

**TOWN OF SOMERS
ZONING BOARD OF APPEALS
CONTINUED SPECIAL MEETING MINUTES
THURSDAY, JUNE 24, 2010**

I. Call to Order:

Chairman Torres called the special meeting to order at 7:36 p.m.

II. Members Present:

Members present included John Torres, Barbara Flebotte, Rick Krein, Daniel Scully, and Robert Minch. Absent were: B.J. Ferro, Jerome Young.

The Public Hearing was called to order at 7:38 p.m.

III. Public Hearing

A. Frankie's Firehouse Restaurant

Mr. Scully read the legal notice on behalf of Frankie's Firehouse Restaurant located at 112 Main Street, Somersville, CT. The restaurant is seeking a variance from Somers Code Section 214-62, requirement for parking at a business location in order to allow for expansion of the parking area for the subject restaurant.

Attorney Brian Newman of Stafford, CT, speaking on behalf of Frank Vono, Jr., presented a zoning survey to the board indicating the location of the proposed additional parking spaces on an adjacent piece of land purchased by Mr. Vono at 11 Maple Street. He stated that due to the configuration of the restaurant on 112 Main Street, Mr. Vono is limited to 13 spaces for his customers. A variance is requested for a proposed additional seven parking spaces on the property of 11 Maple Street, adjacent to 112 Main Street, to free up additional spaces for customers. The new spaces would allow traffic to move in a one-way direction into the restaurant parking lot, continue through to 11 Maple Street, and exit on Maple Street, decreasing the number of cars entering and exiting from Main Street. The hardship that exists is the lack of space for customers in the current parking lot.

Chairman Torres explained that granting the variance for the right to park on the property at 11 Maple Street would be contingent on Mr. Vono's continued ownership of the property.

Mr. Minch verified that the lot on Maple Street and most of the street is zoned for commercial use.

Vice Chairman Flebotte commented that although this property is zoned for business use, a single family home exists on the property at 11 Maple Street and is not used for business.

There was some discussion among the Commissioners about whether the new parking spaces would be limited to employees, and how to enforce the restricted parking. Some of the Commissioners expressed concern about the traffic on Maple Street and whether cars exiting onto the street would impede the flow.

Attorney Newman stated that the one way direction with cars moving through the property and exiting on Maple Street would improve the traffic flow overall from what it is now at the busy restaurant.

Vice Chairman Flebotte expressed concern for safety of potential occupants of the house with the cars entering and exiting.

Attorney Newman assured the board that any occupants would have separate parking adjacent to the house. If the variance were granted, a fence would be installed between the residence and the parking spaces.

Chairman Torres reiterated that the boundary line would remain with the house. Upon the sale of the house, the parking spaces would remain with the house.

Attorney Newman stated that the hardship is the unique configuration of 112 Main Street. With the property's limited size and the inability to add any parking spaces, the business is having difficulty meeting current demand.

There was some discussion among the Commissioners about whether the hardship was related to financial or safety reasons.

Chairman Torres opened the floor to public comment. He invited the applicants to remain for the second public hearing and continuation of the special business meeting for the vote, if taken.

B. Joanne Ladd

Mr. Scully read the legal notice pertaining to Joanne Ladd. Joanne Ladd of 204 Mountain View Road is seeking a variance from the 214-98 requirement of 175 feet for lot frontage in order to allow for approval of the subject house lot at 204 Mountain View Road and the adjacent 34.71-acre parcel.

Attorney Joe Capossela of the firm Kahan, Kerensky and Capossela, Vernon CT, representing Joanne Ladd spoke in detail about the two parcels – the house lot at 204 Mountain Rd. and adjacent 34.71-acre parcel. He submitted documents to the board labeled exhibits A, B, C, D and E. Joanne Ladd purchased the properties in 2005 through two separate deeds. The Town of Somers has taxed the two parcels separately since 1987. After the Ladd's purchase, Patrice Carson, the Town Planner at the time, commented that the parcels should be treated singly, not as two parcels. An extensive title search and research showed that there had never been formal planning commission approval of two separate parcels. Attorney Capossela reviewed the history of the property with the board. Currently, the existing 41,209-SF lot (Parcel B) containing a single-family residence is a separately identified residential lot, dating back from 1987. The 34.71-acre parcel (Parcel A) is unapproved. The neighborhood contains numerous lots that pre-date zoning and contain less than the 175' of frontage. The hardship and variance request concerns the configuration of the house lot, which faces away from Mountain View Road and toward a proposed lot that was never built. Topography on both parcels limits the development, and the unique set of facts and circumstances since 1987.

Attorney Capossela submitted Exhibits A, B, C, D and E to the board: a map of the parcels; current deeds to the property; map of the piece of property Filippini conveyed to Soapstone Associates containing the Ladd's parcel; assessor's aerial view of the area; and memo from Attorney Capossela.

There was a discussion about whether the hardship was created when the house was prematurely built before the new road was approved, or when the planning commission denied the subdivision.

Chairman Torres stated that the house and less than an acre of property has been in existence for a number of years and is being taxed. The Town of Somers

recognizes the two parcels of land as two separate lots and taxes them accordingly. The variance is requested because neither of the two parcels have adequate frontage for consideration as a normal building lot.

Attorney Capossela stated that the request for variance is not inconsistent with the frontage for the other houses in the neighborhood.

The Commissioners discussed when the house was built to determine whether it was built in violation of the zoning regulation for 175' frontage. The Town has not challenged the parcels as they currently exist.

Chairman recommended that if approval for the variance is granted, the 34.71-acre parcel be limited to a single building lot.

Chairman opened the floor for public comment.

A motion was made by Commissioner Minch; seconded by Commissioner Krein and unanimously approved to close the Public Hearing at 8:45pm.

IV. Special Meeting:

The Special Meeting was continued at 8:45pm.

V. Public Hearing Discussion:

Open discussion to further review of public hearing appeal from Frankie's Firehouse Restaurant.

Chairman Torres stated that applicant is asking for permission to use part of his property, zoned for business, for parking for the employees of the restaurant. If the approval is granted, he suggested a stipulation that the land associated with the parking area would remain with the owner of the house.

The Commissioners discussed safety issues relevant to the occupants of the house and traffic on Maple Street.

A motion was made by Chairman Torres to approve the variance for the seven parking areas associated with Frankie's Firehouse Restaurant to infringe on the property on Maple Street with the following stipulations: the space be rented from the property on Maple Street and if ownership of the property is transferred to new

owner, the parking area remains with the house; and if the house is occupied with residents, safety measures be instituted to separate the parking area. The motion was denied with those stipulations by a vote of three for and two against.

Open discussion to review the public hearing appeal from Joanne Ladd.

The Commissioners discussed the need to approve a variance for frontage, when many houses have been built without adequate frontage.

Ms. Flebotte suggested that the zoning regulations in Somers may need to be changed to align with regulations in other rural towns, where parcels with a large number of acreage with less than 175' frontage can be classified as a buildable lot. She suggested bringing this up to the zoning board.

Mr. Minch stated that the people who originally divided the property created the hardship, and the present owners should have been aware of the property they purchased.

Mr. Scully stated that the request is for approval of two variances, one for each parcel.

Chairman Torres stated that Parcel B has already been approved, as it is being taxed as a lot with less than an acre.

A motion was made by Commissioner Minch and seconded by Commissioner Scully to grant a variance to recognize Parcel B as is without adequate frontage and to approve inadequate frontage on Parcel A with the stipulation that it is a single building lot. The motion with the stipulation of a single building lot in Parcel A was denied with a vote of 3-2.

VI. Old Business:

None

VII. New Business:

None

VIII. Correspondence:

Chairman Torres stated that the board has received an application, to be discussed at the next meeting.

A regular meeting will be held next month, and the minutes from the last meeting will be reviewed.

IX. Bills:

A motion to pay outstanding bills was made by Chairman Torres and unanimously approved.

X. Adjournment:

A motion to adjourn the meeting was made by Commissioner Flebotte; seconded by Commissioner Krein, and unanimously approved. The Continued Special Meeting of the Zoning Board of Appeals was adjourned at 9:16 pm.

Respectfully submitted,

Janine M. Hewitt
Recording Secretary