

**ZONING BOARD OF APPEALS
SPECIAL MEETING MINUTES**

The Brooklyn Zoning Board of Appeals held a public hearing and special meeting on Monday August 26, 2019 at 6:30 p.m. at the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn CT on the following:

Present: Dan Ross, Bruce Parsons, Bill Macnamara, Stephen Mylly and Lucien Brodeur.

Absent: None.

Staff Present: Margaret Washburn, ZEO, Attorney Peter Alter, Audrey Cross-Lussier, Recording Secretary.

Also Present: Attorney Harry Heller, Aaron Kerouac.

Call to Order: The meeting was called to order at 6:32 p.m.

Seating of Alternates: None.

Approval of Meeting Minutes:

1. Special Meeting Minutes July 22, 2019
2. Site Walk Meeting Minutes July 29, 2019.

A motion was made by Bruce Parsons to approve the special meeting minutes of July 22, 2019 and the Site Walk Meeting Minutes of July 29, 2019. Lucien Brodeur seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Continued Public Hearing

Reading of Legal Notice: Chairman Ross read the legal notice into the record.

1. ZBA19-003 Aaron-James Puzzo Kerouac, 282 Windham Road, Map 7, Lot 22, RA Zone; Requesting variance of the Zoning Regulations, Section 3.7.1 to allow up to 5 lots to be served by a private driveway.

Attorney Harry Heller from 736 Route 32 in Uncasville, CT represents the applicant. At the prior July 22, 2019 meeting a public hearing commenced and evidence was received concerning hardship and conformance with the public health safety and welfare standards for granting a

variance. The public hearing was continued. A site walk was conducted on July 29, 2019, where the property was reviewed, the location of the common driveway and the location of wetlands on other portions of the property, which made access to developable areas inaccessible from the property's frontage. Since then site comments have been received from the Fire Marshal and Jeffrey Arends, Chairman of IWWC. Attorney Heller addresses these comments:

The Fire Marshal expressed concern with the 18-foot width of the common driveway as to whether or not it was sufficient. Mr. Heller comments there are a number of existing Town Roads in the Town of Brooklyn that have a width of less than 18-feet. Attorney Heller does not know of any other town that have a common driveway wider than 18 feet. Attorney Heller commented that the Town of Ledyard requires 18-feet and that the driveway be paved, and the grade not exceed 12%. Montville allows a common driveway, they have no limitation on the number of homes, requiring 18-feet in width and paved. The Town of Brooklyn's Fire Marshal indicated that it would be difficult for a fire truck to back out of the common driveway. Mr. Heller does not disagree with this. The application that is before the Commission is for a variance to allow five properties on the common driveway. The common driveway itself is about 900-feet in length. If there were a fire or other emergency on any of the properties utilizing that common driveway, obviously they don't stop at the 900-foot mark because that does not get them to any of the dwellings. Any emergency vehicles addressing an emergency situation would utilize the common driveway and thereafter a private driveway to get to the area where the emergency exists. At this point they would have the ability to turn around and exit back out of the individual driveway and then the common driveway. The 18-feet in width is sufficient to allow two emergency vehicles to pass each other.

The second issue is with the wetlands delineation. On a couple of the plans that were presented at the public hearing on July 22nd, a driveway development plan was submitted by Killingly Engineering Associates that was approved by the municipal Wetlands Commission that established the geometry of the common driveway as well as a couple of wetland mitigation areas where wetlands will need to be created by the applicant and mitigate the impacts from the development of the driveway. This plan delineated the wetlands only in the immediate vicinity of the common driveway because that was all that was in front of the Wetlands Commission for consideration at that time; it shows the area that would be disturbed by the proposed construction as well as the area where mitigation was proposed. Attorney Heller also submitted into evidence a conceptual development plan which shows much more pervasive wetlands on the property. Attorney Heller demonstrates the site plan delineated by the soil scientist which shows much more wetlands than the driveway plan does because they were prepared for different purposes. This plan was introduced as evidence going directly to the issue of hardship, because of the wetlands on the property, particularly along the frontage on Windham Road, prohibiting access to other developable areas of the property with another driveway cut on Windham Road.

Within the parameters of what the plans were prepared for, they are both accurately prepared and portray in the first instance the information that was necessary for the Wetlands Commission to evaluate the activities which would impact wetlands and watercourses in conjunction of the development of the common driveway. The second plan portrays the extent of the wetlands on the entire property for ZBA's consideration and determining whether not the applicant meets the hardship standards which is required in order to grant the variance. Attorney Heller believes that

the application satisfies the two prong requirements of Connecticut Law, that there be a hardship which is exceptional in nature and applies uniquely to this property and not to other properties in this district, and that the variance requested, if granted, will allow this property to be developed in a manner which is safe and is in accordance with the comprehensive plan.

Chairman Ross opens the floor for questions.

Mr. Brodeur comments when constructing the driveway this would cause disruption to access to the three residences already on the common driveway. How would emergency or fire vehicles be able to gain entrance? Attorney Heller commented that at the end of each workday it would be returned to a condition that is passable. Mr. Macnamara commented that neighbors were notified of this meeting and they are not here to complain. Attorney Heller commented that two of the residents are the applicant's family.

Mr. Parsons asked if the purpose of the variance is to allow the owner to split the back lot into two lots? Attorney Heller commented that the purpose of the variance is to allow five properties to be allow the common driveway. Mr. Parsons stated there are three properties using that common driveway. If the variance were to be approved the back parcel could be split into two lots. Attorney Heller stated that is correct. Mr. Parsons commented that is the only reason we are here for this variance. Attorney Heller stated correct.

Chairman Ross asked how long the applicant owned the property? Attorney Heller stated that it was not all acquired at the same time; one parcel was acquired in April of 2002 which is Map 7, Lot 22. The second parcel was acquired in 1986 which is Map 7 Lot 26-2A. Map 7 Lot 2B was acquired in 1986. Attorney Heller demonstrates the lots on the site plan.

Attorney Alter stated that one of the requests that the ZBA made of Attorney Heller was that he submit a draft common driveway document which has been done. Attorney Alter reports to the Board that it is in very customary format that would be typically used for common driveways. Attorney Alter did not have any issue with this document.

Public Hearing Closes: Chairman Ross closes the public hearing at 6:46 p.m.

Unfinished Business:

1. ZBA19-003 Aaron-James Puzzo Kerouac, 282 Windham Road, Map 7, Lot 22, RA Zone; Requesting variance of the Zoning Regulations, Section 3.7.1 to allow up to 5 lots to be served by a private driveway.

A motion was made by Bruce Parsons to deny the request for a variance from Section 3.7.1 to allow up to 5 lots to be served by a private driveway. Based upon the plans, documents and testimony submitted with the application and at the Public Hearing and information from the site walk, the board finds that the applicant has failed to meet the requirements that the applicant demonstrate a hardship that is not self-created, that the hardship is not financial in nature and that the condition of the property for which the variance is sought is unique to this particular property. The granting of the requested relief would not be in harmony with the purpose and

intent of the Zoning Regulations, Section 3.7.1, which is to limit the number of lots served by a common driveway.

Dan Ross seconds this motion. Discussion ensued.

Mr. Parsons stated he felt that applicant created the hardship by purchasing the back property without looking at the regulations and seeing what is allowed and not allowed.

Chairman Ross stated all of these requirements were required long before the applicant purchased this property. The applicant knew what they were getting into, they should have tried to get permission before purchasing the property if possible.

Mr. Parsons stated the back property they are looking to subdivide into 2 lots was purchased in 2002. The regulations have been in effect for long before that.

Chairman Ross feels the hardship was self-created by the purchaser.

Mr. Parsons stated the alternative would improve that section of the right of way as a Town road. Mr. Ross stated that is an option, the applicant would like to get the variance, so they do not have that expense. Financial is not a consideration for a cause of hardship.

Mr. Macnamara asked where would the other road go with the size and location of the wetlands?

Chairman Ross stated that the applicant did not propose another driveway; he is saying that the wetlands prohibit it.

Mr. Mylly agrees with the Fire Marshal with regards to concern about the fire apparatus, should have a turn around.

Chairman Ross calls for a vote:

Dan Ross, Bruce Parsons and Stephen Mylly vote to deny. William Macnamara voted against the motion to deny. Lucien Brodeur voted to abstain. The application is denied.

Other Business: None.

Adjourn: A motion was made by Bruce Parsons to adjourn the meeting at 6:55. Bill Macnamara seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Audrey Cross-Lussier, Recording Secretary