



Town of Cromwell Zoning Board of Appeals

*PUBLIC HEARING AND MEETING
6:30 P.M. TUESDAY, August 11, 2015
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET*

Minutes and Record of Votes

Present: Chairman Joe Morin, Sam Slade, John Keithan, David Ricard, Alternate John Whitney

Also Present: Town Planner Stuart Popper, Town Council Liaison Mertie Terry

1. Call to Order

The meeting was called to order at 6:33pm by Chairman Morin.

2. **Roll Call** – The presence of the above members was noted.

2. Seating of Alternates

A **motion** was made by John Keithan and **seconded** by Sam Slade to seat John Whitney as an alternate. *All were in favor; the motion passed.*

4. Approval of Agenda

A **motion** was made by Sam Slade and **seconded** by John Whitney to approve the agenda with the amendment of adding item 6d. Appeal at 621 Main Street Anthony Gochee. *All were in favor; the motion passed.*

5. Public Comments - none

6. Public Hearing:

- a. Application #15-09: Request for a Variance from Article 2.2.B Bulk Requirements (Aggregate Side Yard) to allow for the construction of a deck at 6 Court Street in the Residence R 15 Zone District. Douglas R. Walsh is the Applicant and Owner.

Sam Slade read the legal notice for application 15-09 dated July 28, 2015.

A **motion** was made by John Keithan and **seconded** by John Whitney to open the public hearing for application 15-09. *All were in favor; the motion passed.*

Terri Walsh said they have a small deck adjacent to the pool. She said the deck is necessary for her elderly Dad and son with scoliosis who both live there. She said the deck makes it easier than a ladder for them. She said the deck went up in June. Ms. Walsh said she has a small yard and is asking for consideration. Mr. Ricard asked how far from the neighbor's property the deck was. Ms. Walsh said it is close to the fence at the neighbor's property.

Chairman Morin asked for members of the public who were for or against the application.

Rich Maceachern of 4 Court Street said the deck is touching the fence and for safety reasons he would like to ask them to move the ladder to the other side. He said someone can slip onto the fence. Mr. Maceachern handed out pictures to the Board. Ms. Walsh looked at the picture and said yes, it can be moved.

A **motion** was made by David Ricard and **seconded** by John Whitney to close the public hearing for application 15-09. *All were in favor; the motion passed.*

Mr. Popper said he wanted to clarify that by approving the variance you are increasing the bulk coverage ratio. He said the pool and deck were constructed without a permit. He said the Walsh's were told they needed a variance for the deck and a permit for the pool. He said the deck is in violation of the setback requirements and it increases the cover ratio.

A **motion** was made by David Ricard and **seconded** by Joe Morin to deny application 15-09. *Dave Ricard was in favor; Chairman Morin, John Whitney, John Keithan, Same Slade opposed; the motion failed.*

Mr. Whitney said the deck would be safer with railings.

Chairman Morin said the biggest concern is moving the deck to the other side. He said to work with Mr. Popper to resituate and then reapply with a different layout.

- b. Application #15-10: Request for a Variance from Section 7.1.A to allow for the expansion of a non-conforming residential use at 58 Geer Street in the Industrial Zone. Peter Forgetta is the Applicant and Christina M. and James D. Reilly are the owners.

John Whitney reads application 15-10.

A **motion** was made by Sam Slade and **seconded** by Dave Ricard to open the public hearing for application 15-10. *All were in favor; the motion passed.*

Peter Forgetta of 2 Lower Heather Wood said his daughter is considering adding an addition to

58 Geer Street. He said this was a residential zone then it was removed prior to my daughter owning the home. Mr. Popper said the hardship is the rezoning. He said this is residential in an industrial zone so it is non-conforming.

Mr. Forgetta explained that 58R is behind the house and they share a driveway. Mr. Whitney asked if they meet all required setbacks. Mr. Popper said yes.

Chairman Morin asked for any members of the public for or against application 15-10. No one came forward.

A **motion** was made by Sam Slade and **seconded** by John Whitney to close the public hearing for application 15-10. *All were in favor; the motion passed.*

Ms. Slade said this is cut and dry. Mr. Whitney said we have done others in the area.

A **motion** was made by Sam Slade and **seconded** by John Whitney to approve application 15-10. *All were in favor; the motion passed.*

c. Application #15-11: Request for a Variance from Article 2.2.B Bulk Requirements (Rear Yard) to allow for the construction of an addition at 10 River Park Drive in the River Protection Zone District. Frank J. and Marie A. Discenza are the Applicants and Marie A. Discenza is the Owner.

Maria Discenza of 10 River Park said they would like to add a 3 season sunroom on to the house. She said it will help with the mosquito problem. She handed out pictures of what it would look like and said the room would face the river. Mr. Popper said the hardship is the limited depth of the backyard and the limited topography. He said the house is right up to the rear yard setback.

Chairman Morin asked for any members of the public who were for or against the application.

John Fleck of 12 River Park Drive said we don't have any problems with this and it will look great.

A **motion** was made by Dave Ricard and **seconded** by John Keithan to close the public hearing for application 15-11. *All were in favor; the motion was passed.*

A **motion** was made by Chairman Morin and **seconded** by Sam Slade to approve application 15-11. *All were in favor; the motion passed.*

Chairman Morin explained the 15 day waiting period.

d. 621 Main Street Cease and Desist

Mr. Popper said that on July 7, 2015 Ms. Massey issued a cease and desist order for 621 Main Street for violating the conditions of approval. He said we found that no formal appeal has been submitted. He said the \$160 application fee was never received and the original variance for application 15-02 was never recorded. He said Chairman Morin signed it but the applicant never filed it.

Mr. Popper said the Police did noise testing at night which is between 10:00pm – 6:00am and testing during the day which is from 6:00am – 10:00pm. He said both times showed one decimal over the allowed limit. He said we are still waiting for another daytime reading and will issue a new cease and desist order tomorrow. He said they will re-do the night reading as well. He said we will withdraw the cease and desist that Ms. Massey issued. He said the applicant is violating the town ordinance for noise levels but we are interpreting it as not complying with condition of approval that it be covered and shielded. He said if it is still in violation than it will have to be rectified. He said they filed a letter but not a formal appeal. He said I took the attorney's word that he would file an application so I put in a public hearing notice.

Ms. Slade asked if the structure was built and just not working. Mr. Popper said yes, a complaint was received. He said we need an additional day and night reading.

Chairman Morin if anyone in the public wanted to speak on the matter.

Anthony Gochee of 621 Main Street said I didn't know I had to file paperwork when it was approved. He said I wasn't aware that it wasn't filed and that the fee wasn't paid.

Mark Kagan of 623 Main Street said it's August and the fact that this isn't resolved is ridiculous. He said things are a problem and things are loud and will these problems go on another month.

Mr. Popper said that we will issue a new Cease and Desist tomorrow and once we get a response back from the Police Department it will soon be resolved.

Mr. Kagan said but we are still here. Chairman Morin said to talk with the ZEO and Mr. Popper if your concerns are not being met.

7. Commissioners Comments:

8. Approval of Minutes:

a. July 14, 2015

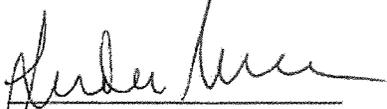
A **motion** was made by John Keithan and **seconded** by Dave Ricard to approve the minutes of July 14, 2015. *Sam Slade, John Keithan, Dave Ricard, John Whitney were in favor; Chairman Morin abstained; the motion passed.*

9. Adjourn

A **motion** was made by Sam Slade and **seconded** by John Keithan to adjourn at 7:15pm. *All*

were in favor; the motion passed.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Linda Imme", written over a horizontal line.

Linda Imme
Recording Clerk