



TOWN OF MIDDLEBURY

Zoning Board of Appeals

MINUTES

ZONING BOARD OF APPEALS MEETING

Wednesday, May 4, 2016 – 7:30 p.m.

Shepardson Community Center Room 26
1172 Whittemore Road

Present: Bill Bellotti
Brian Proulx
Ken Long
Ray Caruso
Linda Herrmann, Alternate

Also Present: Rachel Primus, Recording Clerk

Excused

Absent: D.J. Mahoney, Alternate
Bernie Evans, Alternate

Call to Order with Pledge of Allegiance

The meeting was called to order by Bill Bellotti at 7:32 p.m.

Seating with Regular Members

The regular members present were seated. Linda Hermann was seated as a regular voting member.

Election of Chairman and Vice Chairman

VOTED: Unanimously with a motion by Bill Bellotti and seconded by Linda Hermann to **APPOINT** Ken Long as Chairman.

VOTED: Unanimously with a motion by Ken Long and seconded by Brian Proulx to **APPOINT** Bill Bellotti as Vice Chairman.

Approval of February 3, 2016 Zoning Board of Appeals Meeting Minutes

VOTED: Unanimously with a motion by Bill Bellotti and seconded by Brian Proulx to **APPROVE** the February 3, 2016 minutes as presented.

Public Hearing

1. **Appeal # 3171 – George M. and Diane Selby Nybakken, Trustees** – Seeking a variance from Section 11 of the Middlebury Zoning Regulations to construct a garage adjacent to a residence not leaving the minimum side yard and street line setback. The subject property is 10 Tyler's Cove, Middlebury, CT. The applicant(s) state that the Hardship is the property located within condominium development consisting of single family dwellings located on undersized parcels defined as limited common elements; regulations provide that limited common element boundaries

may be utilized as property lines for zoning purposes. Lot size and the proximity to the lake result in only the proposed location being feasible.

Ken Long read the legal notice into the record. He stated that no letters were received. Attorney Michael McVerry, 35 Porter Avenue Naugatuck, representing the applicant, submitted a letter into the record clarifying that on the application form in the area dealing with what the appeal relates to, the word "yards" was checked and it would be better explained as "building lines". He read the letter into the record. Mr. McVerry reviewed the history of Tyler's Cove and West Shore with the board. He noted the homeowners purchased the land from the original owners. The ownership then went to a company when Tyler Cove was converted into condos. He submitted a map into the record. He stated the residents own their home and the immediate area around it and the common areas are owned by the association. He said there are no standards for the property there. The Nybakken's originally went to the Planning and Zoning Commission but were denied because there are no set standards. Attorney McVerry stated Planning and Zoning did do an amendment to the zoning regulations Section 25.7.1. He read the Section into the record. He noted that Section 25.7.5 required any work done in Tyler Cove to be approved by the Board of Directors. He submitted a copy of the meeting minutes with the approval for the work. He stated they are looking to construct a 24 x 24 ft garage. He showed the board a copy of the plans. He said the garage would have a second story for storage. He noted the applicant still needs approval for the site plan from Planning and Zoning. George Nybakken told the board that when they originally started building the house they ran out of money for the garage so they couldn't add it. He noted there are a lot of non-conforming garages there. At this time the board closed the Public Hearing.

Appeal #3172 –James Christiano – Seeking a variance from Section 11 of the Middlebury Zoning Regulations to construct a second story and front porch to a residence not leaving the minimum street line setback. The setback variance would be approximately seven feet. The subject property is 72 Nick Road, Middlebury, CT. The applicant(s) state that the Hardship is the porch is necessary to protect the structure from further rot damage.

Ken Long read the legal notice into the record. James Christiano explained to the board that he would like to get rid of the existing porch which is falling down. He said he would be encroaching 7 ft into the setback. There was a discussion over the eaves on the porch and how far into the setback they would be. Mr. Christiano said he thought the appeal was for the footprint of the porch, and didn't pertain to the eaves. Mr. Long reminded Mr. Christiano that before he will receive his building permit the town will require that he have an A2 survey done. There was a discussion on the possible need for a side yard variance. Ken Long noted there were no letters received in regards to this application.

The Public Hearing was closed.

Discussion and Consideration

There was no further discussion on either application.

1. **VOTED:** Unanimously on a motion by Linda Herman and seconded by Bill Bellotti to **APPROVE** Appeal #3171 George M. and Diane Selby Nybakken, Trustees seeking a variance from Section 11 of the Middlebury Zoning Regulations to construct a

garage adjacent to a residence not leaving the minimum side yard and street line setback. The subject property is 10 Tyler's Cove, Middlebury, CT. The applicant(s) state that the Hardship is the property located within condominium development consisting of single family dwellings located on undersized parcels defined as limited common elements; regulations provide that limited common element boundaries may be utilized as property lines for zoning purposes. Lot size and the proximity to the lake result in only the proposed location being feasible.

- 2. VOTED:** Unanimously on a motion by Linda Hermann and seconded by Bill Bellotti to **APPROVE** Appeal #3172 James Christiano seeking a variance from Section 11 of the Middlebury Zoning Regulations to construct a second story and front porch to a residence not leaving the minimum street line setback. The setback variance would be approximately seven feet. The subject property is 72 Nick Road, Middlebury, CT. The applicant(s) state that the Hardship is the porch is necessary to protect the structure from further rot damage.

New Business

None

New Applications

None

Other Business

None

Correspondence

None

Adjournment

VOTED: Unanimously on a motion by Brian Proulx and seconded by Ray Caruso to **ADJOURN** the meeting at 8:15 p.m.

These minutes are submitted subject to approval.

Respectfully submitted,

Rachel Primus

Recording Clerk

ZBA Members

CC: Town Clerk, Barbara Whitaker, Z.E.O.