

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
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 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 Wengers, 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 Wengers.
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 Wengers 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.

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 Mattabassett 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 Kim Enowitch

All in Favor, Motion Passed

Respectfully Submitted By,

Sarah A. Voog, ZBA Commission Clerk