

Town of Cromwell Zoning Board of Appeals

*PUBLIC HEARING AND REGULAR MEETING
7:00 P.M. TUESDAY, FEBRUARY 22, 2011
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 #11-01: Variance from Article 11.3 (Rear Lots) to create a rear lot at 16 Newbury Road. H & C Developers LLC, owner/applicant.

7. Old Business: None
8. New Business: None
9. Commissioners Comments:
 - a. By-laws
10. Approval of Minutes:
 - a. August 10, 2010
 - b. December 28, 2010
11. Adjourn

RECEIVED FOR FILING
02/09/2011 at *12:07 P.M.*
TOWN CLERK'S OFFICE
CROMWELL, CONN.

Gloria Prendergast, Asst.
TOWN CLERK

Memo

To: Zoning Board of Appeals
From: Craig Minor, AICP
Town Planner
Date: February 9, 2011
Re: ZBA meeting on February 22, 2011

6. Public Hearing:

a. Application #11-01: Variance from Article 11.3 (Rear Lots) to create a rear lot at 16 Newbury Lane. H & C Developers LLC, owner/applicant.

Although this situation might not meet the legal definition of "hardship", I think this is a fair way to solve a problem.

During the approval process for the Newbury Lane subdivision in 2006, the Planning and Zoning Commission asked the developers to create a "paper road" off of Newbury Lane that could some day be connected to Court Place, thereby providing more access to the future homes on Newbury Lane. The developers agreed to do this, and changed the 21 lot development into a 20 lot development with a "paper road" that, once connected to Court Place, could contain a 21st lot.

For the past four years the Town has been working with the developers and other property owners to obtain the remaining land necessary to connect the "paper road" to Court Place. Ultimately it was not successful and the Board of Selectmen recently voted not to pursue it any further.

The developers would therefore like to eliminate the "paper road" and combine that land with some excess land from two other lots to create a new rear lot. However, this proposed rear lot does not have the required "buildable square" nor the minimum 30,000 square feet, and cannot have the required 70' frontyard setback.

Since the developers could have had 21 lots originally had they not complied with the Planning and Zoning Commission's request to try to make a connecting street, it seems fair to grant them these variances. I have no objection to approving this request.

cc:
H&C Developers LLC
Atty Sal Petrella
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, February 22, 2011 in Room 224 of the Cromwell Town Hall at 41 West Street on the following item:

1. Application #11-01: Variance from Article 11.3 (Rear Lots) to create a rear lot at 16 Newbury Road. H & C Developers LLC, owner/applicant.

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

Thomas Tokarz
Chairman

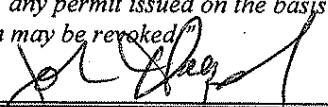

Dated in Cromwell, Connecticut this 8th day of February 2011

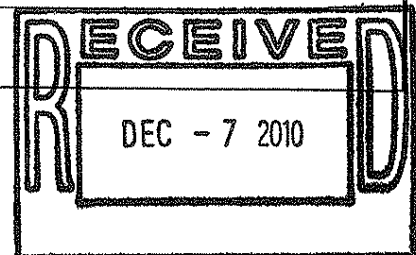
#11-01

rev. 4/7/2010

TOWN OF CROMWELL
ZONING BOARD OF APPEALS

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

Address: 16 Newbury Road		Map/Block/Lot: 46/19/164
Zoning District: A-15	PIN #: 10609500 10608700	Volume/Page: 1156/240
Applicant: H & C Developers, LLC		Property Owner: same
Home or Business Address: 425 Main Street Cromwell, CT 06416		Home or Business Address: same
Phone: (860) 982-7485		Phone: same
<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> Signature: 		<i>I hereby consent to the Applicant acting as my agent for the purpose of this application.</i> Signature: 
Type of Application (check one): <input checked="" type="checkbox"/> Variance from Article 11.4 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: Please see attached. <hr/> <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.

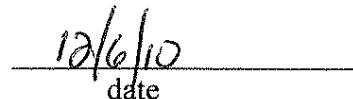
If Requesting DMV Location Approval, state the date of the original Public Hearing (if any).

Please 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.

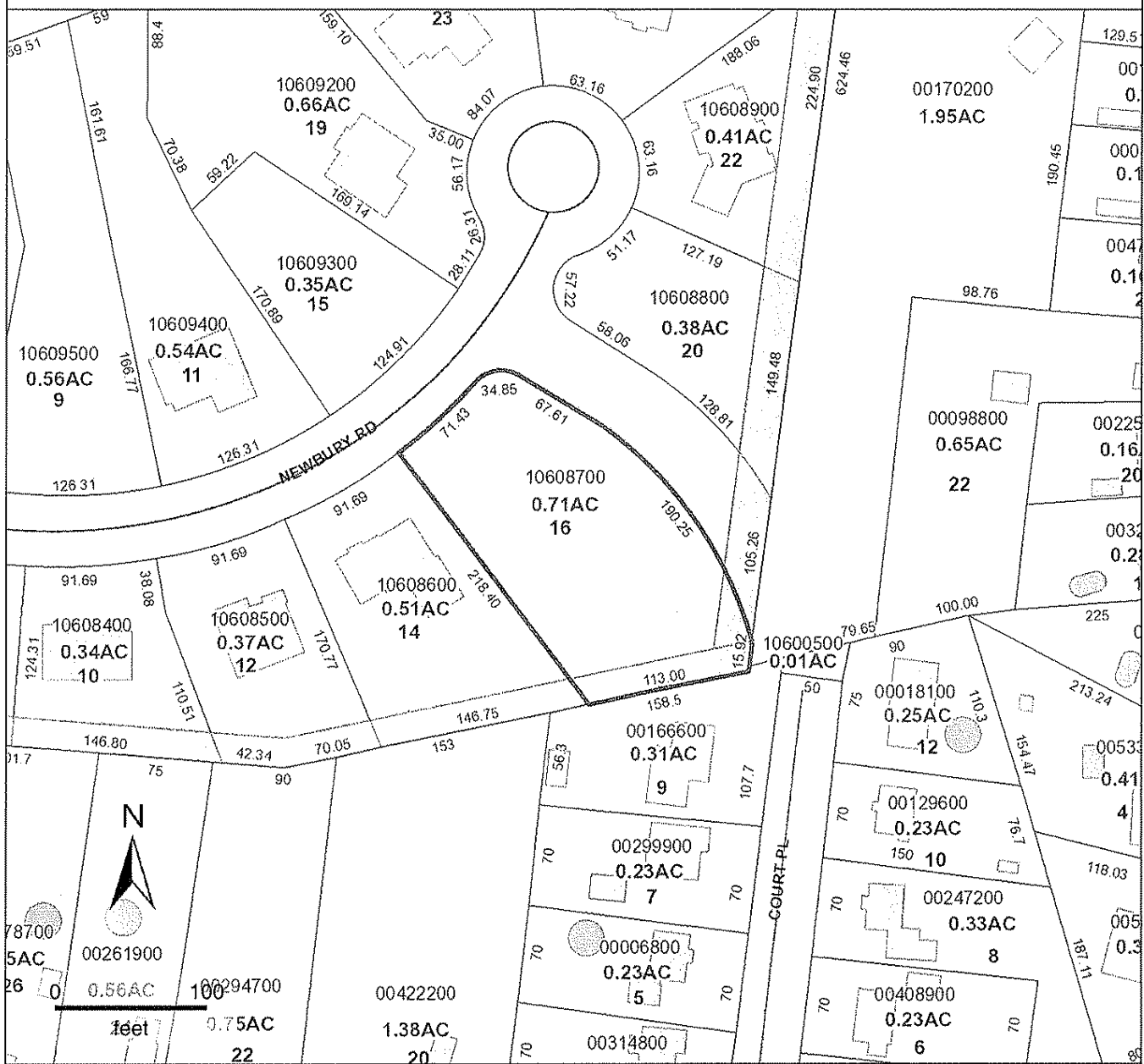


applicant



date

16 Newbury Lane

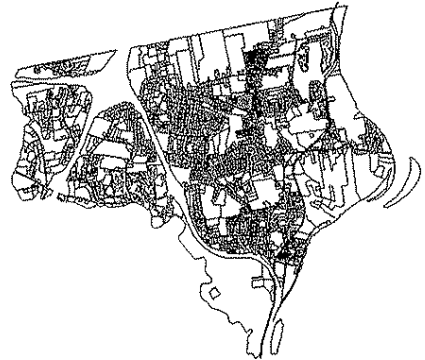


Property Information
 Property ID 10608700
 Location 16 NEWBURY ROAD
 Owner Name H & C DEVELOPERS LLC



**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

The Town of Cromwell makes no claims, no representations, and no warranties, expressed or implied, concerning the validity (expressed or implied), the reliability, or the accuracy of the GIS data and GIS data products furnished by the Town, including the implied validity of any uses of such data. The use of this data, in any such manner, shall not supersede any federal, state or local laws or regulations.



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

December 6, 2010

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

**RE: Application #10-18, Request for Variance from Article 11.4, 9 Newbury Road,
H & C Developers, LLC, applicant/owner**

I am attorney Salvatore J. Petrella and I represent H & C Developers, LLC, the entity which developed the subdivision known as Newbury Estates, located off of Woodside Road in Cromwell.

My client is requesting a variance from Article 11.4 of the Cromwell Zoning Regulations for all bulk requirements for a rear lot. The purpose of this request is to allow the existing approved subdivision lot number 8 at 9 Newbury Road to be subdivided into two lots. The newly created Lot 8-B would be a rear lot as shown on the submitted Resubdivision Plan subject to approval by the Cromwell Planning and Zoning Commission.

In regards to proposed Lot 8-B, a variance is required for the following:

1. Article 11.4.2: double minimum front yard setback
2. Article 11.4.3: double minimum lot size
3. Article 11.4.4: buildable square of not less than the minimum lot size for an A-15 zone

As way of background, during the land use permitting process for Newbury Estates, H & C Developers, LLC was required to provide a spur road access off of the main subdivision road, Newbury Lane, as a connection between Woodside Road and Court Place. This requirement placed on my client by the Town of Cromwell Planning and Zoning Commission resulted in the loss of one building lot due to the placement of the spur road along Newbury Road. It was anticipated that a new residential lot could be developed after the spur road was installed as the new lot would then have adequate frontage along a town road, thus allowing my client to "make up" the lost lot.

In order to complete the spur road, the Town of Cromwell was to acquire an easement through the properties at 9 Court Place and 30 Oakwood Manor in order to connect the spur road to Court Place. The Town of Cromwell has now decided not to move forward with this acquisition and, as a result, my client has no way to recoup their lost building lot.

It should be noted that the hardship issue facing my client is the direct result of the requirements placed upon it by the Planning and Zoning Commission in the creation of the spur road and the Town of Cromwell's subsequent decision not to complete the spur road. It is in no way self-created.

On behalf of my client, I ask that this application for a variance from the bulk requirements for a rear lot be granted so that 9 Newbury Road may be subdivided and my client be able to recoup the lot lost in the land permitting process.

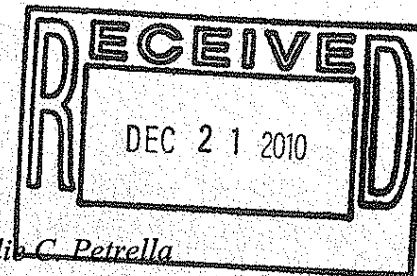
Sincerely,



Salvatore J. Petrella

Cc: H & C Developers, LLC

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

December 17, 2010

John Flanders, First Selectmen
Board of Selectmen

Eric Hood, Director of Public Works

Joseph Masurek, P.E., Cromwell Town Engineer

Craig Minor, Cromwell Town Planner

Cromwell Town Hall
41 West Street
Cromwell, CT 06416

Dear Addressees:

RE: Zoning Board of Appeals Hearing on Variance for Rear Lot, (Spur Road) at Newbury Estates, Cromwell, Connecticut 06416

I am attorney Salvatore J. Petrella and I represent H & C Developers, LLC, the entity which developed the subdivision known as Newbury Estates, located off of Woodside Road in Cromwell.

This letter is to follow up on a number of correspondence and conversations conducted with the current and previous First Selectman, Board of Selectmen and Cromwell town officials regarding the spur road at Newbury Estates by the Town of Cromwell.

On November 10, 2010, I appeared in front of the Board of Selectmen regarding my proposal to move forward with a plan for a rear lot at Newbury Estates to resolve the spur road issue. The Board was in favor of the plan and authorized town officials to provide the necessary background information to the various land use boards and commissions.

The first of these land use agency hearings is in front of the Zoning Board of Appeals, scheduled for December 28, 2010, at 7:00 p.m., wherein the applicant is seeking a variance of the rear lot

bulk requirements in order to move forward to the Planning & Zoning Commission with applications for a rear lot and a re-subdivision.

I am respectfully requesting that a town official attend this meeting on December 28th in order to inform the ZBA of any particulars regarding the actions of the town in attempting to acquire the necessary easement for the connection of the spur road to Court Place and the eventual decision by the town to abandon this idea.

This should eliminate any potential concern by the ZBA that the "hardship" requirement for the requested variance was self-created by the applicant. I thank you in advance for your anticipated cooperation.

Sincerely,



Salvatore J. Petrella

Cc: John H. Bradley, Cromwell Town Attorney
H & C Developers, LLC

RECEIVED FOR FILING
8-26 2010 at 2:22 P.M.
TOWN CLERK'S OFFICE 1
CROMWELL, CONN.

Jean Chiquette Asst.
TOWN CLERK

TOWN OF CROMWELL
ZONING BOARD OF APPEALS
PUBLIC HEARING AND REGULAR MEETING
7:00 P.M. TUESDAY, AUGUST 24, 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 Wengers, Alternate Jeffery Ramia, Alternate Stanley Stachura (arrived at 7:05 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

Christie Carpino made a motion to seat alternate Jeffery Ramia, 2nd by Ed Wengers.

All in Favor, Motion Passed

4. Approval of Agenda

Christie Carpino made a motion to amend the agenda to add Item 9. b. Commissioners Comments, 2nd by Ed Wengers.

All in Favor, Motion Passed

Christie Carpino made a motion to accept the amended agenda, 2nd by Kimberley Enowitch

All in Favor, Motion Passed

5. Public Comments - None

6. Public Hearing:

- a. Application #10-12: Variance from Article 3.1.24 (Maximum Height of an Unattached Garage) to construct an addition approximately 19' high at 68 Washington Road. Charles and Barbara Cota, owner/applicant.

Chairman Thomas Tokarz opens the Public Hearing at 7:06 PM.

Charles Cota of 68 Washington Rd presented Application #10-12. Charles Cota explained that

they are asking for a variance for the partially constructed storage building attached to the back of the garage. He apologized for not obtaining a building permit as he incorrectly assumed that since he pulled a permit for the original structure (that was torn down) that permit was still good. Once he realized a permit was required he came and applied for a permit the same day but was denied. He said at that point the building was already built. He stated that other Towns measure the height of a structure by using an average of the different heights, but that Cromwell uses the most extreme height of the building. He said that if an average was used that the building height would be 16', which is well under the maximum allowance of 18'. He also said that they excavated approximately 13" of soil to try to reduce the slope and doing so they created the need additional height that exceeded the 18'. He presented the board with a series of photos to show the excavation and building height and said the new construction is barely visible from the road, that it is not an eye sore and that no complaints were made by any of the neighbors. He said the he had a few people look at the building and they have said it could be dangerous to try to take off the roof to lower it 10", which he feels is a relatively insignificant amount.

Thomas Tokarz asked what photo #4 represented and Mr. Cota said that it shows how much excavation was done for the new building and that the grade was about 13" higher before.

Kimberley Enowitch asked why the new building was constructed higher than the garage it is attached to. Mr. Cota said that the whole project was built in consideration of making a comfortable storage space.

Thomas Tokarz asked why change the grade and Mr. Cota said the downward slope was such that it was hard to grow grass there and it could be very slippery at times.

Christie Carpino asked if the required notifications were sent to the neighbors. Craig Minor checked the file and found that they were missing the notices. Mr. Cota's son left the meeting and returned with the notifications, which Craig Minor reviewed and agreed that the property owners that are required to be notified were.

Kimberley Enowitch asked how the Zoning Enforcement Officer found out about the building and Mr. Cota said that Fred Curtin told him he saw it when he was driving by one day and that no one had complained about it.

Jim Rude of 25 Highridge Rd voiced his support of the variance. He said he felt the differential between the height of the building and the 18' requirement was very small and that the Cota family are good residents and neighbors. He said they keep their property in excellent condition and there should be more people like them in Cromwell. He said that there is an abandoned home on Helena Dr and that more needs to be done about places like this instead.

Mike Slifer of 2 Pondview Dr also spoke in support of the Cota family. He said they are a 3rd generation Cromwell family. He said that the variance should be approved. He also said that the Helena Dr property needs to be addressed.

Ed Wenners said to Mr. Minor, if the grading was done after the building was constructed and approved would there be any need for a variance. Mr. Minor said that he could not speak for Fred Curtin on how he would handle that situation.

Thomas Tokarz asked who determined the height of the building. Kim Enowitch said that Fred said in his letter that he measured the building at the most extreme height.

Ann Halibozek of 7 Christian Hill Rd and BOS Liaison said that in her day job in health insurance if a patient had a procedure done that was not approved for coverage that they could appeal and might be granted coverage retroactively if special conditions were found. She said that she is in support of granting the variance and asked what's to stop them from filling their lot and making it in compliance.

Mr. Cota said that one peak is 16'8" and the other is 18'10".

Christie Carpino made a motion to close the Public Hearing, 2nd by Kimberley Enowitch. All in Favor, Motion Passed.

Ed Wenners made a motion to approve the Variance Application 10-12 Article 3.1.24 maximum height of an unattached garage for 68 Washington Rd with the hardship being the topography of the land, 2nd by Kimberley Enowitch.

Discussion was held.

Ed Wenners said he went to look at the property and it was clear that the area had been excavated and a patio was put in at the back of the building. He said that certainly someone could put up a shed and have it approved and then excavate material to change the grade. He said because of the slope of the hill there is a topography hardship and he is inclined to approve the variance.

Kimberley Enowitch said she is not in favor of not getting a building permit but accepts that it was an honest mistake in this case. She noted that Mr. Cota could have excavated afterwards and if he had pulled a permit someone may have questioned the design of the building.

Chairman Thomas Tokarz called the motion.

Vote:**Yes: Ed Wenners, Jeffery Ramia, Kimberley Enowitch, Thomas Tokarz****Abstain: Christie Carpino****Majority Vote in Favor, Motion Passed**

Mr. Cota asked if he could start working on it again. Craig Minor explained the approval appeals process.

7. **Old Business:** None.

8. **New Business:** None

9. **Approval of Minutes:**

a. July 27, 2010

Christie Carpino made a motion to approve the minutes as presented, 2nd by Ed Wenners.

Vote:**Yes: Thomas Tokarz, Christie Carpino, Ed Wenners, Jeffery Ramia****Abstain: Kimberley Enowitch (not present at minutes meeting)**

b. Commissioner's Comments

Christie Carpino asked where are we in the process of the revisions to the Zoning Regulations and will they be ready before the end of the calendar year. Craig Minor said that the sub-committee is still working on the draft document, which is about 209 pages long. He said he expects they may be ready for a public hearing sometime this fall.

Stanley Stachura said he thinks the definition of "building height" that lead to the variance they heard tonight needs to be clarified. He said if the measurement is going to be the extreme height of the building then the zoning regulations should specify that. Mr. Minor said that all the definitions have been re-written.

10. **Adjourn**

Kimberley Enowitch made a motion to close the meeting at 7:38 PM, 2nd by Christie Carpino.

All in Favor, Motion Passed

Respectfully Submitted By



Sarah A. Voog, ZBA Commission Clerk

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

RECEIVED FOR FILING
12-30-2010 at 10:56 AM.
TOWN CLERK'S OFFICE
CROMWELL, CONN.

MINUTES

Jan Culligan
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, Shaun Sullivan, Ed Wenners, Alternate Stanley Stachura
Also Present: BOS Liaison Ann Halibozek, Commission Clerk Sarah Voog
Absent: Kimberley Enowitch, Alternate Jeffery Ramia, Alternate Brian Fisk
3. **Seating of Alternates**
Ed Wenners made a motion to seat Alternate Stanley Stachura, 2nd by Shaun Sullivan.
All in Favor, Motion Passed
4. **Approval of Agenda**
Shaun Sullivan made a motion to approve the agenda as presented, 2nd by Stanley Stachura.
All in Favor, Motion Passed
5. **Public Comments** None Present
6. **Public Hearing:**
 - a. Application #10-18: Variance from Article 11.3 (Rear Lots) at 16 Newbury Road.
H & C Developers LLC, owner/applicant.
Attorney Sal Petrella of 630 Main Street on behalf of the applicant H&C Developers LLC requested to use the applicant's privilege to revoke the application from being heard at tonight's meeting for two reasons. One, is that there are only four voting members present and second, is that an error was made in the notification of the appropriate property owners for the proposed application. He said that he would like to redo the letter and resend the certified letters to the correct property owners.
A brief discussion was held regarding the subdivision map and the appropriate parcels for notification.
Stanley Stachura made a motion to table Application #10-18 until the next meeting, 2nd by Ed Wenners.
All in Favor, Motion Passed
7. **Old Business:** None
8. **New Business:** None
9. **Commissioners Comments**
Thomas Tokarz noted that he believes the By-Laws in the packet is not the most current document as he was present for revisions and that would be more recent than April of 2003.
Stanley Stachura noted that the meeting day is not correct as the first Tuesday since the Board meets the fourth Tuesday of each month. He asked that the most recent By-Laws be provided in the next packet so the commissioners may review the document for potential changes.

Stanley Stachura commented that application #10-18 should not have been on the meeting agenda. He said that staff needs to review the certified letters for proper notification based on the variance requested. He added that in the absence of the Town Planner there should be someone designated to do the review of the cards.

10. Approval of Minutes:

a. August 10, 2010

Ed Wenners made a motion to table the August 10, 2010 minutes and to have them provided in the next meeting packet, 2nd by Shaun Sullivan.

All in Favor, Motion Passed

b. November 23, 2010

Ed Wenners made a motion to accept the November 23, 2010 minutes as presented, 2nd by Shaun Sullivan.

Vote: Yes: Thomas Tokarz, Ed Wenners, Shaun Sullivan

Abstain: Stanley Stachura (not present at Minutes meeting)

Motion Passed

11. Annual Meeting:

a. Election of Officers

Chairman Tokarz indicated that the Board positions open are Chairman and Vice Chairman. Stanley Stachura stated that he will not be voting as only regular members are permitted to vote.

Ed Wenners made a motion to nominate Thomas Tokarz as Chairman, 2nd by Shaun Sullivan.

Chairman Tokarz called for any other nominations for Chairman, hearing none:

All in Favor, Nomination Approved

Shaun Sullivan made a motion to nominate Ed Wenners as Vice Chairman, 2nd by Thomas Tokarz.

Chairman Tokarz called for any other nominations for Vice Chairman, hearing none:

All in Favor, Nomination Approved

b. Approval of Meeting Dates for 2011

Discussion was held on the proposed meeting dates for 2011. Each date was verified with next year's calendar for the fourth Tuesday of each month. Chairman Tokarz indicated that the January meeting date should be January 25, 2011. The Board agreed to change the December 2011 meeting date to Wednesday, December 21, 2011.

Ed Wenners made a motion to approve the amended 2011 Meeting dates, 2nd by Shaun Sullivan.

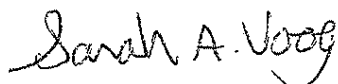
All in Favor, Motion Passed

12. Adjourn

Stanley Stachura made a motion to adjourn the meeting at 7:25 PM, 2nd by Ed Wenners.

All in Favor, Motion Passed

Respectfully Submitted By,



Sarah A. Voog, ZBA Commission Clerk