

**TOWN OF WINDSOR
ZONING BOARD OF APPEALS**

**Regular Meeting
November 16, 2016**

Approved Minutes

PRESENT: Chairman Joe Breen, Loretta Raney and George Bolduc. Alternates Nick Dethlefsen and Theresa Tillett were seated. Staff: Robert Ruzzo
Excused absence: Secretary Kuziak

ESTABLISHMENT OF QUORUM:

Chairman Breen announced the five board members who were present. Five regular members were seated and a quorum was established. He reminded the audience that 4 affirmative votes were needed to approve a variance or an appeal, not just a simple majority. Hearing no objection, he declared the hearings proceed.

I. CALL TO ORDER – PUBLIC HEARINGS:

The meeting was called to order at 7:00 P.M. by Chairman Breen in the Ludlow Room of Town Hall, 275 Broad Street, Windsor, Connecticut.

1. LEGAL NOTICE:

The Legal Notice submitted by Max Kuziak, Secretary, which appeared in The Hartford Courant was read by Commissioner Raney and included the following:

#16-08 99 Lancaster Dr. Sec 4.4.15D Fences, Walls, and Hedges

#16-09 250 Lamberton Rd. Sec 8.1 Yard Standards – side yard; Sect 8-1 Yard Standards - rear yards for Solar Array

2. PROCEDURES:

Commissioner Bolduc read the procedures for presentation of a variance application and appeals. He queried the audience for any questions regarding the procedures which were read. Hearing no comments, the hearings proceeded.

II. PUBLIC HEARINGS

1. #16-08 99 Lancaster Dr. Sec 4.4.15D Fences, Walls, and Hedges

DISCUSSION: Mike and Shawna Tustin, homeowners of 99 Lancaster Dr. presented their case for a variance to allow them to raise their 4 ft. fence to 6 ft., a variance of 2 feet.

In Oct. 2015 they approached the planning and building departments about installing a privacy fence. Town staff provided the regulations and visited the property before, during and after the installation. The home is unique as it has 3 front yards. (Hayden Station, Lancaster Dr. and Somerset Dr.) There was a large wide privacy hedge that surrounded Somerset and Lancaster and has been maintained for 9 years by the Tustin's. In an effort to improve the line of site at the Lancaster / Somerset intersection, he removed approximately 40 to 50 feet of the hedge. In the fall
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of 2016, the neighbor made a formal complaint regarding the placement of the fence. Town staff revisited the property on several occasions and verified the fence was in compliance with regulations. The neighbor then complained about a line of site issue with the hedges. After investigation by the town, it was determined that the hedge was actually in the town right of way. The town has never maintained these large, dense bushes. Up to this point, the hedge has provided a screen and some privacy from the intersection traffic and the Lancaster Woods Park directly across the street from his home. Trimming the bushes was not an option to maintain privacy. They elected to agree to the removal of the bushes by the town.

The Tustin's are requesting a variance to the height of the existing fence from four to six feet in height. The hardship is that they have three front yards. They have three young children and are looking for their safety and privacy. Mike Tustin is an officer with the Town of Windsor Police Dept. He is a K9 Handler with the police department. The K9 is a 2 year old shepherd, lives with the family, and is highly trained. Officer Tustin has a concern that the dog could possibly mis-construe noise from the park such as yelling and screaming and leap the 4 ft. fence without the tall privacy hedge.

In response to question by commissioners, Officer Tustin explained that the town determined the hedge was not a problem but in response to the complaint, the town is removing the hedge. The alternative of moving the fence 10 feet further back into their yard is not an option they would like. They have a very small area for their yard, as shown in the pictures, and have decided to ask for this variance. It was noted by the commission that the town bushes when not maintained could be a line of site issue for the neighbor.

Chris Howell-Levine, 24 Somerset Dr., spoke in favor of the variance.

Lois Warner, 172 Hayden Station wrote a letter in favor of the variance.

Franklin and Linda Hunt, 6 Somerset Dr., spoke against the variance. He said that Officer Tustin spoke to the town about installing a pool and a fence in his yard in Oct. 20, 2015. This is also "his" (Mr. & Mrs. Hunt's) front yard. He said that the dog is highly trained and the Town of Windsor installed an electronic fence, costing thousands of dollars. The dog never goes beyond the electronic fence. The dog has trained at the park with Officer Tustin and is friendly with the children. He said it is not a busy park.

Mr. Hunt said that while the fence was being installed, he talked to the installer who told him a 6 ft fence was being installed on Somerset Dr. Mr. Hunt called the Zoning Enforcement Officer (ZEO), Robert Ruzzo, and the height was changed to 4 ft.

Prior to the installation of the fence, the Hunt's were able to see Lancaster Rd. and traffic entering the intersection when pulling out of their driveway. He does not have a turnaround in his driveway and he can barely pull out safely with some visibility from his truck over the 4 ft. fence. His wife cannot see at all. A 6 ft. fence would block their safe line of site.

Mr. Hunt said that he had a signed statement from a neighbor who is also against this variance and he expected more. (These were not presented during the public hearing)

ZEO Ruzzo said that the Engineering Dept. has been to the property and determined that the current line of site from the driveway is in compliance with the zoning regulations. He does not have the exact arc measurement use by Engineering with him, but it is available.

Shawna Tustin said that a 6 foot fence on Somerset was not an option when they installed the fence. Their first option was to use the hedges as the fence as they were tall and dense. They decided for safety reasons to put up the 4 ft. fence. She has the pricing for both proposals.

Office Tustin said the town did not pay for the electronic fence, it was purchased by his self.

2. #16-09 250 Lamberton Rd. Sec 8.1 Yard Standards – side yard and Sect 8-1 Yard Standards - rear yards for Solar Array

DISCUSSION: Wilson Alford Jr., Civil Engineer with Alford Associates, Windsor CT presented the case for this variance. He explained in detail using a map to outline what was being requested including the locations of the solar arrays and the 3 variances needed. He also submitted a letter from a structural engineer that the roof framing of the existing building is inadequate for the proposed solar array. A MDC easement also limits the location. He submitted a signed document from Joe Novak, owner of All Crate, 200 Lamberton Rd. All Crate is the neighbor that is most affected by the installation of the array.

Mr. Alford explained that the hardship is that there is no other spot on the property to put the array.

In response to commissioners he explained that the trees will be coming down to accommodate the panels. Carport rooftops would not work at this location as the pitch would be to the west. The other issue with carport rooftops is that snow and ice falling off the carports may cause car and/or personal injuries.

Mr. Alford stated that this variance request is no different than a homeowner that requests a bigger garage or an addition. The hardship is there is no other place to put it.

III. CLOSE OF PUBLIC HEARINGS:

Chairman Breen CLOSED the Public Hearings.

IV. COMMENCE REGULAR BUSINESS MEETING

1. Cases heard during Public Hearing/Application

a. #16-08 99 Lancaster Dr.

MOTION: Commissioner Bolduc made a motion for purpose of discussion to approve a variance at 99 Lancaster Dr Sec 4.4.15D Fences, Walls, and Hedges a variance of 2 feet to allow a 6 foot fence.

SECONDED by Commissioner Tillett

DISCUSSION: Commissioner Bolduc will be in favor of this variance. The hardship is the three front yards. The concern with the park across the street is valid. Once the hedges are removed the line of site will be improve as they look to be 4 to 7 ft. wide. Commissioner Tillett is in favor of the variance.

Commissioner Raney is in favor of the variance. The three frontages makes it difficult for any family to have any privacy. Once the hedge is eliminated, she doesn't believe a 2 ft increase in the fence height will make a difference to line of site.

Commissioner Dethlefsen suggest a compromise of moving the fence in 5 ft and then only a 1 ft variance would be needed. Chairman Breen said that the commission must vote on the variance before them. If it failed, the applicant would have the option to come back with a new request.

VOTE: Approved 5-0-0

b. #16-09 250 Lamberton Rd. Sec 8.1 Yard Standards

MOTION: Commissioner Raney made a motion for purpose of discussion to approve a variance along the southern side yard variance of 25 ft. for a row of 3 solar arrays; Sect 8-1 Yard Standards - along the eastern property rear yard a 21 ft. for solar array and the also along the east property yard a 14 ft. variance for an additional solar array.

SECONDED by Commissioner Bolduc

DISCUSSION: Commissioner Raney agreed that this could not go anywhere else on the property and is in favor of the variance.

Commissioner Bolduc agreed for the same reason.

Commissioner Tillett is conflicted. She would like to see more solar, but believes there is a better way to do it.

Commissioner Dethlefsen had no comment.

VOTE: Approved 4-0-1

1. New Business

a. Communications from the Public – None

b. Minutes Acceptance

MOTION: Commissioner Raney made a motion, seconded by Commissioner Tillett to APPROVE the Minutes of the Regular Meeting July 20, 2016 as presented.

VOTE: Approved 5-0-0

c. Communications from Board Members – Chairman Breen encouraged members so seek applicants to fill the vacancies on the board. Democrat or Independent affiliates could fill the positions. He also mentioned the 2017 ZBA schedule that was approved by email vote.

d. Communications from Staff Liaison

Zoning Officer and Building Official, Robert J. Ruzzo, gave a brief report on construction projects underway in Windsor.

2. Old Business - None

V. ADJOURNMENT:

MOTION: Commissioner Bolduc made a motion, seconded by Commissioner Raney to ADJOURN the meeting at 8:47 PM.

VOTE: 5-0-0

Respectfully submitted,

I certify that these Minutes were accepted
On

Lori Hartmann, Recording Secretary

Max R. Kuziak, Secretary
Zoning Board of Appeals