

Zoning Board of Appeals
Regular Meeting
Final Minutes
December 8, 2015

Seated for the meeting were Matthew Berger, Bill Lyman, Virginia McCormack, James Kading, and Alternate David Rezendes. Zoning Enforcement Officer Candace Palmer was also present.

Chairman Matthew Berger read the call to order at 7:00pm.

Mr. Simmons addressed the public and the board as an ex-officio member and offered to assist finding additional members for the board.

Chairman Berger seated Dave Rezendes for Russ McDonough.

Public Hearing

ZBA #15-18 Matthew Gutmann – Seeking a variance from ZR 5.1.1 bulk requirements to reduce the side yard setback from 75' to 25' for construction of an attached garage. Property located at 69 Wamphassuc Rd., Stonington. Assessor's Map 126 Block 4 Lot 3; Zone RC-120. [CONTINUED]

Mr. Bertsche, project engineer explained changes to the site plan made since the first hearing. The garage has been brought closer to the home to minimize the side-yard setback needed. Mr. Bertsche gave an overview of the buildable area for this lot due to its narrow geography and setback and non-infringement areas. Mr. Bertsche provided the commission with a packet explaining their hardship (Exhibit 3). Mr. Gutmann's mother is in need of handicap accessibility and the garage and entryways have been designed accordingly. Mr. Bertsche explained that the hardship is the lack of buildable area on this lot due to the geometry of the lot. Another portion of the buildable area contains the septic system which they cannot build on or up to 10 feet around. Mr. Bertsche explained that the garage is in harmony with the neighborhood and many properties have a detached or attached garage. Mr. Bertsche stated that the variance is not based on economic factors, the limited opportunity to build on the property greatly decreases the property value of this coastal property, the garage is in harmony and in character with the neighborhood, and the request for variance is based on the existing geometry of the property and not any conditions made by the owner. Ms. McCormack questioned whether the garage could be located behind the home. Mr. Vernott explained that they did not want to encroach on the most important setback of the non-infringement area. The new plan limits the setback to 30 feet rather than 25 feet.

No Public Comment

Mr. Rezendes stated that he struggles with approving a variance for a garage but does understand the limitations of the lot. Ms. McCormack stated that she was hoping for an alternative location, but sees that there is a difficulty with the geography of the lot. Mr. Lyman stated that he agrees the lot has a difficult geography and this would be in harmony with the neighborhood. Mr. Lyman spoke about the parallels to the GBR-130 zoning regulation change that allowed lots with difficult shapes to go down to 25 feet on one side. Mr. Kading stated that he agrees it will be in harmony with the neighborhood and will face the railroad tracks. Mr. Berger stated that due to the strictness of the hardship requirements for the state, he feels that the hardship has not been sufficiently stated to the requirements of the state. Mr. Berger feels this may set a precedent for all applicants that believe the regulations prevent them from building what they would like.

Mr. Lyman moved to approve the 30 foot side-yard setback, seconded by Mr. Rezendes, 3-2-0
Roll Call: Berger – against, Rezendes – against, McCormack – favor, Lyman – favor, Kading – favor. The motion did not pass.

Mr. Berger recused himself.

ZBA #15-19 Robert J. Perry – Seeking a variance from ZR 5.1.1 bulk requirements to increase the allowed GFAR from 2,247 sq.ft. or 15% to 2,764 sq.ft. or 18% for construction of an attached garage. Property located at 1 Geiser St. Mystic, CT 06355. Assessor's Map 161 Block 10 Lot 7A; Zone RA-20.

Ms. Palmer summarized the application and history of the lot. Ms. Palmer explained the history of approvals for the home. The home originally was approved with a prorated area of 14,980 square foot lot. When the applicant came before the inland wetlands commission the zoning enforcement officer for the approval of an addition the Zoning Enforcement Officer stated the lot was 21,123 square feet on the zoning permit. When the Certificate of Zoning Compliance was issued there was a comment that the garage is roofed over area counted as FAR.

Mark Mitzko, local contractor representing the applicant explained the need for a variance. The applicant received wetlands approval for the garage and this application was made on the basis of a 21,123 square foot lot by the zoning enforcement officer at the time. Mr. Perry explained there was no storage space in the house so he enclosed the garage, with the understanding he would be able to build a garage at a later date. Mr. Perry stated he is disabled and would like the board to take this into consideration.

Public Comment in Favor

Tim Murray, neighbor of the applicant spoke in support of Mr. Perry being able to build the garage on the basis of Mr. Perry's disability.

No Public Comment Against or General Public Comment

Mr. Lyman closed the public hearing.

Mr. Rezendes stated he would be inclined to approve this application between the ADA accommodation and the based on the history of the approvals. Ms. McCormack, Mr. Kading and Mr. Lyman expressed agreement.

Mr. Rezendes moved to approve the application, seconded by Mr. Kading, all in favor 4-0, motion approved.

Mr. Berger was seated.

ZBA #15-20 Bruce H. Littman Trust & Catherine I. Littman Trust – seeking a variance from ZR 5.1.1 bulk requirements to reduce the side yard setback from 67' to 38' & increase the existing GFAR from 9% or 5,516 sq.ft. to 10% or 6,188 sq.ft. for construction of a 672 sq.ft. addition. Property located at 28 Prentice Williams Rd., Stonington CT. Assessor's Map 148 Block 2 Lot 1; Zone GB-130.

Ms. Palmer summarized the application, hardship and gave the history of the lot. Mr. Littman stated that they purchased the home in 1989 and explained the additions they had added to the home under the 8-26a relief since their lot was rezoned GB-130 when RA-1 was abolished. In 2004, state statues changes disallowing relief for improved lots. Mr. Littman explained that across the street they are zoned RR-80, which if they were included in this zone, they would not be before the commission. Mr. Littman stated that when this zone was adopted the commission probably assumed the few smaller lots would be grandfathered in because this was prior to the change in the 2004. Mr. Littman stated that this would not create dense development since their lot is already subdivided and would not affect the neighborhood. Mr. Littman presented a letter of support from their neighbor that would view the addition. Mr. Littman stated that due the environment, the GB-130 was instated and rather than begin at the crest of the hill it was placed on the center of Prentice Williams Road affecting their side but not across the street. Mrs. Littman explained the configuration of the current ground floor and the inability to enclose a room. Ms. Littman has needed a ground floor bedroom due to health issues.

Mr. Rezendes questioned their home's position in relation to the ridgeline. Mr. Lyman asked for clarification on the 8-26a statue change in 2004. Ms. Palmer further explained that they changed the definition for lots able to claim the relief as only "unimproved" lots. Correspondence from Attorney Londregan (exhibit #4) was submitted from Staff explaining interpretation of the public act created in 2004. Mr. Littman agreed with the interpretation and is before the board asking for a variance due to this interpretation. Mr. Lyman questioned whether other options have been explored. Ms. Palmer stated she has worked with the applicant in depth to find other solutions.

Public Comment in Favor

Bruce Williams, neighbor to the applicant, expressed his support and difficulty with the arbitrary nature of the GB-130 line. Mr. Williams explained that they approached him about an elevator but it is not feasible in the house.

No Public Comment Against or General Public Comment

Mr. Berger closed the public hearing.

Mr. Lyman expressed agreement that placing requirements for a 130,000 square foot lot over a much smaller lot is difficult. Mr. Lyman is also in favor of a first floor bedroom. Mr. Rezendes expressed that he does not see the hardship for the applicant. Ms. McCormack reiterated that though there is a personal hardship, but is not able to see the legal hardship. Mr. Berger spoke about the Americans with Disabilities Act and its effect on the application.

Ms. McCormack moved to approve the application, seconded by Mr. Lyman, 3-2-0
Roll Call: Rezendes – against, McCormack – favor, Berger – against, Lyman – favor, Kading – favor.
The motion was not passed.

ZBA #15-21 Mary Burton – Seeking a variance from ZR 5.1.1 bulk requirements to reduce the front yard setback from 50' to 34' for construction of a second story dormer. Property located at 128 Wolf Neck Rd., Stonington CT. Assessor's Map 140 Block 2 Lot 1; Zone RR-80.

Ms. Palmer summarized the application. Bruce Williams, contractor spoke on behalf of the applicant. The applicant is proposing a second story dormer and due to the configuration of the home any improvement falls within the setback. Mr. Williams explained issues with current bathroom not being up to code.

Mr. Berger closed the public hearing.

Mr. Rezendes moved to approve the application, seconded by Ms. McCormack.
Mr. Lyman and Mr. Berger discussed the hardship, all in favor 5-0, motion approved.

Election of Officers

Mr. Rezendes moved to elect Ms. McCormack secretary, seconded by Mr. Lyman, all in favor 5-0, motion approved.

Mr. Rezendes moved to elect Mr. Lyman as vice chair, seconded by Mr. Berger, all in favor 5-0, motion approved.

Minutes

Mr. Rezendes moved to approve the November 10, 2015 minutes, seconded by Mr. Lyman, all in favor 5-0, motion approved.

Mr. Rezendes moved to adjourn, seconded by Mr. Berger, all in favor 5-0, the meeting adjourned at 9:22pm.


Virginia McCormack, Secretary