The net result would be one buildable lot where there is now an unapproved parcel, and an existing house lot made larger.

Because the parcel is not an "approved building lot", the applicants need it to be approved by the Planning and Zoning Commission before they can build on it. Since it does not have enough frontage on a town road, the only way for it to be approved is as a "rear lot".

However, due to the significant amount of wetlands and steep slope, the parcel does not contain the required "buildable square" of 40,000 sf in a rectangle of roughly equal sides. That is the regulation which the applicants are seeking a variance from.

I have not done any research into the history of this parcel, but my understanding is that it was the "remainder" of a large parcel that was subdivided several decades ago. The developers probably intended to come back and subdivide it in the future, but that never happened. Over time the parcel became less and less developable due to the increased minimum lot size, more stringent environmental protection regulations, and the overall cost of construction.

While the new owners certainly knew this when they bought the lot, I feel their situation meets the "unusual" requirement for a hardship, not of the applicant's own making. I have no objection to approval.

c. Application #10-19: Variance from Article 8.1 (minimum side yard setback) to build an attached garage to the existing house at 58 Field Road. James Morrissey, owner/applicant.

The homeowner would like to build a garage next to the existing house. There is enough room to build a detached garage, but he wants it to be attached to the back corner of the house, so that people can walk from the garage to the house without being exposed to the elements.

I asked him if he could put the garage directly behind the house. He replied that there is a septic tank and infiltrators at that spot.

In my opinion the applicant has not demonstrated a hardship related to something unusual about the property. Having to walk from the garage to the house is not a "hardship". The presence of the septic system might have been grounds for granting a variance to build the garage somewhere else, but that is actually not relevant. Nothing is preventing the applicant from building a 24' x 24' (or even larger) detached garage, right where he wants it. The only thing he may not do is connect that garage to the house.

cc:
Attorney Sal Petrella
Jason LeBlanc
James Morrissey
ZEO
file

LEGAL NOTICE
PUBLIC HEARING
TOWN OF CROMWELL ZONING BOARD OF APPEALS

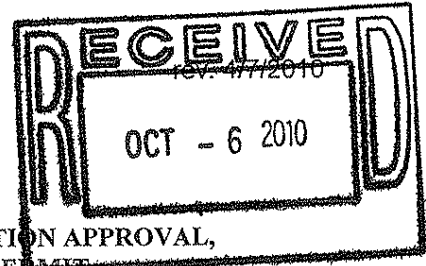
The Cromwell Zoning Board of Appeals will hold a Public Hearing and Regular Meeting at 7:00 pm on Tuesday, November 23, 2010 in Room 224 of the Cromwell Town Hall at 41 West Street on the following items:

1. Application #10-16: Variance from Article 8.1 (minimum rear yard setback) to construct an attached deck onto the existing house at 3 Cedar Drive. Jason LeBlanc, owner/applicant.
2. Application #10-17: Variance from Article 11.3.b.4 (minimum buildable square for a rear lot) to enable approval of a rear lot on North Road. Sebastian and Penelope Damiata, owner/applicant.
3. Application #10-19: Variance from Article 8.1 (minimum side yard setback) to connect the existing detached garage to the existing house at 58 Field Road. James Morrissey, owner/applicant.

At this hearing interested parties may appear and be heard, and written testimony received. These applications are on file in the office of the Town Planner at 41 West Street, Cromwell, CT.

Thomas Tokarz
Chairman

Dated in Cromwell, Connecticut this 10th day of November 2010



TOWN OF CROMWELL
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE, ZONING APPEAL, DMV LOCATION APPROVAL,
OR CHANGE OF NON-CONFORMING USE SPECIAL PERMIT

Address: 3 CEDAR DRIVE		Map/Block/Lot: N/A
Zoning District: A-25	PIN #: 00 355800	Volume/Page: 1127/287
Applicant: JASON LEBLANC		Property Owner: same
Home or Business Address: 3 CEDAR DRIVE		Home or Business Address: same
Phone: 203-537-1112		Phone: same
I hereby certify that the information presented is to the best of my knowledge true and accurate, and that should such information be proved to be inaccurate or misleading, any permit issued on the basis of this information may be revoked.		I hereby consent to the Applicant acting as my agent for the purpose of this application.
Signature: [Signature]		Signature:
Type of Application (check one): <input checked="" type="checkbox"/> Variance from Article 81 of the Zoning Regulations. <input type="checkbox"/> Appeal from ZEO Decision dated _____ <input type="checkbox"/> Change of Non-Conforming Use Special Permit. <input type="checkbox"/> Application for Motor Vehicle Location Approval (attach copy of your completed DMV Form K-7)		
Description of Request: EASE Rear Yard Setback from 35' to 10' to allow construction of an attached deck & free standing pool + deck in our backyard		

Justification for Request:

If Applying for a variance, state the hardship and explain why the variance is required.

If appealing a Decision of the ZEO, explain why you feel the ZEO is wrong.

If Applying for a Change in Non-Conforming Use Special Permit, explain how the new use will be less non-conforming than the current use.

If Requesting DMV Location Approval, state the date of the original Public Hearing (if any).

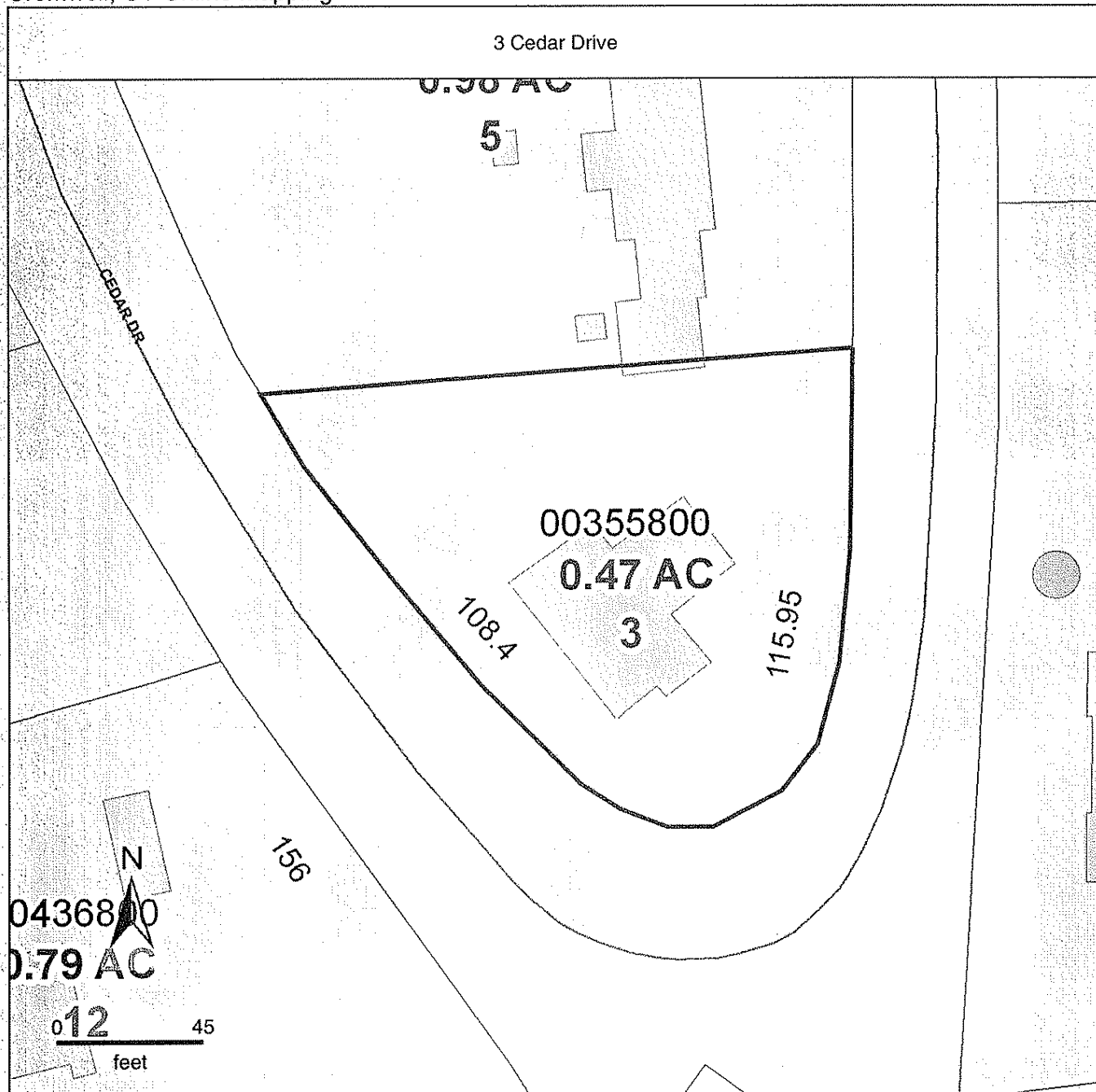
Due to the unusual shape of the lot, greater than 50% of the site is within the Front & Rear set back zones.

Additionally, due to the challenging topography of the site a large portion of the lot is unusable. These factors combined leave only a very small portion of the lot that is available for use, see attached for more detail

1. If you are applying for a variance to reduce a minimum setback by one-half or more, you must submit either a "zoning location survey" or a recent "as-built survey". This survey should show the location of the desired building, the setbacks, and as much of the site as is necessary to illustrate what you are requesting. Photocopies of the Tax Assessor's Map are not acceptable.
2. Written notice must be sent to the owners of property across the street and property that abuts this property not less than 14 days before the public hearing. A "certificate of mailing" must be submitted to the ZBA not less than 10 days before the hearing.
3. A sign must be posted on the property not less than 14 days before the public hearing per Article 21.1 of the zoning regulations.


applicant

10/1/10
date



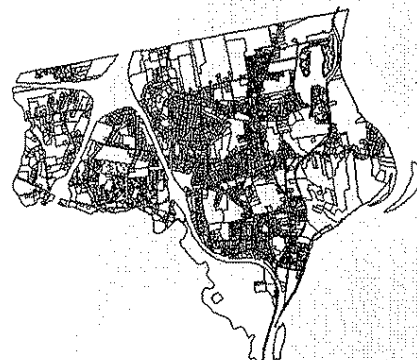
Property Information

Property ID 00355800
Location 3 CEDAR DRIVE
Owner Name LEBLANC JASON & LING

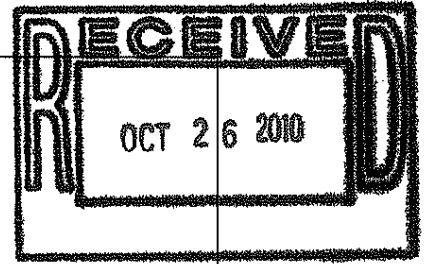


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EUGENE P. ROHR
2 CEDAR DRIVE
CROMWELL, CT 06416-2617
(860) 635-3925



October 18, 2010

Thomas Tokarz, Chair
Zoning Board of Appeals
c/o Town Clerk's Office
41 West Street
Cromwell, CT 06416

Re: Variance application of Jason and Ling
LeBlanc Of 3 Cedar Drive, Cromwell

Dear Chairman Tokarz:

Please read our letter in favor of Jason and Ling LeBlanc's request (for a variance on their property at 3 Cedar Drive) at the upcoming Zoning Board of Appeals meeting on Tuesday, October 26, 2010.

We are in favor of their Application's planned deck. They are a welcome addition to our street, and we would like to support what they hope to do.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Eugene P. Rohr".

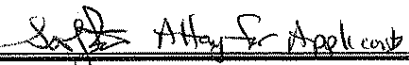
Eugene P. Rohr

A handwritten signature in cursive script that reads "Karen W. Rohr".

Karen W. Rohr

TOWN OF CROMWELL
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE, ZONING APPEAL, DMV LOCATION APPROVAL,
OR CHANGE OF NON-CONFORMING USE SPECIAL PERMIT

Address: North Road		Map/Block/Lot: 09/02/42B	
Zoning District: A-40	PIN #: 00276100		Volume/Page: 1337/207
Applicant: Damiata, Sebastian & Penelope		Property Owner: SAME	
Home or Business Address: 43 North Road Cromwell, CT 06416		Home or Business Address:	
Phone: (860) 638-7804		Phone:	
<p><i>I hereby certify that the information presented is to the best of my knowledge true and accurate, and that should such information be proved to be inaccurate or misleading, any permit issued on the basis of this information may be revoked.</i></p> <p>Signature:  Attorney for Applicant</p>		<p><i>I hereby consent to the Applicant acting as my agent for the purpose of this application.</i></p> <p>Signature:</p>	
<p>Type of Application (check one):</p> <p><input checked="" type="checkbox"/> Variance from Article 11.3.b.4 of the Zoning Regulations.</p> <p><input type="checkbox"/> Appeal from ZEO Decision dated _____.</p> <p><input type="checkbox"/> Change of Non-Conforming Use Special Permit.</p> <p><input type="checkbox"/> Application for Motor Vehicle Location Approval (attach copy of your completed DMV Form K-7)</p>			
<p>Description of Request:</p> <p>See attached</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>			

Justification for Request:

If Applying for a variance, state the hardship and explain why the variance is required.

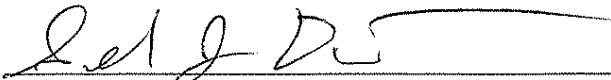
If appealing a Decision of the ZEO, explain why you feel the ZEO is wrong.

If Applying for a Change in Non-Conforming Use Special Permit, explain how the new use will be less non-conforming than the current use.

If Requesting DMV Location Approval, state the date of the original Public Hearing (if any).

See attached

1. If you are applying for a variance to reduce a minimum setback by one-half or more, you must submit either a "zoning location survey" or a recent "as-built survey". This survey should show the location of the desired building, the setbacks, and as much of the site as is necessary to illustrate what you are requesting. Photocopies of the Tax Assessor's Map are not acceptable.
2. Written notice must be sent to the owners of property across the street and property that abuts this property not less than 14 days before the public hearing. A "certificate of mailing" must be submitted to the ZBA not less than 10 days before the hearing.
3. A sign must be posted on the property not less than 14 days before the public hearing per Article 21.1 of the zoning regulations.



applicant

10/11/10

date

Law Office of Salvatore J. Petrella, LLC
Attorneys At Law

Salvatore J. Petrella

Julie C. Petrella

630 Main Street
Cromwell, Connecticut 06416

Tel. (860) 632-8300
Fax (860) 632-7945

October 11, 2010

Zoning Board of Appeals
Cromwell Town Hall
41 West Street
Cromwell, CT 06416

Dear Board Members:

RE: Application for Variance – Application # 10-17, 43 North Road, Cromwell, CT 06416, Sebastian and Penelope Damiata, Applicant / Owner

I represent Sebastian and Penelope Damiata, the owners of property at 43 North Road in Cromwell. My clients are seeking a Variance to allow for the construction of a single family residence on the property.

The Damiatas previously appeared before the Zoning Board of Appeals and sought a variance of the zoning regulations in order to accomplish this same goal. Their application was denied as it was determined that they did not adequately demonstrate the hardship at the public hearing on the matter.

A variance permits an owner to develop and use their property in a manner normally prohibited by the Zoning Regulations. The applicant must show a hardship in complying with the zoning regulations and that the claimed hardship is particular to the land itself and is not self-created. The applicant must demonstrate the hardship involved in this application for a variance at the public hearing on the matter.

The issue here is that the lot in question does not have adequate frontage and therefore must be developed as a rear lot. The requirements and setback dimensions for a rear lot are substantially different from a zoning compliant lot within the same zoning district.

As represented in the previous application, this parcel was created prior to the adoption of the buildable square regulation and prior to the lot being designated within an A-40 Residential Zone. Nothing was done to violate existing zoning regulations when the parcel was created. Before the imposition of the A-40 zone, this land area was partially in an A-15 Residential Zone and partially in an Industrial Zone. When this parcel was created with the idea of future development, there could be no consideration given for the future requirements of a rear lot, buildable square or A-40 zoning.

This precise issue presented to the Zoning Board of Appeals is the request for a variance in the requirements of the buildable square as set forth in Section 11.3.b.4 of the zoning regulations. **The buildable square is defined as “an area of roughly equal length and width which contains no wetlands or watercoursesand no slopes greater than 33%”.** There is no requirement in this regulation for **exactly equal** length and width in a buildable square.

The request is to have a buildable square in this instance of approximately 154 feet by 261 feet in order to meet the requirement of 40,000 square feet, which is the largest possible requirement, since this is an A-40 zone, as opposed to a 200 foot by 200 foot buildable square.

The characteristics of this particular parcel are important to consider since there are extensive wetlands on this property. This limits the area which can be used to qualify as a buildable square. Yet, the applicants do have the 40,000 square feet of land which is sufficient to qualify for the buildable area, not the buildable square.

Looking to the purpose of this requirement under Section 11.3. a., Purposes: ... is to enable the **subdivision** of existing lots of relatively large size..... .The intent is to minimize the length of new road construction **and preserve open space or some other existing natural or cultural resource of the Town.** The Damiatas’ plan to construct a single family residence within the proposed buildable area clearly satisfies the intent of this regulation to preserve open space and other existing natural resources of the town. With the current regulations governing wetlands, it would not be feasible to construct a public road into the parcel to serve one or two lots and it would be contrary to the intent of section 11.3 of the zoning regulations quoted above.

In addition to the reasons already presented to support an approval of this variance request is the overriding fact that the applicants cannot build on this parcel without a variance. A denial of this application will essentially be a **taking** by the Town of Cromwell and render the parcel useless. That is the classic definition of a hardship as the configuration of the land denotes the necessity for the granting of a variance. Without the variance, the value of the land is greatly decreased to the point of being practically destroyed. See Grillo vs. ZBA, 206 Conn. 362 (1988).

The granting of this variance will not substantially affect the comprehensive zoning plan or its general purposes.

Although not germane to this application, the applicants’ neighbors voiced concerns at the previous public hearing that the applicants were going to expand their business into this parcel. The plans submitted with this application clearly show that is not the case. The plan is for a buildable square to allow for the construction of a residential structure. The plan also denotes a new conservation area which encompasses a relatively large portion of the property. This conservation area will provide a substantial buffer for the neighbors so that the natural qualities of the existing parcels will remain. It has been included in the plans to allay the neighbors’ concerns.

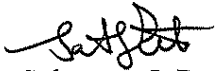
It is also important to note that the adjoining property was previously zoned industrial and the applicants have an absolute right to continue to use that property for industrial and business

purposes despite the subsequent change in zone. Concerns over the use of the adjacent property are not proper considerations for this application.

The abutting property owners are being noticed by certified mail and will receive a copy of this letter. They are invited to contact the undersigned at the telephone numbers or address on the letterhead, with any concerns that they may have so that we can make an attempt to resolve them prior to the public hearing.

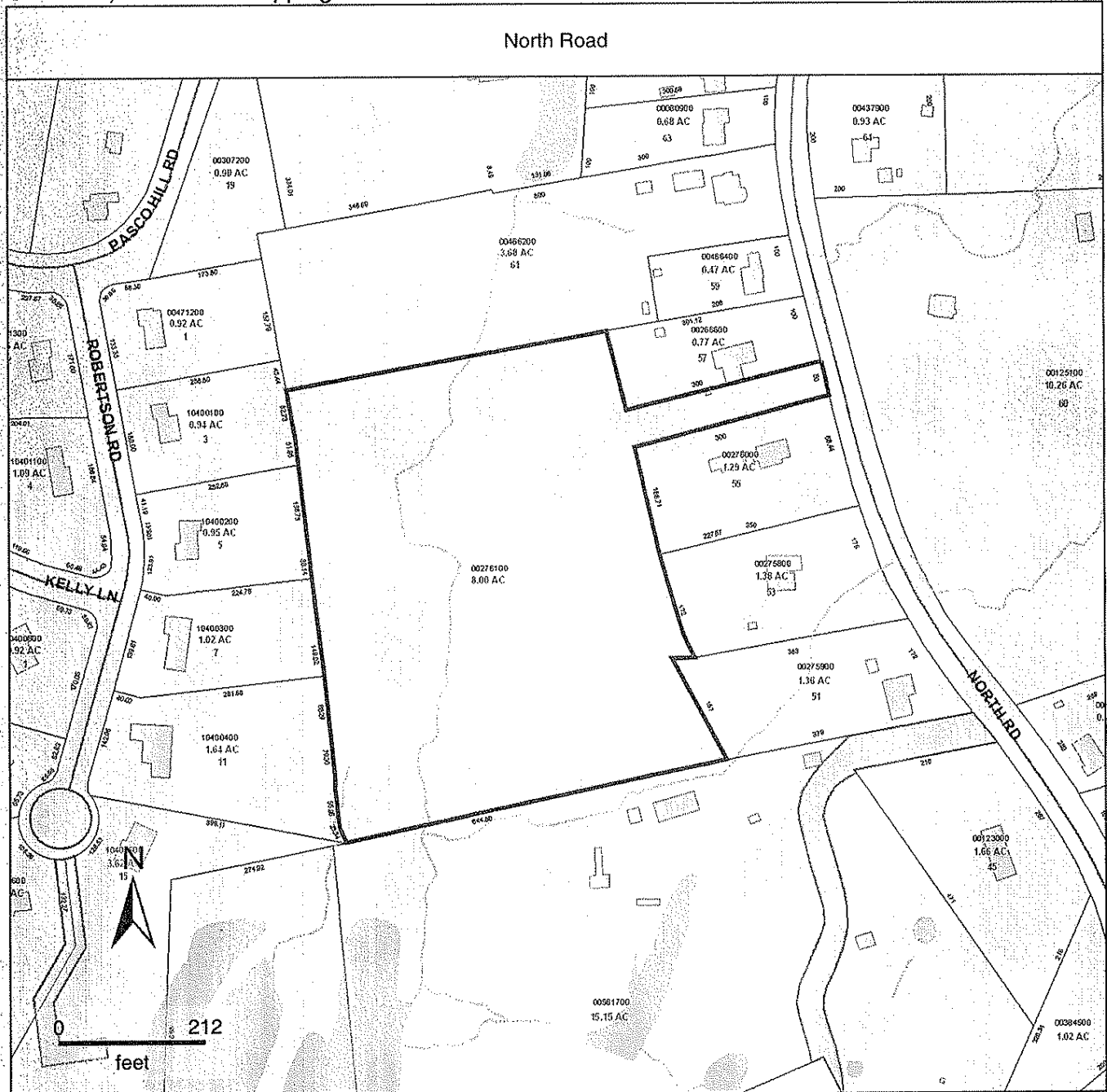
Additional justification as well as photographs and testimony will be presented during the public hearing on the application. Therefore, on behalf of the Damiatas, I ask you to approve this application for a Variance on the requirements of the buildable square in order to proceed with the plans to construct a single family residence on this rear lot. Thank you.

Sincerely,



Salvatore J. Petrella

cc: Sebastian & Penelope Damiata

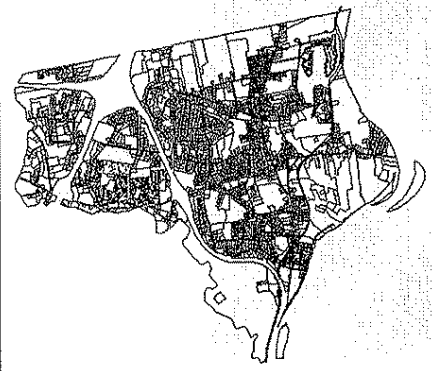


Property Information
Property ID 00276100
Location NORTH ROAD
Owner Name DAMIATA SEBASTIAN J & PEN



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Justification for Request:

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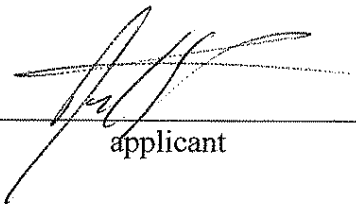
If appealing a Decision of the ZEO, explain why you feel the ZEO is wrong.

If Applying for a Change in Non-Conforming Use Special Permit, explain how the new use will be less non-conforming than the current use.

If Requesting DMV Location Approval, state the date of the original Public Hearing (if any).

The garage will block the existing steps to our back door. I cannot push the garage back any more due to our septic tank location. Making the garage attached will allow for my family to have a safe entrance into our house.

1. If you are applying for a variance to reduce a minimum setback by one-half or more, you must submit either a "zoning location survey" or a recent "as-built survey". This survey should show the location of the desired building, the setbacks, and as much of the site as is necessary to illustrate what your are requesting. Photocopies of the Tax Assessor's Map are not acceptable.
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3. A sign must be posted on the property not less than 14 days before the public hearing per Article 21.1 of the zoning regulations.



applicant

10/29/10

date

FIELD ROAD

EXISTING GRAVEL DRIVE TO BE RELOCATED TO HERE

IP(70) OFF 0.30
S77-59E OF COR.

MON(81) OFF 0.34
S75-52E OF P.I.

NOT FOUND N11°26'00.0"W

IR SET

11
P.I.

IP(27) HELD

(IP27-PT3)
I= 01°27'25.5"
R= 2889.79'
L= 73.49'

NO DATA FOR THIS CURVE ON REF. MAP 4A

25' BUILDING LINE REF. MAP 4A (1955)



EXISTING 31.9'

5.0' PROPOSED

N/F YOUNG, BRENT & KATHLEEN 947/

S82°37'00.0"W

150.00'

25' BUILDING LINE, REF. MAP 4A (1955)

18,236 S.F.
0.373 Ac.

N79°16'00.0"E

158.52'

GREENDALE AVENUE

SEPTIC LOCATION AS PER AS-BUILT PROVIDED BY OWNER DATED AUG. 16, 1994

EXISTING SHED

IR SET(29)

BASE OF BENT IP HELD AS GOOD

110.09'
S06°19'00.0"E

(SEE SPECIAL NOTE # 5)
IR(77) OFF 1.12'
N74-24E OF COR.

IP(78) OFF 0.09'
S72-08E OF COR.

N/F PEMBER, GARY F. & DEBRA D. 351/257

1.55.00'

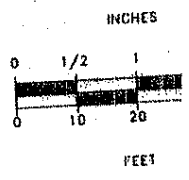
138.08'

MON(58) OFF 0.30'
N82-37W OF P.I.

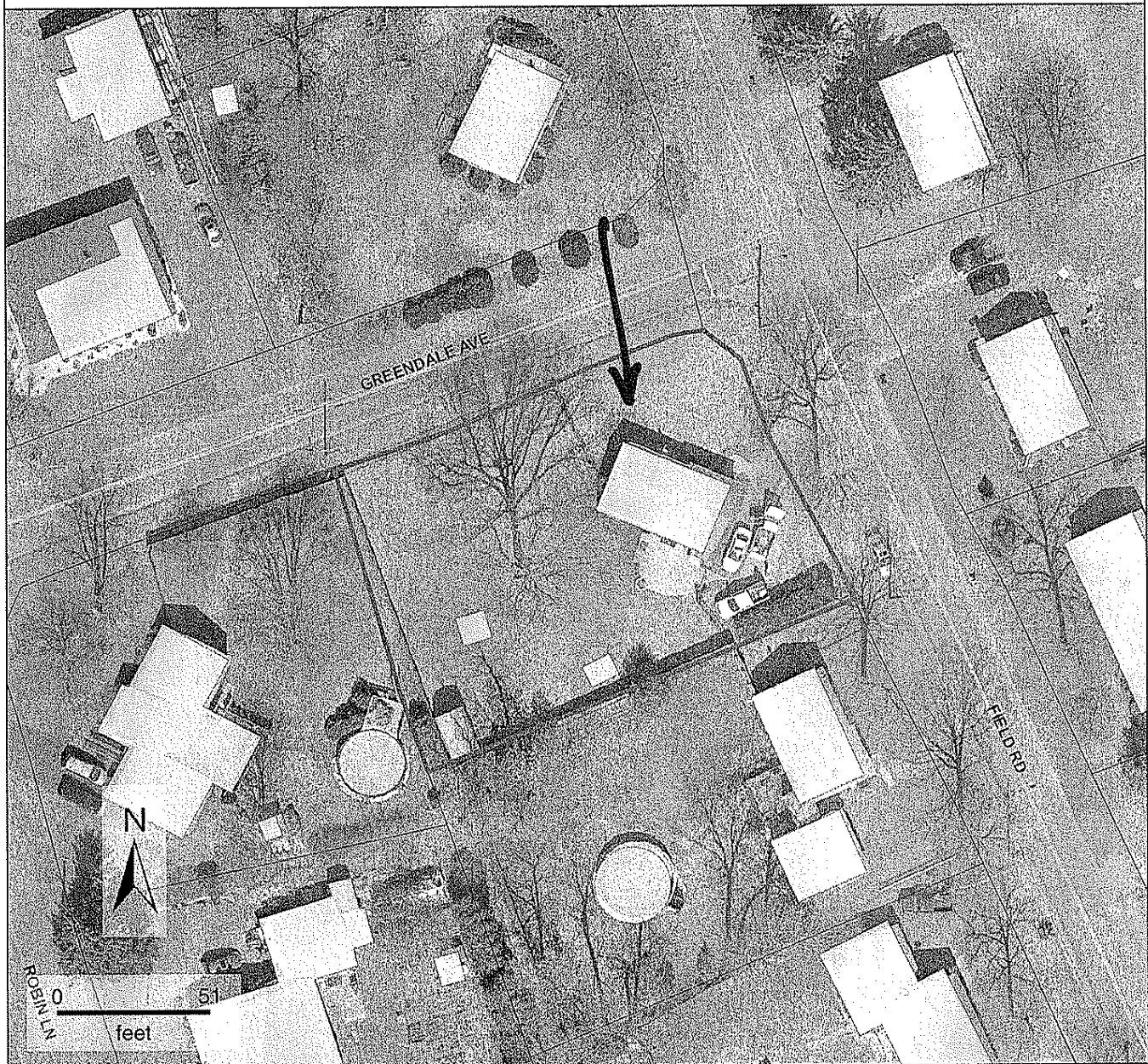
114.31'

ROBIN LANE

is substantially as shown above.



58 Field Road



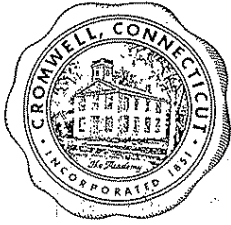
Property Information
Property ID 00423700
Location 58 FIELD ROAD
Owner Name MORRISSEY JAMES



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Town of Cromwell

FIRST SELECTMAN'S OFFICE
NATHANIEL WHITE BUILDING
41 WEST STREET
CROMWELL, CONNECTICUT 06416

October 19, 2010

Brian Fisk
215 Woodland Drive
Cromwell, CT 06416

Dear Mr. Fisk,

I am pleased to advise you that the Board of Selectmen re-appointed you, as an alternate member, to the Zoning Board of Appeals, at their October 13, 2010 meeting. Your term will expire November 2011.

Please make arrangements with Darlene DiProto, Town Clerk, to be sworn in. Darlene may be reached at (860) 632-3440.

Congratulations, and thank you for serving your community in this way.

Thank you again. I am looking forward to working with you.

Sincerely,

John M. Flanders
First Selectman

JMF/re

Copy: Darlene DiProto, Town Clerk
Chairman Zoning Board of Appeals

RECEIVED FOR FILING
10-6-2010 at 1:36 P.M.
TOWN CLERK'S OFFICE
CROMWELL, CONN.

TOWN OF CROMWELL
ZONING BOARD OF APPEALS
PUBLIC HEARING AND REGULAR MEETING
7:00 P.M. TUESDAY, SEPTEMBER 28, 2010
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET

Joan Chulquist Asst.
TOWN CLERK

MINUTES

1. Call to Order
Chairman Thomas Tokarz called the meeting to order at 7:00 PM.
2. Roll Call
Present: Chairman Thomas Tokarz, Vice Chair Christie Carpino, Kimberley Enowitch, Ed Wenners, Alternate Jeffery Ramia, Alternate Stanley Stachura (arrived at 7:22 PM)
Also Present: Town Planner Craig Minor, BOS Liaison Ann Halibozek, Commission Clerk Sarah Voog
Absent: Shaun Sullivan, Alternate Brian Fisk
3. Seating of Alternates
**Ed Wenners made a motion to seat Alternate Jeffery Ramia, 2nd by Christie Carpino.
All in Favor, Motion Passed**
4. Approval of Agenda
**Christie Carpino made a motion to the amend the agenda to move item 6.c. Application #10-14 to be heard before items 6 a. & 6.b. Applications #10-13 & #10-15 and to approve the agenda as amended, 2nd by Ed Wenners.
All in Favor, Motion Passed**
5. Public Comments - None

Chairman Tokarz opened the Public Hearing at 7:17 PM.
6. Public Hearing:
 - c. Application #10-14: Special Permit (Change of Non-Conforming Use) at 31 West Street. Gary Sullivan, owner/applicant.
Attorney Sal Petrella of 530 Main Street presented Application #10-14. He stated that the sign and certified letter requirements were met and Craig Minor verified that those items were in order. He explained that the application that was heard prior was a variance for minimum front yard requirements and this Application is for a non-conforming use Special Permit. Attorney Petrella entered several photographs into the record that shows a panoramic view of the front of the house where the old porch existed and the new porch is proposed. He stated that if Gary Sullivan builds out the porch, as it once was, the porch will not be further encroaching so he does not need a variance. He said that the porch became non-conforming when the zone changed and the proposed porch would be no more non-conforming than the one that is there now. Attorney Petrella cited 2 court

cases in support of the application.

Commissioners asked several questions and discussion was held on the merit of the ZBA hearing the application.

Gary Sullivan of 31 West Street told the assembled that when he was working on the interior of the home last year he discovered the door was originally in the center of the house and that he felt that the proposed porch might add safety for the bedroom on that side of the house as it could act as a guard rail if a car drove off the road into the house.

Chairman Tokarz asked if anyone from the public wanted to speak on this application.

Carmelo Aresco speaking on behalf of his mother Maria Aresco of 34 & 36 West Street acting with POA said both of their houses have full front porches. He said that he has been waiting for the house to be finished and that he does not think it is a big thing to ask.

Larry Anderson of 12 Allen Road said he has known Gary since he was born and that he has been a wonderful owner. He said that he works hard and he really wants the addition. He said he hopes the board will approve the porch, as it will be a welcome addition to the Town and make a big difference in the neighborhood.

Myron Johnson of 16 Pleasant Street said we all know each other and grew up together in Cromwell and that this is another example of something that needs to be a simple process. He cited that if you look at the aerials for the property there is no change to the encroachment to the road when you look down on the house.

Ann Halibozek of 7 Christian Hill Road and BOS Liaison asked if they could have used "safety" as their hardship when they applied for the variance, as the home is a two-family home. Craig Minor said they could have but they didn't.

Christie Carpino made a motion to close the Public Hearing at 7:49 PM, 2nd by Kimberley Enowitch.

All in Favor, Motion Passed

More discussion was held on the foundation that still exists from the original porch. Town Planner Craig Minor said that he disputes the applicant's claim that this is a request for a change in non-conforming use; the "use" is allowed - it's the location of the use that's non-conforming. Furthermore even if it were, the ZBA does not have the authority to approve an expansion of a non-conforming use.

Chairman Tokarz called the question to a motion.

Ed Wenners made a motion to approve Application 10-14: Special Permit (Change of Non-Conforming Use) at 31 West Street. Gary Sullivan owner/applicant.

Vote: Yes: Thomas Tokarz, Ed Wenners, Kimberley Enowitch, Jeffery Ramia

No: Christie Carpino

Majority Vote, Motion Passed

Thomas Tokarz recused himself as a participating Board member for Applications #10-13 & #10-15. Christie Carpino took the Chair position.

Kimberley Enowitch made a motion to seat Alternate Stanley Stachura, 2nd by Ed Wenners.

All in Favor, Motion Passed

a. Application #10-13: Variance from Article 12 Paragraph 5.1.13 and 14 (Compensatory Storage and Equal Conveyance of Flood Waters) at 245 Main Street. The Mattabassett District, owner/applicant.

John Braccio of Wright Pierce Engineering located in Middletown, CT presented Application #10-13.

Mr. Braccio explained the proposed improvements are within the 100-year flood zone. He also said that there is no other place to build the building on the site and that the improvements are in response to Federal and State mandated nitrogen removal requirements. He said they did a study to confirm that there would be almost no impact on the flood volume as the flood plain would be affected by less than 3/8 of an inch increase. He stated that the hardship is the unique situation due to requirements to meet Federal and State nitrogen restrictions to protect Long Island Sound of which were unforeseen when the facility was constructed 42 years ago. He said that they approached the abutting property owner (DOT) for permission to excavate a suitable amount on their land, but were not successful.

Vice Chairman Carpino asked if there were any comments from the public. There were none.

Stanley Stachura made a motion to close the Public Hearing at 8:20 PM, 2nd by Kimberley Enowitch.

All in Favor, Motion Passed.

Ed Wenners made a motion to approve Application #10-13: Variance from Article 12 Paragraph 5.1.13 and 14 (Compensatory Storage and Equal Conveyance of Flood

Waters) at 245 Main Street, The Mattabasset District, owner/applicant 2nd by Stanley Stachura.

All in Favor, Motion Passed

b. Application #10-15: Variance from Article 8.1 (Maximum Building Height) at 245 Main Street. The Mattabasset District, owner/applicant.

John Braccio of Wright Pierce Engineering located in Middletown, CT presented Application #10-15.

Mr. Braccio explained that the smoke stack is part of the facilities' improvements and again indicated that they are responding to the Federal and State mandate to reduce nitrogen content. He said the proposal is state-of-the-art technology and the additional 14' in height is necessary to construct the type of stack that is required by the manufacturer. He also said that the proposed improvements would make the Mattabasset facility the best in Connecticut. He stated that there would be no safety issues or property value reduction as a result of the improvements.

Vice Chairman Carpino asked if there were any comments from the public. There were none.

Stanley Stachura made a motion to close the Public Hearing at 8:41 PM, 2nd by Kimberley Enowitch.

All in Favor, Motion Passed

Stanley Stachura made a motion to approve Application #10-15: Variance from Article 8.1 (Maximum Building Height) at 245 Main Street. The Mattabasset District, owner/applicant, with the condition that the structure not exceed 54' in height, 2nd by Kimberley Enowitch.

All in Favor, Motion Passed

7. Old Business: None

8. New Business: None

9. Approval of Minutes: a. August 24, 2010

Stanley Stachura made a motion to table the minutes, 2nd by Ed Wenners.

All in Favor Motion Passed

10. Commissioner's Comments

The Commission members all agree to get the Town Attorney's opinion on Special Permit Application #10-14 for future understanding of the Board's responsibility to rule the matter vs. P&Z.

11. Adjourn

Stanley Stachura made a motion to close the meeting at 8:55 PM, 2nd by Kimberley Enowitch .

All in Favor, Motion Passed

Respectfully Submitted By,

A handwritten signature in cursive script that reads "Sarah A. Voog".

Sarah A. Voog, ZBA Commission Clerk

TOWN OF CROMWELL
ZONING BOARD OF APPEALS
PUBLIC HEARING AND REGULAR MEETING
7:00 P.M. TUESDAY, SEPTEMBER 28, 2010
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET
RECORD OF VOTES

RECEIVED FOR FILING
9-30 2010 at 1:37 P.M.
TOWN CLERK'S OFFICE
CROMWELL, CONN.

Jean Ahlgren
TOWN CLERK

1. Call to Order
Chairman Thomas Tokarz called the meeting to order at 7:00 PM.
2. Roll Call
Present: Chairman Thomas Tokarz, Vice Chair Christie Carpino, Kimberley Enowitch, Ed Weners, Alternate Jeffery Ramia, Alternate Stanley Stachura (arrived at 7:22 PM)
Also Present: Town Planner Craig Minor, BOS Liaison Ann Halibozek, Commission Clerk Sarah Voog
Absent: Shaun Sullivan, Alternate Brian Fisk
3. Seating of Alternates
Ed Weners made a motion to seat Alternate Jeffery Ramia, 2nd by Christie Carpino.
All in Favor, Motion Passed
4. Approval of Agenda
Christie Carpino made a motion to the amend the agenda to move item 6.c. Application #10-14 to be heard before items 6 a. & 6.b. Applications #10-13 & #10-15 and to approve the agenda as amended, 2nd by Ed Weners.
All in Favor, Motion Passed

Chairman Tokarz opened the Public Hearing at 7:17 PM.

6. Public Hearing:
 - c. Application #10-14: Special Permit (Change of Non-Conforming Use) at 31 West Street. Gary Sullivan, owner/applicant.
Christie Carpino made a motion to close the Public Hearing at 7:49 PM, 2nd by Ed Weners.
All in Favor, Motion Passed

Ed Weners made a motion to approve Application 10-14: Special Permit (Change of Non-Conforming Use) at 31 West Street. Gary Sullivan owner/applicant.

Vote:

Yes: Thomas Tokarz, Ed Weners, Kimberley Enowitch, Jeffery Ramia

No: Christie Carpino

Majority Vote, Motion Passed

Thomas Tokarz recused himself as a participating Board member for Applications 10-13 & 10-15. Christie Carpino takes the Chair position.

Kimberley Enowitch made a motion to seat Alternate Stanley Stachura, 2nd by Ed Weners.

All in Favor, Motion Passed

a. Application #10-13: Variance from Article 12 Paragraph 5.1.13 and 14 (Compensatory Storage and Equal Conveyance of Flood Waters) at 245 Main Street. The Mattabassett District, owner/applicant.

Stanley Stachura made a motion to close the Public Hearing at 8:20 PM, 2nd by Kimberley Enowitch.

All in Favor, Motion Passed.

Ed Weners made a motion to approve Application #10-13: Variance from Article 12 Paragraph 5.1.13 and 14 (Compensatory Storage and Equal Conveyance of Flood Waters) at 245 Main Street, The Mattabassett District, owner/applicant 2nd by Stanley Stachura.

All in Favor, Motion Passed

b. Application #10-15: Variance from Article 8.1 (Maximum Building Height) at 245 Main Street. The Mattabassett District, owner/applicant.

Stanley Stachura made a motion to close the Public Hearing at 8:41 PM, 2nd by Kimberley Enowitch.

All in Favor, Motion Passed

Stanley Stachura made a motion to approve Application #10-15: Variance from Article 8.1 (Maximum Building Height) at 245 Main Street. The Mattabassett District, owner/applicant, with the condition that the structure not exceed 54' in height, 2nd by Kimberley Enowitch.

All in Favor, Motion Passed

9. Approval of Minutes: a. August 24, 2010

Stanley Stachura made a motion to table the minutes, 2nd by Ed Weners.

All in Favor Motion Passed

11. Adjourn

Stanley Stachura made a motion to close the meeting at 8:55 PM, 2nd by Kim Enowitch .

All in Favor, Motion Passed

Respectfully Submitted By,



Sarah A. Voog, ZBA Commission Clerk