

**ZONING BOARD OF APPEALS  
REGULAR MEETING  
Final Minutes**

**November 14, 2023**

Stonington Police Station, 173 South Broad St., Pawcatuck, CT

The meeting was called to order at 7:00 PM.

Seated for the meeting were Chairman James Kading, Diane Lurie Boersma, Nathaniel Trumbull, and Alternates Mark Bancroft (seated for Ray Dussault) and James Stanton (seated for Jeff Walker). Candace Palmer, ZEO, was also present.

**New Business**

**ZBA #23-14 Harry Emanuel Calmar & Margarete Calmar (Arthur H. Hayward Jr., Agent)** – Seeking a variance from ZR 5.1.1 to reduce minimum lot size from 120,000SF to 25,113SF. Property located at 66 Collins Road, Stonington, CT 06378. Assessors Map 125 Block 2 Lot 2; Zone RC-120.

Accepted and scheduled for Public Hearing on December 12, 2023.

**Administrative Review: None**

**Old Business: None**

**7:00 PM: Public Hearing**

**ZBA #23-12/CAM Steve & Sarah Malinowski (Katie Scanlon, Agent)** - Seeking a variance from ZR 7.7.8.3.2 to perform substantial improvement upgrades to an existing structure used as an oyster farm, hatchery, and associated office space. Property located at 30-32 Wilcox Road, Stonington, CT 06378. Assessors Map 157 Block 1 Lot 11; Zone RR-80/RC-120. Katie Scanlon briefly discussed the project and the support they have received from neighbors. Per Ms. Scanlon, all proposed work is to be done above the relevant flood elevation requirements; the structure is sound but in need of maintenance such as replacing/extending the deck, HVAC system, etc. These items would trigger the 'substantial improvement' rules and therefore would require a variance. Ms. Scanlon presented photos of the building and associated hatchery.

Steve Malinowski, owner and operator of Fisher Island Oyster Farm, mentioned that this cove is a protected area. He discussed the operation of the basement hatchery. It is usually operated December through May. Mr. Malinowski also discussed the pump system and impact of potential flooding on the operation.

Ms. Scanlon further discussed with the Commission the reasoning for a variance. If there was substantial improvement done then the basement section would have to be removed. According to Ms. Scanlon, there is no seafood processing occurring on site. The Commission discussed

the application and relevancy of the term 'functionally dependent use' as it applies to this application. Facilities for staff such as a repair room, bathroom, and office will exist on the first floor of the building. If the hatchery were to be moved out of the basement, the entire structure would likely need to be demolished and rebuilt per Ms. Scanlon.

**General Comment:**

Timothy Rooney, 20 Wilcox Rd, expressed his support for this effort and the effect that it has on the aquaculture.

Mr. Trumbull made a motion to approve the application, seconded by Mr. Bancroft, all in favor - a stipulation was added that the old tank must be removed, seconded again by Mr. Bancroft, all in favor, 5-0.

**ZBA #23-13 Michael & Elizabeth Devine - Seeking a variance from ZR 3.1.4.2 to reduce non-infringement zone from 100' to 13.8' in order to construct single family residence with attached garage, driveway, in-ground pool, and new septic system. Property located at 52 Brucker Pentway, Pawcatuck, CT 06379. Assessors Map 28 Block 1 Lot 3; Zone RC-120 / RA-40 Applies.**

Atty Robert Avena discussed the history of the property and its nonconforming nature, the reasonable use and hardship that exists, as well as a general layout of the lot.

John Faulise Jr., Boundaries LLC, discussed that there have been a series of test holes for Ledge Light that have shown the lot has fill, shallow water tables, and shallow depths to ledge. The existing septic system is not code compliant per Mr. Faulise, who also discussed and displayed the 100-foot non-infringement area. Mr. Faulise explained that this is a Category 3 repair as they have to remove fill and organic topsoil and replace fill to accommodate the new septic system. The design of this plan is driven largely by the septic system according to Mr. Faulise. There has been approval from the Inland Wetland Watercourse Commission and no additional clearing is necessary. The intent is to eventually pave the driveway. The old driveway will be removed and re-seeded. Westerly Boy Scout (abutting the property) is in approval and is allowing easements to clear and use certain areas that connect these properties (the letter that was sent to them was returned as non-deliverable although there has been contact).

**Comments in Favor:**

Timothy Grigg, 41 Brucker Pentway, is in approval of this project due to the state of the property that it was left in.

Michael Devine, 53 Brucker Pentway, father of the applicant, discussed the lack of flooding on their property since building their home in 1976. Mr. Devine discussed the historical, genealogical ties between his family and the Town of Stonington.

Ms. Boersma made a motion to approve the application, specifically excluding the in-ground pool (this was stipulated that it must be applied for in its own application), seconded by Mr. Bancroft, all in favor, 5-0.

**ZBA #23-11 Berstev LLC** - Seeking a variance from ZR 5.1.1 to reduce the rear yard setback from 5' to 0' and increase the floor area ratio from 50% to 88% to construct a wood storage area and to cover existing smokers. Property located at 4 Roosevelt Avenue, Mystic, CT 06355. Assessors Map 174 Block 17 Lot 4; Zone LS-5.

Initially this application was skipped as the applicant was not present; it was continued after the last public hearing application (ZBA #23-13).

Per Ms. Palmer, a letter of opposition was received on the night of the meeting and submitted by abutter David Crompton. The applicant confirmed that he has read the letter and the Commission had copies.

Josh Feldman, son of the owners of Berstev LLC dba Noble Smokehouse discussed the reason for needing this variance on their property. An initial cover was built over the smokers before realizing that it was not allowed without the correct permit/ zoning approvals. Per Mr. Feldman, a cover would allow better access to the smokers in inclement weather. Mr. Feldman discussed the letter of opposition. Mr. Feldman also discussed the parking situation that currently exists.

The Commission discussed the possibility of continuing this discussion at the next meeting and allow the applicant to improve their application with better data and more clarification.

Mr. Bancroft made a motion to continue this public hearing until the next meeting, seconded by Ms. Boersma, all in favor, 5-0.

#### **Discussion**

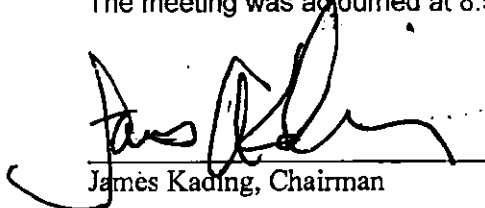
The Commission briefly discussed their Educational Requirements to sit for this Board.

#### **Review of Meeting Minutes: 10/10/2023**

Mr. Trumbull made a motion to approve the minutes of 10/10/23 as written, seconded by Ms. Boersma, all in favor with Mark Bancroft abstaining, 4-0-1

#### **Adjournment**

Ms. Boersma made a motion to adjourn the meeting, seconded by Mr. Trumbull, all in favor, 5-0. The meeting was adjourned at 8:57 PM.



James Kading, Chairman