

**ZONING BOARD OF APPEALS  
SPECIAL VIRTUAL MEETING  
Final Minutes  
May 11, 2021**

The special virtual meeting of May 11, 2021 was called to order at 7:00 p.m.

Present for the meeting were James Kading, Mark Mitsko, Jeff Walker, Nat Trumbull, Diana Lurie Boersma, and James Stanton. Zoning Enforcement Officer Candace Palmer was also present.

Seated for the meeting were James Kading, Mark Mitsko, Jeff Walker, Nat Trumbull and James Stanton for Raymond Dussault.

Commission members and applicants accessed the meeting remotely via WebEx by computer or phone.

Public Hearing:

**ZBA #21-06 Manly & Sharon Church (Mark Comeau-Agent)** – Seeking a variance from ZR 5.1.1 to reduce Side Yard setback from 75’ to 25’ for construction of an attached garage. Property located on 69 Wamphassuc Rd., Stonington. Assessor’s Map 126 Block 4 Lot 3; Zone RC-120.

Opened and immediately continued to June 8, 2021.

**ZBA #21-05 Jennifer & Daniel Wilson**– Seeking a variance from ZR 5.1.1 to reduce Side Yard setback from 10’ to 1.5’ to construct a pergola with privacy fence. Property located on 2 Plover Lane, Mystic. Assessor’s Map 176 Block 2 Lot 7; Zone RA-20.

Gregory Piecuch presented on behalf of the applicant. Mr. Piecuch spoke about the topographical conditions on the site. One Seagull Lane sits up higher than the applicant’s property at 2 Plover Lane. Due to the size and shape of the lot, One Seagull has a 5’ side yard setback while the rest of the homes in the area are held to the 10’ side yard setback. The applicant’s deck and outdoor shower currently face the home at One Seagull Lane. The owners of One Seagull Lane have removed the previous landscaping in this area and have been putting up a large cement retaining wall facing the Wilson’s property. Mr. Piecuch showed pictures of the walls and view. The neighboring home sits almost a floor above the Wilson’s main level. The shower and stairs are outside the setback but there is a deck landing they use to get back and forth. There is no longer any privacy screening.

Jennifer Wilson addressed their concerns with the retaining walls being built at One Seagull and their reasoning for the variance request. There is a significant topographical change between the properties which has been exacerbated by the recent construction at One Seagull. If not for the topography on site, other alternatives could be considered such as a privacy fence. Unfortunately, that would not provide privacy to the applicant due to the grade. The pergola

will provide overhead privacy from the neighboring One Seagull that sits much higher. The applicant met with the neighbor with the expectation that once the current vegetation was removed, an evergreen hedge would be planted. The applicant never agreed to a complete removal of the vegetation permanently. Ms. Wilson discussed issues with the neighbor's plan to install 36 security cameras on the property.

Mr. Piecuch reviewed the current site condition photos and the historical photo of the landscaping that was removed and its placement. The vegetation she approved removing was at the street line and not near the deck in question. Mr. Piecuch reviewed the planned pergola and the town regulations that permit fences and arbors within the setbacks, therefore the requested design is not far from allowed structures. The Wilson's have received letters of support from twelve neighboring property owners. Mr. Piecuch addressed the letter of opposition submitted by Attorney Branse on behalf of the property owners at One Seagull Lane. Mr. Piecuch reiterated the hardship is unique to the property and not self-created.

Mr. Kading asked if there is room for the Wilson's to put in some landscaping. Mr. Piecuch explained there is a very small space to work with to fit the roots. This will not protect views from the neighboring deck due to the topography. The pergola would provide some shielding from above.

**Public Comment in Favor:**

John Kiszkiel, 1 Plover Lane, spoke about the neighborhood and shared his support for the applicant.

Tesfaye Akliu, previous owner of One Seagull Lane, spoke about their experience with privacy issues and their attempt to provide screening. She stated their request is reasonable and will be in good taste.

**Public Comment Against:**

Attorney Mark Branse, representing the owners at One Seagull Lane, objected to site plans presented at the hearing instead of the 24 hours required by the Executive Order. He stated the nonconforming deck should not have been located in the side yard. Mr. Branse stated that because the deck and shower were not permitted, that the hardship is self-created. Mr. Branse stated the walls are under construction and will be covered in decorative stone and crawling plantings. Mr. Branse argued that many properties in Stonington deal with change in grade and that is not unique to the property. Mr. Branse stated that they are working within the regulations. Mr. Branse recommended relocating the shower to another deck or pulling the deck in to create space for landscaping.

Mr. Mitsko asked what complaint the neighbor has beyond the nonconformance of the deck. They are concerned with more activity closer to the property line. Mr. Mitsko stated that the deck is accepted as a non-conforming structure. Mr. Branse stated that it should not be made greater.

Rebuttal:

Mr. Piecuch explained that the deck is not the focus of the application, if it were grass, they would still be seeking a pergola for screening from the neighboring deck looking down on them. The grade change becomes significant due to homes that were built close to property lines before zoning. Mr. Piecuch stated they will provide ample time to Mr. Branse to review the slides should that be requested.

General Comment:

Heather Campbell, raised questions about the permit of the deck and how Mr. Branse may know they did not get a permit for the deck and asked about the plantings on the walls. Mr. Kading stated there were no records in town hall for permits. Mr. Branse stated he does not have the details and his client hasn't been able to call in.

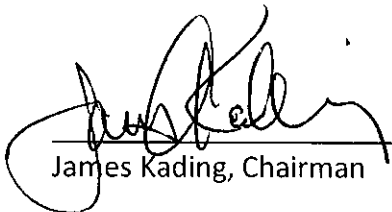
Mr. Piecuch stated that if Mr. Branse has an objection, they are open to a continuance. Mr. Branse stated that he feels he doesn't have a choice, but will not waive the objection. Mr. Piecuch stated that was not acceptable and is more than open to a continuance so there is no argument that they have complied. Mr. Piecuch asked that the public hearing be left open so Mr. Branse can review these plans.

Mr. Kading continued the public hearing to June 8, 2021.

Minutes:

Mr. Walker moved to approve the minutes of the April 13, 2021 meeting, seconded by Mr. Mitsko, all in favor 5-0. Motion approved.

Mr. Walker moved to adjourn, seconded by Mr. Mitsko, all in favor 5-0. The meeting adjourned at 8:17 p.m.



James Kading, Chairman