

**TOWN OF SOMERS
ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
May 14th 2013
7:30 PM TOWN HALL**

I. CALL TO ORDER

The meeting was called to order at 7:34 by Chairman Robert Minch

Members present: Chairman Robert Minch, Vice-Chairman Barbara Flebotte, Secretary Dean Hills, Lucas Cherry, Douglas Stebbins, Jerome Young

Members Absent: Daniel Marceau, B.J. Ferro III

Audience members: Gary and Dorothea Godbout, Nelson Rouette, Attorney Todd Whitford (representing Nelson and Sandra Rouette), Attorney John Parks (representing the abutting property owners of 54 Hangdog Lane), Betsy Miller, Joseph Miller, Lori Circeo, Sally Ginsburg, Michael Ginsburg, Cynthia Huschka-Rodriguez, Jose Rodriguez, Steve Merone.

II. PUBLIC HEARING DISCUSSION/DECISION

Chairman Minch made the board and members of the public aware that as of 5/14/13 one of the two applications before the board on behalf of Mr. and Mrs. Rouette had been withdrawn. They would only be discussing the application regarding the driveway, not the application for a lot frontage variance.

1. Gary and Dorothea Godbout

The public notice was read regarding Gary and Dorothea Godbout of 43 Deerfield Road and their request for a variance of 17ft from Somers Code section 214-98 concerning side yard setbacks for accessory structures to construct a garage.

The applicant came forward and presented the ZBA with the proof of notification of abutters. Gary and Dorothea explained to the Board that the variance would be for a two car detached garage that would be located in the same place as an existing one car garage that was to be removed. They also explained that the proposed garage would be 12 Ft. {26 Ft.} x 24 Ft. in size. They also mentioned that because they have a stream on their property, placing the detached garage in another location on the lot would not be ideal. A letter was presented to the ZBA signed by the neighbor on the side of the property where the variance was proposed stating that he had no objection to the variance being granted.

2. Sandra and Nelson Rouette

The public notice was read regarding Nelson and Sandra Rouette of 54 Hangdog Lane and their request for a variance of 9' from the required 10' of Somers Code section 214-21 concerning driveway setbacks.

Chairman Minch again made the ZBA aware that the lot frontage variance request had been withdrawn by the applicant that morning.

Attorney Todd Whitford came forward on behalf of the Rouette's. Attorney Whitford felt that the driveway was in fact a pre-existing non-conforming use and therefore the zoning regulations did not apply. He went on explain the findings of a letter dated Feb 7, 2001 where former ZEO James Taylor found that because of the right of way's "pre-existing status" it did not fall under the purview of the zoning regulations. Attorney Whitford explained that he felt the previously mentioned letter gave the ZBA the authority to determine that in fact no variance was required and they could give the Rouette's the go-ahead with their proposal.

Chairman Minch then spoke to verify that the Rouette's were in fact not asking for the variance they had applied for. Chairman Minch questioned the legality of proceeding with such a discussion as it would be in conflict with what had been advertised and was not part of the posted Agenda. He felt that if they were indeed asking for a determination rather than a variance, the applicants would have to start the application process over to allow for the proper advertisement. The ZBA was in agreement that a decision could not be made until proper advertising had been done.

After Attorney Whitford concluded, Attorney John Parks spoke on behalf of the abutting property owners and also expressed his concern with the Rouette's request for a determination. He felt it was also not in line with what had been advertised and agreed with the Board's finding that a new application would need to be filed before anything could proceed. Attorney Parks then requested that the ZBA deny the application of 54 Hangdog Lane due to lack of evidence provided to substantiate the granting of such a variance.

Attorney Whitford spoke again and in the process explained that he felt an improvement to the pre-existing easement did not constitute a new or expanded use of the easement and therefore did not change its exempt status.

Chairman Minch spoke to Attorney Whitford and asked again if he would like to withdraw the application as it stands, or proceed before the ZBA with an application for a variance. Secretary Hills voiced his concerns about making any decisions tonight and reiterated the need for a new application. Vice-Chair Flebotte voiced her concerns about having any discussion regarding matters not before the board per the legal notice. Attorney Parks spoke again to voice his concern to the Board and reiterated his belief that the application was either to be granted or denied. He felt a continuation was not appropriate because no information had been presented to the board to substantiate a continuation.

After discussion with his clients, Attorney Whitford chose to withdraw the application.

III. Chairman Minch began the discussion/possible decision section of the meeting. He opened up the meeting for comments from the board.

The ZBA members discussed the Godbout's application. Chairman Minch reviewed the application and went over the key points that were made during the applicants' presentation. The Board had no further comments on the matter.

A motion was made by Douglas Stebbins to end discussion and vote on the application of Gary and Dorothea Godbout for a side yard variance of 17 feet of Section 214-98 to construct a 2 car detached garage. Seconded by Jerome Young, all in favor of approval of the variance, motion carried unanimously.

IV. NEW BUSINESS

Chairman Minch addressed to Board to see if there was any new business. Secretary Hills brought up his desire that the ZBA consider adopting a set of by-laws. He volunteered to survey other towns in the state to see what they had and put together a draft for the ZBA's review. A discussion followed regarding the need for ZBA by-laws. It was determined that Secretary Hills would put together a draft copy of potential by-laws for the Board's review.

V. UNFINISHED BUSINESS

Vice-Chair Flebotte wanted to make a comment about an omission in the minutes from the last meeting. Chairman Minch stated it would be clarified in the MINUTES APPROVAL section of the meeting.

VI. MINUTES APPROVAL

Vice-Chair Flebotte noted an omission in the previous meeting's minutes. In Section II LEGAL NOTICE, paragraph three of the minutes, she asked to add the words, ". . . , at the request of the applicant." at the end of the sentence.

Chairman Minch asked to change the spelling of the applicant's last name from Ruette to Rouette in Section II LEGAL NOTICE, paragraph one of the minutes.

A motion was made by Jerome Young to accept minutes as amended. Seconded by Lucas Cherry, motion carried unanimously.

VIX. ADJOURNMENT

A motion was made to adjourn the meeting by Douglas Stebbins at 8:31pm. Seconded by Secretary Hills, all in favor, motion carried unanimously.

Respectfully submitted,

Michael D'Amato

NOTE: These minutes are not considered official until approved at the next subsequent meeting.