

MINUTES
REGULAR MEETING
ZONING BOARD OF APPEALS
LISBON TOWN HALL
TUESDAY, MAY 24, 2011
7:15 P.M.

1. Call to Order

The Regular Meeting of the Zoning Board of Appeals was called to order by Ronald Babbitt, Chairman, at 8:25 pm.

MEMBERS PRESENT: Ronald Babbitt, Robert Chubka, Richard Strnad, Frederick Kral, L. MacDonald, J. Magness, Attny. Kari Olson

MEMBERS ABSENT:

A motion was made by J. Magness seconded by F. Kral to skip to item #5 on the agenda.

VOTE: UNANIMOUS MOTION CARRIED

2. Reading of previous minutes:

A motion was made by L. MacDonald seconded by R. Strnad to accept the minutes as presented.

VOTE: UNANIMOUS MOTION CARRIED

3. Correspondence –

a. Budget, Profit & Loss

4. Bills and action thereon

a. Murtha Culina, invoice #421744 dated 3/23/11, \$44.00, motion to pay by L. MacDonald seconded by J. Magness.

VOTE: UNANIMOUS MOTION CARRIED

b. Norwich Bulletin, invoice #00093518 dated 4/19/11, \$387.20, motion to pay by L. MacDonald seconded by J. Magness.

VOTE: UNANIMOUS MOTION CARRIED

5. Old Business

a. Application – #11-04 - Walter & Valerie Dziengiel, 102 Kendall Road – L. MacDonald stated that the body of evidence, although not clear, shows that in 1949 the town and the previous owner agreed to allow for the road. Lisbon was one of the last towns to put zoning regulations into effect. He stated that it was created as a separate piece of property and feels the hardship was created at that time. He does not believe that anyone at that time felt there would be a problem 60 years later. Ron Babbitt agreed that there must have been an agreement between the town and the previous owner; therefore this applicant would be grandfathered in. The house will not encroach on anything but the golf course and wetlands. J. Magness questioned Attny. Olsen if it had any precedential value, and would it impact the comprehensive zoning plan? Attny. Olsen replied that if the individual hadn't allowed the road, the town still could have condemned the property, albeit giving them compensation. She also agreed that there would be no precedential value as each parcel is individual. She feels that the shape of this parcel is unique. Chairman Babbitt then read from the state statute, and stated he does not believe the applicant conflicts with this statute. R. Chubka stated he felt the hardship was a monetary one, and Chairman Babbitt stated it should not be considered unless it devalued the property itself. Attny. Olsen then asked the board to determine if they all agreed that this is a non-conforming pre-existing lot. She stated the assessor has no right to call something a "building lot". F. Kral stated that all parties had very compelling arguments and that Attny. Heller showed it to be a non-conforming lot.

APPLICATION
ZONING BOARD OF APPEALS
Town of Lisbon

APPEAL NUMBER: 11-04

DATE FILED: _____

1. I/We hereby appeal to the Town of Lisbon Zoning Board of Appeals from the decision of the Planning and Zoning Commission and/or the Zoning Enforcement Officer whereby it he granted denied an application to:

A. USE ERECT ALTER ADD TO OCCUPY OTHER
B. LAND ONLY STRUCTURE OR BUILDING OTHER
C. FOR USE AS: FAMILY RESIDENCE BUSINESS INDUSTRY
 ACCESSORY BUILDING OTHER

2. Location of affected premises: LOT NUMBER 071 (102 Kendall Road) - Assessor's Map 3
TITLE OF SUBDIVISION MAP Subsurface Sewage Disposal Design Prepared R- 40 60 (80) ZONE
ASSESSOR'S MAP NUMBER 3 LOCATED ON THE northeast SIDE
OF Kendall Road
THE INTERSECTION OF Kendall Road with Preston Allen Road STREET 1,000 FEET DISTANT FROM
Owner Walter A. & Valerie A. Dziengiel Address 11 Oakridge Lane, Bozrah, CT 06334
Applicant Walter A. & Valerie A. Dziengiel Address 11 Oakridge Lane, Bozrah, CT 06334
Lessee N/A Address N/A
Agent Harry B. Heller, Esquire Address 736 Norwich-New London Turnpike,
Uncasville, CT 06382

3. PREVIOUS APPEALS have been made with respect to this property as follows:
Application Number(s) N/A Date(s)

4. This appeal relates to: N/A USE AREA YARD DIMENSIONS HEIGHT
 STREET FRONTAGE NUMBER OF FAMILY UNITS OTHER
DESCRIBE BRIEFLY

SEE ATTACHED SHEET

VARIANCE of the following section of the Zoning Regulations is requested:

- A. Strict application of the regulations would produce UNDUE HARDSHIP because:
This pre-existing non-conforming lot existed independently and separately from any adjoining land in common ownership as of the date of adoption of comprehensive Zoning Regulations in the Town of Lisbon.
- B. The hardship created is UNIQUE and not shared by all properties alike in the neighborhood because:
The property is crescent shaped and obtained its current non-conforming status when Kendall Road was relocated to the South.
- C. The variance would change the CHARACTER OF THE NEIGHBORHOOD because:
The use is a use permitted as of right in the R-80 Zoning District; i.e. a single family dwelling house and based upon the amount of frontage of the lot and the vast side yard setbacks which will be obtained as a result of the lots width, adequate separating distance will be maintained from any adjoining structure.
6. The ISSUANCE OF PERMIT NO. N/A for the above named premises by the Building Inspector is APPEALED because:

Proposed Site Does Not Conform w/ Local Regulations

Rev. 10/17/06

(APPLICANT/AGENT)

(ZONING ENFORCEMENT OFFICER OR P&Z CHRM.)

Walter A. Dziengiel/Valerie A. Dziengiel

or Walter A. Dziengiel 102 Kendall Road Lisbon, Connecticut".

APPLICATION APPROVED 5/24/2011

Gerald Babbitt
RONALD BABBITT, CHAIRMAN

**APPLICATION
ZONING BOARD OF APPEALS**

CONTINUATION SHEET

Describe Briefly: Section 8.4 - Minimum Buildable Area variance of 14,925 square feet to allow minimum buildable area of 25,075 square feet in the R-80 Zoning District which requires 40,000 square feet of minimum buildable area; Section 8.5 - Front Yard Setback Variance of 37 feet to allow the placement of a dwelling house 50 feet northerly of Kendall Road with the front steps located 43 feet northerly of Kendall Road with a required front yard setback of 80 feet; and an 11 foot rear yard setback variance to allow the construction of a deck 29 feet southerly from the existing northerly property line of the property with a required rear yard setback of 40 feet.

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(Cont. page 2. Old Business)

A motion was made by L. MacDonald second by R. Chubka to vote to approve the variance.

VOTE: UNANIMOUS MOTION CARRIED

R. Babbitt – YES, as it does not conflict with plan, has 700+ feet of frontage and goes along with the neighborhood

L. MacDonald – YES, it was a separate lot since 1949, is more than adequate in size to support the house and is in character with the neighborhood.

J. Magness – YES, was a pre-existing lot, and property values would otherwise decrease.

R. Chubka – NO, sees no hardship.

F. Kral – YES, same explanation as previous “yes” votes.

APPROVED

b. Application – #11-05, Wlater Derjue, 18 Pleasant View Cove. Chairman Babbitt stated that the ZEO officer Ben Hull is in favor of the application. He then read “Stillman vs. ZBA” into the record. L. MacDonald stated he was inclined to vote in favor of the application, as was F. Kral. R. Chubka sees no hardship. ZEO Ben Hull stated that the 60,984 square feet would fit into any other zone but the R-80 zone. The previous building official gave the permit to build. R. Chubka questioned if he approved it without a variance. B. Hull stated there was no zoning official when he was the building official, and feels that the ZBA has a hard time defining “hardship”. Chairman Babbitt stated he believes the application meets the hardship requirements. R. Chubka does not think so. Attny. Olsen states that the situation makes it unique.

A motion was made by L. MacDonald second by F. Kral to vote to approve.

VOTE: UNANIMOUS MOTION CARRIED

R. Babbitt – YES, it does not conflict with master plan. The property only encroaches on the railroad; no neighbors have come forward to object.

L. MacDonald – YES, fits the general character of neighborhood. Abutters did not testify against the applicant.

J. Magness – NO, too short as a buildable lot. Does not see it as unique in this area.

R. Chubka – NO, no hardship.

F. Kral – YES, agrees with R. Babbitt’s explanation and feels the ZEO gave a compelling argument in favor of it.

DENIED

c. Application #11-06: Ronald & Cindy Lisee, 138 Bundy Hill Road (Lot #0001, Assessor’s Map #08), seeking variance of 5 feet (sec 8.5 of regulations) to erect accessory garage.

L. MacDonald sat out and alternate R. Strnad stepped in because he did not do the site walk, nor did J. Magness. The applicant (not present) wants a five foot variance. The nearest neighbor is ¼ mile away. R. Chubka asked if it was in an R-40 or R-60 zone, to which Chairman Babbitt replied it was in both zones, and therefore must abide by the R-60 zoning regulations. B. Hull stated that the Lisee’s were on vacation and feels they have plenty of land, and no trouble with sanitation.

A motion to vote in favor of the application was made by R. Strnad second by F. Kral

VOTE: UNANIMOUS MOTION CARRIED

ZONING BOARD OF APPEALS
LISBON, CONN.

APPEAL NUMBER 11-05

DATE FILED _____

1) I/we hereby appeal to the Lisbon Zoning Board of Appeals from the decision of the Planning & Zoning Commission and/or the Enforcement Officer whereby it ✓ he granted denied an application to

(A) USE ERECT ALTER ✓ ADD TO OCCUPY OTHER

(B) LAND ONLY ✓ STRUCTURE OR BUILDING OTHER

(C) FOR USE AS: ✓ FAMILY RESIDENCE BUSINESS INDUSTRY
ACCESSORY BUILDING OTHER

APPLICATION DENIED 5/24/2011

Gerald Babbitt
RONALD BABBITT,
CHAIRMAN

2) Location of affected premises: LOT NUMBER 11
TITLE OF SUBDIVISION MAP PLEASANT VIEW COVE R- 40 60 (80) ZONE
ASSESSOR'S MAP 23 LOCATED ON THE WEST SIDE
OF NORTH STREET ~1000 FEET DISTANT FROM
THE INTERSECTION OF NORTH AND MAIN STREET

Owner WALTER DERRIVE Address 18 PLEASANT VIEW COVE
Applicant QUANTER Address (FORMERLY 20-11 PHILLIPS ROAD)
Lessee N/A Address _____
Agent N/A Address _____

3) PREVIOUS APPEALS have been made with respect to this property as follows:
application number(s) N/A date(s) _____

4) This Appeal relates to: USE X AREA X YARD DIMENSIONS HEIGHT
STREET FRONTAGE NUMBER OF FAMILY UNITS X OTHER

DESCRIBE BRIEFLY The use is residential (single family), applicant has sub-
variance to add 25ft X 30ft addition for garage and habitable
space.

VARIANCE of the following section of the Zoning Regulations is requested:
Section 8.5 yard dimensions rear yard requires 40 ft, reduced to
10ft and @ 20ft. Section 8.1 yard size 80000 sq ft required reduce
to 51,023 sq ft. Section 19.3 right of way allowance.

(A) Strict Application of the regulations would produce UNBUE HARDSHIP
BECAUSE: All the properties in this area are residential dwellings and ac-
cessory structures, located on very small lots, because of the fact
that such sites were approved prior to adoption of Zoning.

(B) The hardship created is UNIQUE and not shared by all properties alike in
the neighborhood because: The hardship is shared by all property owners in this
area, The fact that all building sites were created and allowed to
be built on prior to zoning places the hardship on the land and the
Town.

(C) The variance would change the CHARACTER OF THE NEIGHBORHOOD because: The character
of the neighborhood would most certainly not be changed due to the
fact that it has maintained its character as a residential all this
time.

5) The ISSUANCE OF PERMIT No, _____ for the above named premises by the
building Inspector is APPEALED because: The Zoning Official does not have authority
to vary the regulations his duty is to enforce the current regulations
as adopted. Variances of the regulations is allowed only by the
Zoning Board of Appeals

Walter Derrive
SIGNED APPELLANT/AGENT

Ben Haller
SIGNED ENFORCEMENT OFFICER OF THE ZONING BOARD

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R. Strnad – YES, feels that it makes no difference where its location would be.

R. Babbitt – YES, the variance is of a minimal amount, and does not conflict with the master-zoning plan.

J. Magness – YES, Location of the septic and well makes it unique.

R. Chubka – YES, Location of septic and well makes it unique.

F. Kral – YES, based on locality, minimal locality to neighbors.

sAPPROVED

A motion was made by J. Magness second by F. Kral to return to agenda item #2.

VOTE: UNANIMOUS MOTION CARRIED

6. New Business

- a. A motion was made by L. MacDonald second by F. Kral to have Chairman Babbitt write a letter, to be reviewed by board next month, to Attny Olsen, Chairman Adams of Planning and Zoning Commission, and the Board of Selectmen, re: Cluster Zoning.

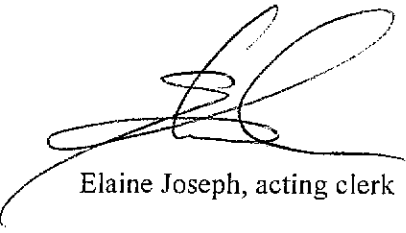
VOTE: UNANIMOUS MOTION CARRIED

7. Any other business which may properly come before the Board – NONE

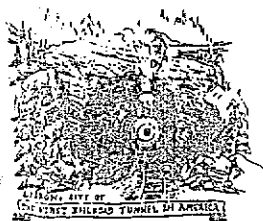
8. Adjournment - Motion was made by L. MacDonald second by F. Kral to adjourn at 9:30 PM.

VOTE: UNANIMOUS MOTION CARRIED

APPROVED: _____
Ronald Babbitt, Chairman


Elaine Joseph, acting clerk

RECEIVED FOR RECORD AT LISBON.
CT ON 6/1/2011 AT 10:30 AM
ATTEST. BETSY M. BARRETT, TOWN CLERK



ZONING BOARD OF APPEALS

TOWN OF LISBON

1 Newent Road
Lisbon, Connecticut 06351

NOTICE OF DECISION

Town of Lisbon
Zoning Board of Appeals

At the regular meeting of the Town of Lisbon Zoning Board of Appeals held on Tuesday, May 24, 2011 the commission took the following actions:

1. Application #11-05: Walter Derjue, Lot Number 11, Assessor's Map 23 (18 Pleasant View Cove), seeking variance from zoning regulations sections 8.1 and 8.5, to allow 25 ft x 30 ft addition for garage and habitable space.

DENIED

2. Application #11-04: Walter & Valerie A. Dziengiel, Lot Number 071, Assessor's Map 3 (102 Kendall Road), seeking variance from zoning regulations sections 8.4 and 8.5, to allow building on a pre-existing, non-conforming lot.

APPROVED

3. Application #11-06: Ronald & Cindy Lisee, 138 Bundy Hill Road (Lot #0001, Assessor's Map #08), seeking variance of 5 feet (sec 8.5 of regulations) to erect accessory garage.

APPROVED

Dated at Lisbon, Connecticut this 1st day of June 2011.

Ronald Babbitt, Chairman
Lisbon Zoning Board of Appeals

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TOWN OF LISBON
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