

**TOWN OF SOMERS
ZONING BOARD OF APPEALS
REGULAR MEETING
MARCH 13, 2012
7:30 P.M. – TOWN HALL
LOWER LEVEL CONFERENCE ROOM
AGENDA**

I. CALL TO ORDER

Vice-Chair, Barbara Flebotte called the Regular Meeting to order at 7:33 p.m. Secretary, Daniel Scully took attendance. **Members present:** Robert Minch, Frederick Krein, Alternate, B.J. Ferro, Alternate, Jerome Young, Alternate, Daniel Marceau, Lucas Cherry and Dean Hills which constituted a quorum.

II. NEW BUSINESS

A. Change in Procedures regarding Notification of Abutters

Vice-Chair, Flebotte reported on the change in procedures regarding notification of abutters. It has been her experience in past while dealing with other committees in Somers and in other Towns that the notification of abutters regarding a variance was done by the applicant. Previously the Town had been doing a notification of abutters.

Vice-Chair, Flebotte spoke with John Collins, who is the liaison regarding land use services. He said it has been his experience that the applicant is responsible for notifying the abutters. He also checked with officials at some of the surrounding towns and they concurred. It is the applicant's responsibility for notifying the abutters. As a result, the Zoning Board of Appeals put that procedure in place and it went through the Board of Selectmen as well.

B. Resignations form Zoning Board of Appeals Members

Vice-Chair, Flebotte informed the Commission that Mr. Torres had resigned from the Zoning Board of Appeals. He has served for 30 years not only as a member but as Chairman.

C. Notification from Board of Selectmen of New Members

Vice-Chair, Flebotte received notification from the Board of Selectmen that the Zoning Board of Appeals has two new members. Lucas Cherry and Dean Hills introduced themselves to the members of the Board. Vice-Chair, Flebotte further stated the Board is very happy to have them and they will be regular members.

D. Election of Chairman by ZBA Regular Members

Vice-Chair, Flebotte announced the voting for the Election of Chairman by regular members of the Zoning Board of Appeals. Her recommendation for Chairman is Robert Minch.

Vice-Chair, Flebotte made a motion for Mr. Minch to be elected as Chairman of the Zoning Board of Appeals. Mr. Krein seconded. All were in favor, motion carried.

Chairman Minch thanked Vice-Chair, Flebotte for all of her assistance.

E. Volunteer for Secretary

Chairman Minch stated Mr. Scully will remain secretary until his resignation becomes effective on March, 31 2012

III. READING OF THE LEGAL NOTICE/PUBLIC HEARING

A. Elizabeth Romney of 8 Michelle Drive is seeking a variance of 240 square feet from the required 1,200 square of Somers Code Section 214-98 concerning minimum floor area coverage for residential single story structures in order to construct a new single family structure.

Mr. Scully read the Legal Notice re: Elizabeth Romney to the Board. Rich Doyon, speaking on behalf of Ms. Romney approached and explained the situation from their point of view. He explained the hardship was created after the issuance of the building permit. They were issued a building permit and started work. Then they received notification from the Town stating there was a problem.

Chairman Minch summarized that a building permit was issued for a building which is less than the minimum required square footage. Therefore, it was an error of omission on the part of the Land Use Office. Because of that the Zoning Board of Appeals has the authority to grant a variance.

Rich Doyon said he had talked to the Building Inspector who told him he must either seek a variance or increase to total square footage. Rich Doyon thought it was unreasonable to go back to the homeowner and tell them they had to add on a \$20,000 addition.

Mr. Thayer, of Colton Road spoke and expressed his concern that a building permit had been issued.

Chairman Minch clarified that it was an error of omission

Dan Marceau referenced a letter from abutter George Warner. Mr. Doyon suggested it fits the neighborhood because prior to the 1200 sq. ft. minimum the average home on that street was 900-1200 sq ft.

Chairman Minch stated the abutters letter from George Warner concludes that as a homeowner at 24 Michelle Drive he was in favor of the variance being approved.

Chairman Minch continued to say the permit should not have been issued. When it was discovered that the house was less than the minimum allowed, the building had progressed to the point where it was not easily corrected.

Mr. Thayer asked what will be done to make sure this does not happen again. Chairman Minch said this is very rare, but mistakes sometimes occur. Dean Hills stated any complaints should be directed to the First Selectman. It is not under the Board jurisdiction.

B. Wendy Hannan, Executrix of the Estate of Denise Hannan at 154 Billing Road, is seeking a variance of 19,197 square feet from the required 40,000 square feet of Somers Code Section 214-98 concerning buildable area for residential structures on non-conforming lot of record to re-build a single-family structure.

Mr. Scully read the Legal Notice re: Wendy Hannan, Executrix of the Estate of Denise Hannan at 154 Billing Road.

Attorney John Bond, of Devlin, Peters and Tarpey LLC in Somers, CT approached on behalf of the Estate of Denise Hannan. They are requesting a variance of Section 214-98 building area requirement where 40,000 sq. ft. buildable area is required. They are asking for a variance to allow for a buildable area over 20,803 sq ft. Attorney Bond explained the history of the parcel. It is a residential lot in the A-1 Zone on which a house was built in 1834. In February 2010, the house was destroyed by fire and the foundation was removed.

Attorney Bond pointed out that the property was an existing non-conforming building lot of record.

He asked that the variance be granted so that the land could be used for what it had been used for previously.

Mr. Krein asked if Attorney John Bond's intention is to build a house on the lot for the estate. Attorney Bond replied no, they plan to sell it as a building lot.

Mr. Scully asked what the size of the building was prior to the fire.

The Board reviewed the map to see the size of the foundation.

Lorraine Fahy of 153 Billings Road approached and said she has no objection. She asked for clarification of the concept "envelope". Chairman Minch explained.

Chairman Minch said that any new building put on that lot would have to conform to the regulations. If a house was built within the envelope shown on the map, no variance would be required. Attorney Bond commented that the plan fits within the current zoning.

IV. PUBLIC HEARING DISCUSSION/DECISION

A. Application for variance at 8 Michele Drive

The Chairman explained the building permit was issued in error. They did not check the square footage. The building progressed to a point where it was not possible to increase the square footage to 1200 sq. ft. without additional and considerable expense. Under Section 214-110, "The Zoning Board of Appeals shall have the following powers of duties. To hear and decide appeals where it is alleged that there is an error in any order requirements with decisions made by the official charge with the enforcement of these regulations." Under this provision, we have authority, if you so decide, to approve the variance.

Chairman Minch stated that Mr. Marceau and Mr. Young will vote. Mr. Cherry and Mr. Hills will not be voting tonight because Chairman Minch does not think it is fair for them to vote since it is their first meeting.

Mr. Scully made a motion to cease discussion and vote on this application. Mr. Marceau seconded it. All were in favor, motion carried.

Vice-Chair, Flebotte, Mr. Krein, Mr. Young, Mr. Marceau and Chairman Minch voted to approve the variance of 240 sq. ft from the required 1200sq. ft of the Somers Code Section 214-98 concerning minimum floor area coverage. All were in favor, motion carried.

Chairman Minch stated that this will be put in the paper a week from Friday and we allow 15 days for public response.

B. Application for variance at 154 Billings Road

Extensive discussion ensued regarding the application for variance at 154 Billings Road. The variance is sought so there is no confusion as to whether this is a building lot and that a potential house could be erected within the conceptual envelope shown on the map submitted.

Mr. Scully voted to cease discussion and vote on the Application for variance at 154 Billings Road. Mr. Marceau seconded it. All were in favor, motion carried.

Vice-Chair, Flebotte, Mr. Scully, Mr. Krein, Mr. Young and Chairman Minch approved the Application for variance at 154 Billings Road and made it unanimous.

V. OLD BUSINESS

Chairman Minch said Mr. Torres has retired. During his 30 years he did an excellent job and he will be missed. There is a new liaison in the Land Office, Mike D'Amato who seems to be motivated and I look forward to working with him. He will be handling some of the things that Mr. Torres handled in the past.

VI. CORRESPONDENCE AND BILLS

There were no bills presented. Mr. Scully submitted his letter of resignation from the Zoning Board of Appeals effective March 31, 2012. Mr. Scully has served for 20 years.

VII. APPROVAL OF MINUTES: January 10, 2012

Chairman Minch asked the Board to read the minutes prior to a meeting and make notations or corrections beforehand so that it is not necessary to suspend the meeting while members read them.

Mr. Young made a motion to approve the Minutes of January 10, 2012. Mr. Krein seconded it. All were in favor, motion carried.

VIII. ADJOURNMENT:

Mr. Marceau made a motion to adjourn the Zoning Board of Appeals meeting at 8:53 p.m. Mr. Scully seconded it. All were in favor, motion carried.

Respectfully submitted,

Regina C. Robinson, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVED AT A SUBSEQUENT MEETING