

WETHERSFIELD ZONING BOARD OF APPEALS
PUBLIC HEARING
July 24, 2006

The Wethersfield Zoning Board of Appeals held a public hearing on July 24, 2006 at 7:00 PM in the Police Department Community Room, 250 Silas Deane Highway, Wethersfield, Connecticut.

PRESENT: Bruce T. Bockstael, Clerk
George McKee
Mike Wrona, Alternate
Frank Dellaripa, Alternate
Matt Cholewa, Alternate

ABSENT: Morris R. Borea, Chairman
Thomas J. Vaughan, Jr., Vice Chairman
Gina P. DeAngelo

Also Present: Fred Valente, Building Inspector

Commissioner Bockstael opened the meeting at 7:00PM. Before the meeting started, the public was welcomed to speak regarding anything except specific cases in the past or on the night's agenda. There was no one present who wished to speak.

Commissioner Bockstael informed the applicants that because there are only four members present there must be a unanimous vote in order for the variance to be granted. He stated that if the applicant wishes they may wait and be heard next month when more members will be present without any further cost to them.

Commissioner Cholewa entered the meeting at 7:25PM.

APPLICATION NO. 5956-06 Christopher & Karen Dunn seeking a variance for having less than the required buildable square, for the purpose of creating a 2nd lot at 233 Highland Street, north side, A-1 Residence Zone (§3.7).

Mr. Christopher Dunn, 233 Highland Street, Wethersfield, CT, appeared before the Board seeking a variance for having less than the required buildable square. Mr. Dunn stated that the hardship for this application is the fact that when his father sold the farm for the Stonegate sub-division he left this parcel of property. He stated that the 80 x 80 buildable square regulations came into effect after this sale. He stated that the existing building on the property must be removed, and that he is looking to sell the property and divide it into two buildable lots, however whoever purchases the lot would have to remove the structure. He stated that if this variance is granted for the 30' out in the front of Highland Street, he would like a stipulated agreement stating that the new owner can tear down the structure and rebuild on two buildable lots at that time.

Commissioner Bockstael verified that the hardship is due to the corner lot. Mr. Dunn stated that this was correct. Mr. Valente explained the history of the building block. He stated that the building block is different with every zone; with this zone it happens to be 80'. He stated that it was designed about 5 or 6 years ago to prevent rear lots from being created. There had been some problems with people playing games with the fronts and then you end with him some funny configuration rear lots that have to go by two houses that only have a small narrow driveway in order to get in the back. Because of this he stated that the buildable block was created; however, it was not intended to be used on corner lots. He stated that the block has to touch the front line, and sit within the lot without going over the property line. He stressed that it was solely designed for rear lots or what was called flag lots at the time. He stated that per the request of one of the Board Members he has reviewed a most recent sub-division plan and tried to apply this building block to it, adding that he tried to plot the 80' lot on the corner lots and has come to the conclusion that it does not work on any corner lot in any sub-division.

Commissioner Bockstael questioned if they can mandate that they build within the building line. Mr. Valente stated that everything worked on Mr. Dunn's plan except for the building block. He stated that it had the area and had all the necessary setbacks.

Commissioner McKee confirmed that the buildable block criteria were never met on any corner lot. Mr. Valente stated that to date this buildable block has not been used on a corner lot.

Commissioner McKee requested verification that if the existing structure is knocked down then you can build within the building block on both pieces of property? Mr. Dunn stated that what he is looking for is a variance with written stipulation from the Town that when the new owner purchases the property they can tear down the structure at which time then this property would become two buildable lots. He stated that he does not want to go thru the expense of tearing down the structure.

Mr. Valente stated for the record that this variance also has to go before the Planning and Zoning Commission for a re-subdivision.

Commissioner McKee questioned if they can refuse it now and the person that purchases the lot can come in and request the same thing. Mr. Valente stated that this is an option; however, you would probably be hearing the same thing again. Commissioner McKee questioned that this does not work until the structure is knocked down. Mr. Valente stated that this is correct because there is a violation, an application cannot be approved with a violation on it.

There were no further questions from the Board.

The following audience members wished to speak in opposition to this application:

1. Mrs. Betty DeAngelis, 72 Stonegate Drive, Wethersfield, CT - she stated that she has no objection to Mr. Dunn putting a house on either Highland or Stonegate, however, she does have an objection to having 2 homes on this property. She stated that there is even a bigger issue here and that is of land ownership. Who owns the property that abuts the Dunn property; is it the Town, Stonegate Association or private property. She added that for years they were paying dues to the Stonegate Association to maintain this property. She questioned how anyone can go through this property when it is not known who owns the property.

Commissioner Bockstael questioned Mr. Dunn if he is developing on anything that he does not own. Mr. Dunn stated that the property he is developing, he owns; he stated that there is a deed filed with the Town and the Building Department. Mr. Valente stated that he would have to go back and look at the sub-division plan and see who owns the property. Mr. Valente stated that he is not even sure what property is in question. Mrs. DeAngelis stated that at the very top of the street, there is a space, not sure how wide; there is a stone wall and a small bank, about 12', that the Association has been maintaining. Mr. Valente questioned if this is on the street side. Mrs. DeAngelis stated that this was correct. Mr. Valente stated that there was a name for these years ago, and it became illegal. Builders used to sell lots and then hold a 1' strip across the front and when the person bought the lot and wanted to build they would then sell that piece to them. If this is the same thing, and he is not sure if it is, this is the first that he has heard of it. Mrs. DeAngelis stated that her agreement states that the Association owns and has maintained this piece of land; but her question is, was this piece of land ever turned over to the Association or to the Town.

Commissioner Bockstael questioned if this is what we would normally classify as city....Mr. Valente stated that this is normally the Town right of way. However, he stated that he is not quite sure of what she is speaking of, however, the Engineering Department should know. Mr. Dunn stated that he has gotten this far and this is the first that he has heard of this, and he had a surveyor.

2. Mrs. Nancy Andrews, 21 Stonegate Drive, Wethersfield, CT - She stated that she would be directly impacted by splitting this lot and approving the variance that would allow two houses where one now sits, adding that if two houses were built the house on Stonegate would be right on top of hers. It would be so close that she could look out her window and look directly into the new home. She stated that she is not alone in objecting to this

variance. She stated that she has a signed petition of almost everyone on Stonegate Drive, 11 out of the 17 homes, which is about 60%. She stated that a lot of the petitioners would have been here tonight, however, they are on vacation. She stated that when she worked in TV, she did a story on the Stonegate Association, and in fact found that the Stonegate Association owned the piece of property that is in question. She stated that she feels the buildable square rule should be upheld. She feels that the buildable square was enacted to prevent greedy landowners, greedy builders, and greedy contractors from taking advantage of a situation for their own personal and financial gains without any consideration for the homeowners and residents of Wethersfield.

Commissioner Bockstael questioned if these two lots that are being proposed acceptable lots in this zoning area. Mr. Valente stated that they meet all the other requirements except for the buildable block.

Commissioner Bockstael questioned Mrs. Andrews that if these are legal lot sizes what is preventing someone from building the second part with a side yard that is a legal side yard. Mrs. Andrews stated that she is not an Attorney, however, she is just saying that the buildable square, as she is told, is to prevent one house from being built behind another other house, and under this situation, with this deed that he have, that is what would happen because they do not have access. Commissioner Bockstael stated that they will find out about the ownership, however, he wanted Mrs. Andrews to be aware that if the house is built and is 15' from her home this is a legal set back. Mrs. Andrews stated that she is aware of this, however, understands that this is the place to come to express concerns over the application. Mr. Valente clarified that the 15' would be from the property line and not from her home. Mrs. Andrews stressed that this home would also be on a hill and therefore higher than the other homes in the area.

3. Mrs. Marinelli, 16 Stonegate Drive, Wethersfield, CT - stated that they are indirectly affected by this, adding that they are across the street from the Andrews home. She stated that they have only been in the home for 5 years, however, they have the same issues as the Andrews and everyone else that signed the petition. She is concerned as to what this would do to their property value. She stated that she moved from Hang Dog Lane because they liked the larger lot. She stated that she is also concerned about there being an entrance on Stonegate affecting the Stonewall that belongs to the Association.

Mr. Valente questioned if the Town plows and picks up the trash on Stonegate. Mrs. Marinelli stated that it does.

4. Mr. Andrews, 21 Stonegate Drive, Wethersfield, CT - He stated that he has the same concerns as everyone else. He stated that this street has certain land sizes and making these two lots it would be the smallest lot on the street and also the smallest lot on Highland and the surrounding houses there. He stated that the Dunn's have been reasonable neighbors, however, they have not really maintained their property and now are looking to get the resale value that really the rest of the neighborhood has gotten them by maintaining their property by splitting it and getting a windfall out of it.
5. Mr. Aaron Friedman, 45 Stonegate Drive, Wethersfield, CT - He stated that the reason that he moved on the street was because of the rules, deeds, restrictions, etc. He stated that they liked the idea that no houses would be less than 2,400 square feet. He stated that as an Association they maintain the stone wall and the open area at the bottom of the street. He stated that for a period of about 10 years they kept the street as a private street, since then the street has been turned back over to the Town. He stated that they take a lot of pride in the street and would hate to see something take place that falls out of the deeds and restrictions that they maintain. He stated that he is sure this was already said, however, he does not see how someone can come thru the stone wall which is a part of the Stonegate Property, which all Association members own a piece of.

Commissioner Bockstael stated that looking over the covenant quickly he does not see the minimum square footage. Mr. Friedman stated that he believes there was. He stated that at the beginning they were very faithful with their meetings. He stated as the homes were being built, each new member had to come to the Association and had to get their approval as to the shape, the size, the color, etc. He stated that they wanted it to be a really nice looking street. He stated that he remembers the minimum always being 2,400 square feet. He stated that everyone had to abide by that.

Mr. Dunn questioned if he sells as one lot what is to prevent someone from putting in a house like you have on Ridge Road that would take up the whole lot and what would be preventing someone from putting in a driveway on

Stonegate to enhance the value of their property. Commissioner Bockstael stated that this is something that they do not know.

Commissioner Cholewa questioned what the hardship was on this application. Commissioner Bockstael stated that the hardship was the corner lot on the second lot. Commissioner Cholewa questioned what is unique about this property. Commissioner Bockstael stated the fact that it is on the corner. Commissioner Cholewa questioned if this is different than any other corner on any other street in town. Mr. Valente stated that before Commissioner Cholewa came, he explained that he took out the sub-division and tried to plot it as was requested and none of the blocks work on any corner lot in any of the sub-division. He stated it was created to prevent rear lots from happening as it did on Collier Road. Commissioner Cholewa questioned if there is anything in the zoning regulations stating the reason for the building square. Mr. Valente stated it does not explain the reasoning behind the buildable square. However, he stated that it does read differently since the regulations changed, it now states for corner lots and all lots, it was originally just for interior lots.

There were no further questions or comments from the Board.

There was no one in the audience who wished to speak in favor of this application.

APPLICATION NO. 5957-06 Jeff & Heather Gaunt seeking a variance to permit the use of a detached accessory building for residential occupancy at 36 McMullen Avenue, west side, B Residence Zone (§3.6.E).

Jeff and Heather Gaunt, 36 McMullen Avenue, Wethersfield, CT appeared before the Board seeking a variance to permit the use of a detached accessory building for residential occupancy. Mr. Gaunt stated that he would like change to the garage from garage use to a place where he and his family can hang out. He stated that there would be no sleeping quarters and no plumbing. He stated that he has letters from two neighbors; 34 McMullen Avenue and 38 McMullen Avenue, which are in favor of this application.

He entered those letters into the record.

Mr. Gaunt stated that the garage is in need of repair; needing roofing and siding. He stated that because they will be doing repair on the garage; and due to the fact that they currently do not use the garage as a garage, they decided that it would be nice to convert the garage into a space where the family can gather.

Commissioner Bockstael questioned what the second floor would be used for. Mr. Gaunt stated that the first floor would be used for a gathering place and the second floor would be used as a studio.

Commissioner Cholewa questioned if anyone would be living in the area. Mr. Gaunt stated that they would not. There would be no plumbing; he emphasized that he does not want this as an in-law apartment or a rental apartment. He strictly would like to use this place as an area where his family can gather.

Commissioner Cholewa referenced Section 3.6.E, and questioned Mr. Valente why this application would need a variance. Mr. Valente stated that the Building Department has determined that this is residential use of an accessory building. Commissioner Cholewa stated that he disagrees with this interpretation. Mr. Valente stated that this is the way the Building Department interpreted the use and it is up to the Board to hear the application as it is presented.

There were no further questions or comments from the Board.

There was no one in the audience who wished to speak in favor of or in opposition to this application.

WETHERSFIELD ZONING BOARD OF APPEALS
ACTING CHAIRMAN BRUCE BOCKSTAEL

Commissioner Dellaripa, Acting Clerk

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ABSENT: Morris R. Borea, Chairman
Thomas J. Vaughan, Jr., Vice Chairman
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Also Present: Fred Valente, Building Inspector

DECISIONS FROM PUBLIC HEARING

APPLICATION NO. 5956-06 Christopher & Karen Dunn seeking a variance for having less than the required buildable square, for the purpose of creating a 2nd lot at 233 Highland Street, north side, A-1 Residence Zone (§3.7).

Upon motion made by Commissioner Bockstael, seconded by Commissioner McKee and a poll of the Board it was unanimously voted (Commissioner Cholewa did not vote as he entered meeting late) that the above application **BE TABLED** for legal opinion from the Town Attorney as to the ownership of street side of Stonegate.

APPLICATION NO. 5957-06 Jeff & Heather Gaunt seeking a variance to permit the use of a detached accessory building for residential occupancy at 36 McMullen Avenue, west side, B Residence Zone (§3.6.E). Upon motion made by Commissioner Cholewa seconded by Commissioner Dellaripa and a poll of the Board it was unanimously voted that the above application **BE APPROVED** as presented with no permanent sleeping quarters and no bathroom or kitchen.

APPROVAL OF MINUTES

Upon motion made by Commissioner McKee, seconded by Commissioner Dellaripa and a poll of the Board it was unanimously voted that [the minutes of June 26, 2006](#) **BE APPROVED**.

DISCUSSION

The Board discussed transfer of a variance for a Hair Salon on Silas Deane Highway which was granted about 3 years ago. It was stated that it does not matter who owns the property, the variance stays with the property, however, if someone ceases the use then the variance ceases. The Board determined that legal opinion is needed as to the transfer of this variance to see if this variance is still active as no action was taken on the variance and the Hair Salon never existed.

ADJOURNMENT

The meeting was adjourned at 8:10PM.

WETHERSFIELD ZONING BOARD OF APPEALS

ACTING CHAIRMAN BRUCE BOCKSTAEL

Commissioner Dellaripa, Acting Clerk