

**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**

MINUTES

- 1. Call to Order:**
Chairman Thomas Tokarz called the meeting to order at 7:07 PM.

- 2. Roll Call:**
Present: Chairman Thomas Tokarz, Vice Chairman Ed Wenners, Alternate Stanley Stachura, Alternate Brian Fisk
Also Present: Town Planner Craig Minor, BOS Liaison Ann Halibozek, Commission Clerk Sarah Voog
Absent: Kimberley Enowitch, Shaun Sullivan, Alternate Jeffery Ramia, Alternate Samantha Cahill

- 3. Seating of Alternates:**
Ed Wenners made a motion to seat Alternates Stanley Stachura and Brian Fisk, 2nd by Thomas Tokarz.
Vote:
Yes: Thomas Tokarz, Ed Wenners. Motion Passed.

- 4. Approval of Agenda:**
Stanley Stachura made a motion to approve the agenda, 2nd by Ed Wenners.
All in Favor. Motion Passed.

- 5. Public Comments:**
None

- 6. Public Hearing:**
 - a. Application #11-01: Variance from Article 11.3 (Rear Lots) at 16 Newbury Road. H & C Developers LLC, owner/applicant.

Chairman Tokarz opened the public hearing for Application #11-01 and pointed out that since there were only 4 members present at the meeting, the applicant could choose to postpone the hearing of the application until the next meeting. He also indicated that Samantha Cahill filled Christie Carpino's vacant position.

Stanley Stachura said the applicant could choose to present the application at this meeting and members not present could listen to the recording of the meeting and rule on the application at the next meeting.

Attorney Sal Petrella, office located at 630 Main St, representing H & C Developers LLC presented the application.

Mr. Petrella said they would like to move forward with presenting the application and decide later whether to wait for the ruling at the next meeting. Attorney Petrella explained that the original proposal did not have a spur road but P&Z wanted a connector road from Newbury Road to Court Place. He said the Town asked H & C Developers to assist in fixing the drainage problem in the area by contributing \$25,000 to improvements the Town would be making to solve the area's drainage issues. He also commented that an additional \$40,000 of drainage infrastructure was installed within the subdivision to address the site drainage issues. He said that the Town Engineer indicated that the Town is moving forward with the required easements from property owners and the documents are in the process of being signed.

He said the appropriate property owners were notified by certified letter and the sign has been in place for several months. Attorney Petrella said that there are three variances that are needed to create three buildable lots, 8a, 8b & 9, as listed on the proposed plan. One is the requirement for a "buildable square" and he then described lot 8b's buildable rectangle consisting of good land with no site issues such as wetlands or slope. The second one is frontyard setback for a rear lot. The third is double the minimum lot size. He stated the hardship is that without the required variances the land would have no other use and the potential for development would be lost. He told the Board that the Town and P&Z Commission were the ones that required the spur road and that it was not proposed in the original plans presented. He said when the Town did not obtain the necessary easements for the spur road it caused the need to reconfigure the parcels to recover the loss of the 21st lot that was part of the original proposal. Attorney Petrella asked to be allowed time to speak after public comments.

Thomas Tokarz asked to have the drainage issues clarified and John Hagel of 12 Sachem Drive, and one of the owners of H & C Developers said he would like to answer. Mr. Hagel said that the original design was to connect to Wildwood Road and install catch basin for drainage, which would have had the 2 lots fronting on a town road. He said instead they were required to change the plans to include the spur road and asked to provide \$25,000 to assist the Town in solving the existing Court Place drainage issues, along with the on-site drainage infrastructure for the subdivision.

Discussion was held with several commissioners commenting on the lot configurations, easements needed and setback requirements.

Attorney Petrella then talked about the site preparation that was made to accommodate the spur road and how the Town could not obtain the required easements from the intervening property owners to connect the road to Court Place. He said that it has been five years since the plans were filed and the timeline was running out so after four or five months of BOS meetings the Town formally abandoned the spur road requirement and agreed that turning it into a driveway was the appropriate resolution. He indicated that they have requested an extension to the time requirement. He describe the 3 lot's configurations stating that they focused on the appearance of the lots from the street perspective. He said they complement each other and will look nice.

Chairman Tokarz invited the public to speak asking them to state their name and address for the record.

Mike Morgan of 11 Newbury Road said his property sits diagonally across from the lots and he supports the approval, as it is a reasonable solution to finishing the project and resolving the drainage issues. He said that he had water in his backyard and that Hagel has done an excellent job in providing relief without connecting the other drainage improvements. He said he has been living with an unfinished road and piles of dirt because this matter has been up in the air for so long. He said he would appreciate the approval of all the variances.

Scott Rodrigue of 22 Newbury Road said his home is right next to lots 8a & 8b and he is in favor of approval as the drainage runs through his backyard and he would like to see the road and project finished.

Chris Galletta of 3 Newbury Road said he lives in the development and is in support of approval as he would like to see the road finished with the caveat that the easements be finalized. He said the drain that is supposed to handle the drainage issues doesn't go anywhere right now and it needs to be connected to take care of the drainage issues in the whole area.

Barbara Fountain of 30 Oakwood Manor said her backyard abuts the lots. She explained that she is currently in negotiation with the Town for the needed easements. She said that it should have no bearing on the approval of the lots as the drainage problem will be taken care of, as it is everyone's best interest. She said that she is in support of approval.

Thomas Tokarz explained that it requires four votes in favor of the application for approval.

Brian Fisk made a motion to close the Public Hearing at 8:05 PM, 2nd by Stanley

Stachura.

All in Favor. Motion Passed.

Brian Fisk made a motion to approve application #11-01, 2nd by Stanley Stachura.

Discussion was held on how the plan presents the side and front yards to clarify the issue.

Brian Fisk explained that in terms of the orientation of the proposed home for the rear lot (8b) the side yard to the house will be the frontyard variance under consideration.

Craig Minor explained that the minimum frontyard setback requirement on the rear lot would leave approximately 10' to build on.

Attorney Petrella stated that they can live with a 35' frontyard setback line.

Ed Wenners said that the double minimum requirement would be 70' from frontyard lot line and the applicant is asking for 35' setback, which is half the requirement.

Stanley Stachura made a request for a friendly amendment to include in the motion that the variance from Article 11.3.2 is limited to 35' for the frontyard setback, and that the variances are from Sections 11.3.2, 11.3.3, and 11.3.4. These were misstated on the application. Brian Fisk said he accepted this amendment.

Brian Fisk made a motion to approve the friendly amendment 2nd by Stanley Stachura.

All in Favor. Motion Passed

Chairman Tokarz called the approval motion.

Brian Fisk made a motion to approve application #11-01, with the conditions that the variance from Article 11.3.2 is limited to 35' for the frontyard setback, and that the variances are from Sections 11.3.2, 11.3.3, and 11.3.4, 2nd by Stanley Stachura.

All in Favor, Motion Passed

7. Old Business: None

8. New Business: None

9. Commissioners Comments:

a. By-laws

Chairman Tokarz said he sees a few areas in the By-laws that may need attention. He

asked that the Board members review them for discussion at the next meeting.

10. Approval of Minutes:

a. August 10, 2010

Thomas Tokarz noted that the meeting date needed correction from August 10, 2010 to August 24, 2010.

Ed Wenners made a motion accept the minutes of August 24, 2010, 2nd by Stanley Stachura.

Vote:

Yes: Thomas Tokarz, Ed Wenners, Stanley Stachura

Abstention: Brian Fisk (not present at minutes meeting).

Motion Passed

b. December 28, 2010

Stanley Stachura made a motion accept the minutes of December 28, 2010, 2nd by Ed Wenners.

Vote:

Yes: Thomas Tokarz, Ed Wenners, Stanley Stachura

Abstention: Brian Fisk (not present at minutes meeting).

Motion Passed

11. Adjourn:

Brian Fisk made a motion to adjourn the meeting at 8:15 PM, 2nd by Stanley Stachura.

All in Favor. Motion Passed

Respectfully Submitted By,

**Sarah A. Voog
ZBA Commission Clerk**