

## ZONING BOARD OF APPEALS

December 2, 2009

A regularly scheduled meeting of the Zoning Board of Appeals of the Town of Trumbull was held in the Courtroom of the Town Hall on Wednesday, December 2, 2009.

Members Present: Richard Puskar, Chairman  
Michael Muir, Carl Scarpelli, Joseph Vitrella and alternates  
Dennis Miko and William Malmstedt

Also Present: James Cordone, Town Attorney

The following is a brief summary of the meeting. The complete record is on tape, on file in the office of the Zoning Board of Appeals.

A quorum being present the Chairman called the meeting to order at 7:38 p.m.

In the absence of Commissioner Savino, Dennis Miko was designated as the fifth voting member for tonight's meeting.

The Secretary, Joseph Vitrella, began the meeting by reading a letter from outgoing alternate member Fred Garrity, Jr. Mr. Garrity conveyed that it has been a privilege to serve the Town of Trumbull along side the members of this Commission.

Attorney Rizio requested, on behalf of the applicant, that the hearing for Application #09-24, Patricia Harrigan, 264 Teller Road (Monroe) be continued until the next regularly scheduled meeting. A continuance is requested to provide the applicant with an opportunity to give proper notification to the abutting property owners.

MOTION MADE (Muir), seconded (Scarpelli) and unanimously carried (Puskar, Muir, Scarpelli, Vitrella, Miko) to continue Application #09-24 until the January 6, 2010 meeting.

Application #09-19 – Quatrella & Rizio, LLC (for Diane Fusco), 27 Mischa Hill Road.

Pursuant to Art. II, Sec. 7.5 appeal of violation notice from the Zoning Enforcement Officer, dated August 17, 2009, regarding a home business in a residential zone. HEARING CONTINUED FROM OCTOBER 7, 2009.

Attorney Raymond Rizio represented the homeowner. Photographs of the property, along with a copy of Art. II Section 7.5 of the zoning regulations was submitted.

It was Attorney Rizio's contention that the above noted regulation has not been violated as Mr. Fusco meets none of the standards that would identify that a commercial venture exists out of his property. Mr. Rizio noted that there is no signage or commercial vehicles on the premises. There are also no customers or employees leaving or entering

the home. Mr. Fusco was described as a self-employed business man who manages his own investment portfolio out of his house. Mr. Rizio acknowledged that, on occasion, there are visitors coming to the house to discuss business issues. It was Attorney Rizio's contention that having numerous visitors does not necessarily mean that you are operating a business.

The Zoning Enforcement Office, Fred Bietsch, addressed the Board with rebuttal. He submitted, for the record, a copy of a newspaper article regarding the availability of office space within the area. A list indicating the number of cars parked at the subject property during normal business hours was also submitted. Mr. Bietsch commented that he has observed business activities at the site for the past three months. He relayed that a large amount of the same vehicles are parked on the property Monday through Friday.

Attorney Rizio reiterated that any visitors to this home are not employees of Mr. Fusco.

Application #09-22 – Jan and Lisa Ostrander, 6 Vintage Road

Variance of Art. II, Sec. 1.3.2.2 to construct a 10'x16' oversized shed.

The homeowner, Lisa Ostrander presented the application. The submitted plans showed the location of the proposed shed to be in the rear of the property. Ms. Ostrander indicated that a larger storage area is required for her lawn and sporting equipment. The large acreage of woods situated behind the property was noted.

Application #09-23 – Estate of Mae Roggenback, 536 Booth Hill Road

Resubdivision of Lots 4 & 5, as shown on Zoning Location Survey dated 11/9/09, with street address of 536 Booth Hill Road. Variance of Art. III, Sec. 1 with respect to insufficient minimum lot requirements (Lot 4, 20,059 sq. ft.; Lot 5, 20,177 sq. ft.) and with respect to insufficient minimum road frontage requirements (Lot 4, 87.36 sq. ft.; Lot 5, 88.60 sq. ft.) to construct dwellings on Lots 4 & 5. The existing house to be removed.

Attorney Raymond Rizio represented the applicant.

The Chairman read for the record a letter received in opposition from Adam Levinson, an abutting property owner.

The essence of the application was a re-subdivision of Lots 4 and 5 in accordance with the subdivision approved in 1938 by the Planning Commission. A re-subdivision of the property is needed, as the existing home is located on both lots. Attorney Rizio contended that this unique situation creates the hardship, as described in the zoning regulations.

The following items were submitted for the record. Two copies of the original subdivision map; a copy of the assessors map of the subject area; a copy of a deed for

Lots 4 & 5 dated May 25, 1951, which was issued to the Roggenback's at the time of purchase; a copy of Art I, Sec. 4.1.2 of the zoning regulations, addressing existing non-conforming lots; a copy of the approval letter for Carlos Coehlo dated 12/12/06; a copy of the tax assessor's map indicating parcel 2, Woodlawn Drive; photograph of the dwelling at 30 MacDonald Rd.; an architectural rendering of a proposed dwelling for the subject property and letters in support from, Gregory Pepin, 604 Booth Hill Rd. and Len Mercurio, 570 Booth Hill Road.

Attorney Rizio relayed that the entire neighborhood has been developed according to the original subdivision. He indicated that based on State Statutes and the zoning regulations the merger issue does not apply to this property.

The proposal was to construct two dwellings, approximately 2,700 sq. ft. in size and in accordance with the current setbacks. The proposed homes were described as being consistent with the neighborhood.

Dan Helfrich of 11 Sunnyridge Parkway and a member of the Town Council addressed the Commission on behalf of the Estate. He relayed that the property has been in the family for approximately 50 years and was purchased as two separate properties.

Mr. Rizio brought to the Board's attention that there are several similar properties in town who were approved for development under conditions comparable to this proposal.

Commissioner Muir conveyed to Attorney Rizio that this Commission does not base decisions on precedence.

Several Commission members commented that it was their understanding that the seconded lot was abandoned, once the house was constructed over the property lines but legal verification would be requested from the Town Attorney.

#### Public Comment

The following were opposed and in agreement that the proposed construction would change the character of the neighborhood.

Alan Mears, 540 Booth Hill Road; Charles Vreeland, 15 Sweetbriar Road; David Rivers, 14 Sweetbriar Road; David McIntyre, 539 Booth Hill Road.

Attorney Rizio responded that there is no intent to construct oversized homes and that the setbacks conform to the regulations.

Application #09-25 – Joseph Giamei, 401 Erwin Street

Variance of Art. III, Sec. 1 and Art. III, Sec. 2.2.3. with respect to insufficient yard requirements to construct a dwelling on a corner lot 49.50' from the front

property line, 13.50' from the rear property line and 41' from street side (Shelton Road) property line. Existing house to be removed.

Joanna Chaves, 1943 Huntington Turnpike along with her father, Joseph Giamei, presented the application. The proposed project was to construct a new home, in approximately the same footprint, where the present home now stands. Due to flooding and mold issues they are proposing to replace the original home, built in 1945, with a raised ranch style house, approximately 1,500 sq. ft. in size.

Commissioner Muir inquired if the applicant would consider moving the house more towards the middle of the lot placing it further away from the property to the rear.

The applicant then requested that the public hearing be continued until the next scheduled meeting to provide an opportunity to submit an alternate plan.

MOTION MADE (Muir), seconded (Vitrella) and unanimously carried (Puskar, Miko, Muir, Scarpelli, Vitrella) to continue Application #09-25 until the January 6, 2010 regular meeting.

This concluded the Public Hearing.

### **REGULAR MEETING**

Tonight's applications were considered and the Commission took action as follows:

Application #09-19 – Quatrella & Rizio, LLC (for Diane Fusco), 27 Mischa Hill Rd.

MOTION MADE (Scarpelli) and seconded (Vitrella) to sustain the appeal for Application #09-19.

Vote: In Favor: 0 – Opposed: (5) Puskar, Miko, Muir, Scarpelli, Vitrella. APPEAL DENIED.

The Commission unanimously determined that factors existed that would indicate that a business is in progress on the premises. No sufficient evidence was presented by the applicant to indicate that the Zoning Enforcement Officer acted improperly.

Application #09-22 – Jan & Lisa Ostrander, 6 Vintage Road.

MOTION MADE (Scarpelli), seconded (Vitrella) and unanimously carried (Puskar, Miko, Muir, Scarpelli, Vitrella) to approve Application #09-22, as submitted.

Application #09-23 – Estate of Mae Roggenback, 536 Booth Hill Road.

MOTION MADE (Vitrella) and seconded (Scarpelli) to approve Application #09-23.

Vote: In Favor: 0 – Opposed: (5) Puskar, Miko, Muir, Scarpelli, Vitrella. MOTION DOES NOT CARRY. Application #09-23 DENIED

The Commission determined that, based upon the legal opinion obtained from the Town Attorney, the lots were merged once the house was built over the two property lines. No zoning hardship was presented to approve a subdivision of the existing lot into two non-conforming lots.

### **Schedule 2010 Meeting Dates**

MOTION MADE (Scarpelli), seconded (Vitrella) and unanimously carried to approve the 2010 meeting dates, as presented.

### **Election of Officers**

MOTION MADE (Scarpelli), seconded (Muir) and unanimously carried (Puskar, Miko, Muir, Scarpelli, Vitrella) to elect the following officers for an additional term.

Chairman – Richard Puskar  
Vice-Chairman – Michael Muir  
Secretary – Joseph Vitrella

There being no further business to discuss a motion was made by Commissioner Scarpelli and seconded by Commissioner Vitrella to adjourn. The December 2, 2009 meeting of the Zoning Board of Appeals adjourned at 9:20 p.m. with unanimous consent.

Respectfully submitted,

Helen Granskog  
Clerk of the Commission

