

ZONING BOARD OF APPEALS
March 7, 2016 Meeting Minutes

Board Members Present: Shane O'Connor, Ronald King, Daniel Flanagan and Mark Horan

Town Staff Present: none

The meeting was called to order at 7:08 pm

Board roll call was taken.

Chairman O'Connor stated that he had received a copy of a letter of resignation from Douglas Glazier dated November 20, 2015 as well as a letter from Town Clerk William Hamel dated December 30, 2015 confirming Mr. Glazier's resignation from the Board. Mr. O'Connor then read the following letter dated November 2, 2015 from the Windsor Locks Republican Town Committee:

"At a regular meeting of the Windsor Locks Republican Town Committee held on November 18, 2015, the following recommendation was made:

The appointment of Daniel Flanagan, 168 Taft Lane, Windsor Locks, CT 06096, telephone no. 860-683-4337, to fill the vacancy caused by the resignation of Douglas C. Glazier, Sr.

Your consideration in this matter is appreciated."

Chairman O'Connor asked for a motion regarding the appointment of Daniel Flanagan to the Board. Mr. King moved to accept the appointment of Daniel Flanagan to the Zoning Board of Appeals. Mr. Horan seconded the motion. All were in favor. The vote was 3 – 0, the motion was approved.

Town Clerk William Hamel swore Mr. Flanagan in as a member of the Zoning Board of Appeals.

MINUTES:

Chairman O'Connor referred to the November 2, 2015 meeting minutes and stated that the Board would vote on acceptance of those minutes at the next Board meeting when more members are present.

BILLS & CORRESPONDENCE:

None

OLD BUSINESS:

None

NEW BUSINESS:

- a. DMV Applications**

There were none.

b. Public Hearings

1. Public hearing on Application #FY15-16-07, Owner/Applicant: Hamlet Homes, LLC for variances for the following Chapman Chase properties to reduce the driveway length from the required 25 feet to:

20 feet for Units 28, 34, 35, 36 and 37;

21 feet for Unit 26;

22 feet for Units 18 and 33, and

23 feet for Units 27 and 31

and to reduce the setback between structure and street from the required 20 feet to:

19.9 feet for Unit 25 for the main structure;

19.4 feet for Unit 26 for a veranda;

18 feet for Unit 34 for a veranda;

18.5 feet for Unit 36 for a veranda; and

16.3 feet for Unit 37 for a veranda.

Attorney Joseph Flynn addressed the Board and stated that he was representing the applicant, Hamlet Homes, LLC. He explained that Hamlet Homes, LLC was the owner of the development rights to the Common Interest Community, Chapman Chase, and that Mark O'Neill, the principal of Hamlet Homes, was also present that evening. Attorney Flynn noted that they had submitted the appropriate application and posted the required signs on the property.

Attorney Flynn asked that Town Planner Jennifer Rodriguez' memorandum dated March 4, 2016 be incorporated into the meeting minutes.

Attorney Flynn stated that the applicant was asking for a reduction of the driveway length from 25 feet down to between 20 and 23 feet for 10 of the 27 approved units. In addition, they were asking for a reduction of the setback between structure and street from 20 feet to between 19.9 and 16.3 feet for five units.

Attorney Flynn stated that the hardship was the unique topography of the parcel with its steep slopes. He went on to say that public safety concerns would be created without the approval of the requested variance.

Attorney Flynn distributed a schematic plan showing that the property in question was one parcel, it was not a subdivision, located on the north side of North Street. He went on to say that Chapman Chase was a Common Interest Community that the Town's Planning and Zoning Commission had approved back in 2007. He explained that the Chapman Chase community was made up of two phases. Phase One

consisted of a total of 33 units that had been constructed between 2009 and 2014 and that Phase Two consisted of 37 units. Attorney Flynn noted that they were all free-standing single-family dwellings. He then distributed another schematic plan which showed the two phases; Phase Two being located on the northerly half of the parcel.

Attorney Flynn noted that the application concerned ten of the units in Phase Two. He then pointed out that the homeowners association owned the land and that the roads were private. He then stated that the buyers were only purchasing the units/dwellings themselves

Attorney Flynn stated that the applicant had purchased the development rights from the original Chapman Chase developer. He then noted that they had already closed on three of the units.

Attorney Flynn reiterated that Chapman Chase was not a subdivision, but one parcel and that it had been approved with only the road design and a general schematic plan. He went on to say that the Planning and Zoning Commission had emphasized that they had wanted to create a sense of community between the two phases in addition to maintaining the particular characteristics of the land. Attorney Flynn again stated that the plan had been approved by the Town's Planning and Zoning Commission as a Common Interest Community with uniform models of detached dwellings of specified square footage with two car garages. He then reiterated that the applicant had to comply with the Planning and Zoning Commission's approval and the Common Interest Community definitions and details.

Attorney Flynn stated that the plans that had been approved by the Planning and Zoning Commission had not included the driveway length. He then submitted a copy of the specifications of the Planning and Zoning Commission's approval. He went on to say that the developer had moved forward with the development based upon the setback requirements, but not a driveway length requirement since it was not included in the approved specifications. He then distributed a copy of the site plan showing the 20 foot setback, but no driveway length requirement.

Attorney Flynn stated that Certificates of Occupancy (CO's) were granted for the three units that had been sold because the driveways happened to have been greater than the required 25 feet in length. He went on to say that the subsequent CO's had been denied because the driveway lengths did not meet the required 25 foot length.

Attorney Flynn noted that the reasons that the applicant needed to shorten the driveway lengths to less than the required 25 feet was to maintain the characteristics of the parcel (he then referred to the topography map that had been included with the submitted application) since the slopes led down to wetland soils and to maintain the

standards of the Common Interest Community with regard to dwelling sizes, etc. He then pointed out that the steepness of the site was so severe that two to five feet would make a significant difference to the safety of the foundations.

Attorney Flynn explained that if the Town were to strictly enforce the regulations, which were not clearly stated in the original approval, it would create public health and safety issues; it would not allow the Common Interest Community to proceed as it had been intended by the Planning and Zoning Commission and it would not allow the use of the land consistent with the declaration of the Common Interest Community.

Attorney Flynn stated that it was a classic hardship in terms of topography compounded by the fact that the owner of the development rights must comply with the Common Interest Community standards.

Attorney Flynn noted that in addition to the three units that they had closed on, there were another 21 with agreements. He then stated that some of those 21 units were included in the application before the Board.

Attorney Flynn referred to the two conditions of Section 8-6 that are required to be met in order for a variance to be granted and stated that 1. it did not substantially affect the comprehensive zoning plan (it would not increase the density and would keep the development consistent with the approved plan and 2. strict application of the Zoning Regulations would cause an usual hardship.

Attorney Flynn stated that the requested variance would not undermine the intent of the development. He then noted that to the east of the parcel was the Woodland Common Interest Community; to the north was the outside ring of the Circle Drive residential community; and to the west was a parcel that had been conveyed to the Town of Windsor Locks when the development had been approved back in 2007.

Attorney Flynn reiterated that if the variance was not approved it would create a health and safety issue; would not allow the parcel to be developed in the manner which had been intended by the Planning and Zoning Commission; and would not allow the parcel to be developed consistent with the recorded planned community.

Chairman O'Connor noted that Attorney Flynn had mentioned ten units effected by the requested variance, but that he saw eleven units listed. Attorney Flynn stated that Mr. O'Connor was correct, there were eleven units affected by the variance.

Attorney Flynn stated that the second half of the variance involved the 20 foot setback to structures. He went on to say that only certain types of dwelling models could be built in the community and that some of them included a veranda. He then explained that the developer had moved forward with the development with the

understanding that the 20 foot setback was from the dwelling foundation. He went on to say that part of the Town Engineer's approval had made exception for ground level structures. Attorney Flynn then pointed out that the verandas had no foundations, they were like decks and were 4 to 6 feet wide. Attorney Flynn noted that without the verandas the structures were at least 20 feet from the street.

Chairman O'Connor asked the Board members for any questions. Mr. Flanagan noted that he had driven by the site earlier in the day and stated that he could see where a lot of the issues were created by the topography of the site. He went on to say that he agreed that it would not be safe to adhere to the strict driveway and setback requirements.

Attorney Flynn pointed out that it had not been engineered as a normal subdivision would have been. Chairman O'Connor commented that it was flexible. He then noted that most of the foundations were already in, but that some were not. He then asked if there was any way to move those that were not already in back a little. A brief discussion then took place regarding which foundations were already in and which were not. Mr. O'Neill then noted that they had identified a smaller house that they were planning on building in order to reduce the depth. Attorney Flynn referred to Ms. Rodriguez' memo and stated that it was correct; of the impacted units only 28, 31 and 38 were already built.

Attorney Flynn referred to the driveways and pointed out that they were installing double-wide driveways, therefore although they were not the required 25 feet long, they had actually been increased from 250 square feet to 400 square feet in size to accommodate the two car garage.

Chairman O'Connor asked if they foresaw any issues with the inner units to be built. Mr. O'Neill replied that the inner units were fine. He went on to explain that he had since had engineers go through and layout the whole plan with all of the grading recalculated for the entire parcel. He then referred to the area highlighted in green on the plan and stated that he had met with the Town Engineer and Ms. Rodriguez four months prior when they had noticed a problem in that area. Mr. O'Neill then explained that they had redesigned and approved that area; they had moved it all over to the right with redone drainage and grading. He stated that that area had been fixed. Mr. O'Neill pointed out that when he took over the development the area had been all overgrown with woods, therefore no one had noticed all of the issues until they went in and had cleared the area.

Mr. Flanagan commented that they had changed some things and questioned whether they were keeping with Phase One. Attorney Flynn replied that they had not altered the definition of the dwellings which included uniform features and square footage. He went on to say that they had changed some of the aesthetics of the dwellings, but

that they had had the Association approve those changes. Mr. O'Neill then noted that the Planning and Zoning Commission had also approved those changes.

Chairman O'Connor asked the Board for any further questions. Mr. King commented that he had originally questioned the 20 foot driveways, but now that Attorney Flynn had explained it he felt better about them.

Chairman O'Connor asked for any public input in favor of the application.

Constance Haggarty addressed the Board and stated that she lived in Phase One of Chapman Chase and that she had lived there for three years. She also noted that she was on the Association Board. Ms. Haggarty stated that she and her neighbors had no objection to the application because they saw the dangers of the steep slopes. She went on to say that anything that would make it easier and safer to maintain would be a good idea. She then pointed out that the driveways were all different lengths anyway.

Rich Benson, a member of the Chapman Chase Association, addressed the Board and stated that he agreed with Ms. Haggarty's comments. He went on to say that the slope behind the homes was very steep and would be very dangerous to landscape. He then commented that what Mr. O'Neill had done had significantly helped with the slope issues. Mr. Benson stated that he was in favor of the application.

Bob Wojtas addressed the Board and stated that he lived in Phase One of Chapman Chase and that he had lived there for over four years. He went on to say that he had grown up in Windsor Locks and that he used to play on the property in question and knew the land was very steep. He then stated that Mr. O'Neill was doing a fantastic job. Mr. Wojtas stated that the shorter driveway lengths would be okay because each unit had a two car garage and that they were required to park their vehicles in the garage.

Luis Valdez addressed the Board and stated that he was moving into Chapman Chase on April 30th. He went on to say that he went by the property every day to check on the progress. He then stated that he agreed with all of the previous comments and that he wanted to ensure the safety of everyone. Mr. Valdez stated that he had no issue with the requested variance.

Chairman O'Connor asked for any public input in opposition to the application. There was none.

A brief discussion took place and Chairman O'Connor asked for a motion regarding Application #FY15-16-07. Mr. King moved to approve Application #FY15-16-07, Owner/Applicant: Hamlet Homes, LLC for variances for the following Chapman Chase properties to reduce the driveway length from the required 25 feet to:

- 20 feet for Units 28, 34, 35, 36 and 37;
- 21 feet for Unit 26;
- 22 feet for Units 18 and 33; and
- 23 feet for Units 27 and 31

and to reduce the setback between structure and street from the required 20 feet to:

- 19.9 feet for Unit 25 for the main structure;
- 19.4 feet for Unit 26 for a veranda;
- 18 feet for Unit 34 for a veranda;
- 18.5 feet for Unit 36 for a veranda; and
- 16.3 feet for Unit 37 for a veranda.

The granting of this variance is for the changes proposed in this application only, permitting an exception to the requirements of Section 417 of the zoning regulations for the following particular units: 18, 25, 26, 27, 28, 31, 33, 34, 35, 36 and 37. The hardship upon which this decision is based is the topographical and wetland encroachment. Any additional changes to this site plan will require a return to this Board. This variance is not a permit to build. See the Building, Planning and Zoning Department for required permits. Mr. Horan seconded the motion. There was no further discussion. All were in favor. The vote was 4 – 0, the motion was approved.

Mr. King moved to adjourn the meeting. Mr. Horan seconded the motion. All were in favor. The vote was 4 – 0, the meeting was adjourned at 8:05 pm

Respectfully submitted,

Diane Ferrari
Recording Secretary

THIS IS A DRAFT

Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.