

**ZONING BOARD OF APPEALS
Monroe, Connecticut**

**MEETING MINUTES
February 3, 2015**

Meeting: Zoning Board of Appeals
Regular Meeting – February 3, 2015
7 Fan Hill Road, Town Hall, Council Chambers

Present: Chairman James Wendt
Secretary Marion Callo
Board Member Paul Lisi
Board Member Robert Saraco, Jr.
Board Member Dominic Paniccia (alternate)
Board Member Jennifer Pinto (alternate)

Absent: Vacant Board Member Seat

Also Present: Will Agresta, Planning and Zoning Administrator
Carol Re, Recording Secretary

OPENING OF MEETING

Chairman Wendt called the meeting to order at 7:41 p.m. Board Members were seated on a roll call, seating Alternates Paniccia and Pinto.

PUBLIC HEARINGS

Secretary Marion Callo read the Public Hearing Notice.

- **ZBA-2015-01 File #1375 – 462 Main Street – Assessor Map 46, Lot 11**

Application of property owner JV462 Main Street, LLC, John Chaves, Member, for an area variance of Zoning §4.1.5 to allow a side yard setback of 10 feet in lieu of the required 30 feet at a residential zone boundary and for an area variance of Zoning §6.2.4(B) to allow a side yard landscape buffer of 10 feet in lieu of 30 feet, both to permit a portion of a proposed primary and reserve septic structures within the required side yard setback and side yard landscape buffer (B-1 Zoning District).

Attorney Raymond Rizio introduces himself and presented certificates of mailings and green cards to Planner Agresta. Mr. Rizio explained that they want to build a primary and reserve septic but in order to do so they are requesting an area variance of the residential buffer of 30 feet and the setback of a structure of 20 feet.

According to Attorney Rizio, the zoning office did not treat underground septic systems as structures for setback purposes until October 2013 so this project must now comply with the new regulations. Mr. Rizio pointed out that a similar buffer area variance was previously approved in March 2013 to allow for a driveway around the building but none was required for the septic or drainage systems even though they were located in the same area as the driveway. Mr. Rizio stated that the property behind them which is approximately 4 acres was purchased by the owner of TLC as well as the house behind them which is the only residential property around them and he fully supports the application and request for the variance. Mr. Rizio said that the original intent of the 30 foot buffer was when a commercial property abuts a residential property and that circumstance does not exist in this case. The subject property is zoned completely commercial and the surrounding residential properties are being consolidated and utilized as agriculture use. Mr. Rizio presented a letter from the Trumbull Monroe Health District which indicated that the septic area available to the property was limited and the best area was in the setback area. Mr. Rizio stated that he felt this was a classic case of hardship which does not impact the properties around it, where the circumstance is unique to this property, and is driven by the topography of the area.

Secretary Callo asked them to confirm the areas on the site plan that indicated the location of the septic tank and reserve septic. Mr. Rizio noted that the area in green was the location of the primary septic and the hatch area is the location of a possible reserve septic. In addition, Mr. Rizio pointed out where the drainage system is on the plan as well as the old residence building that will be taken down. Secretary Callo asked if they are going to add any landscaping to the plan to which Mr. Rizio replied that it is heavily treed already but they will make sure the buffer area is landscaped. Planner Agresta noted that the neighbor cut all the trees and the proposed site development of the subject site will do similar. Planner Agresta also asked how the applicant would functionally use the portion of setback that currently is planned for drainage. Mr. Jay Keillor responded by saying that they want the flexibility to use that area because the site is so limited and if they find they need additional septic capacity then they would move the drainage system to accommodate that and comply with the regulations.

Board Member Lisi said that most of the land on the plan looks unusable for septic and is there only one small area that is acceptable for septic use? Planner Agresta answered by saying the map shows soil testing for unsuitable septic areas done previously and currently so it appears that there is very little area available to put the septic. Mr. Keillor explained further that the area shown in green on the plan is currently acceptable for septic purposes but there are other areas on the plan that with physical or technical modifications could also be acceptable for septic use. He continued by saying that the land use of this property would be limited to dry retail and they would install an 800 gallon septic system accounting for 10 to 20 gallons per employee.

Chairman Wendt questioned if a 10 foot setback to the neighboring property was acceptable for a septic system as he understood it to be 25 feet. Mr. Keillor said that it is a 10 foot requirement on the uphill side, 15 on the downhill side in certain conditions and it is 25 feet on the downhill side otherwise. Chairman Wendt then referred to the Board's previous approval of this application in March 2013 which included a condition of installation and maintenance of a staggered double row of evergreen trees, other than White Pines, parallel to the entire length of the property line and asked if the applicant would be willing to comply with that and extend it along the area of variance for this application? Mr. Rizio said they would be willing to do that.

Mr. Lee Hossler of 272 Stanley Road in Monroe spoke in favor of the application saying that the area has been an eye sore for a long time and he looks forward to a good looking building and business that would bring jobs to the town and tax revenue.

Polling the Board hearing no objections, Chairman Wendt closed the public hearing.

NEW AND ONGOING BUSINESS

MEETING MINUTES/CORRESPONDENCE

- Previous meeting minutes

Meeting Minutes October 7, 2014

MOTION: Paniccia– To approve the meeting minutes for October 7, 2014 as drafted.

SECOND: Pinto

DISCUSSION: None.

VOTE: 5-0-0 – Approved

Ayes Wendt, Callo, Lisi, Paniccia, Pinto

Nays None

Abstain None

Meeting Minutes November 4, 2014

MOTION: Lisi– To approve the meeting minutes for November 4, 2014 as drafted.

SECOND: Paniccia

DISCUSSION: None.

VOTE: 4-0-1 – Approved

Ayes Wendt, Lisi, Paniccia, Pinto

Nays None

Abstain Callo

Meeting Minutes December 2, 2014

MOTION: Paniccia– To approve the meeting minutes for December 2, 2014 as drafted.

SECOND: Pinto

DISCUSSION: None.

VOTE: 5-0-0 – Approved

Ayes Wendt, Callo, Lisi, Paniccia, Pinto

Nays None

Abstain None

DELIBERATIONS / DETERMINATIONS

- Completed Public Hearing Items from this Agenda

ZBA-2015-01, File 1375 – 462 Main Street – Assessor Map 46, Lot 11

OWNER: JV462 Main Street LLC

APPLICANT: JV462 Main Street LLC

MOTION: Pinto – To grant approval of ZBA-2015-01, 462 Main Street.

SECOND: Lisi

DISCUSSION: Board Member Lisi said that regardless of the regulations prior to or after 2013, this property would still require a variance. Chairman Wendt responded saying that there are two different components where you need to consider the setback for the system as well as a decrease width of the landscape buffer. Essentially, the planting area is being reduced from 30 feet to 10 feet. The board discussed the specific requirements for the number of trees or plantings that need to be done. Planner Agresta read the zoning regulations for landscaping. Chairman Wendt reviewed by saying that that limit of the septic system creates a hardship for the applicant and forces them to project into the buffer, poses limited negative impact on the surrounding properties, and is supported by the neighbor so he is comfortable with it to which the board agreed.

VOTE: 5-0-0 – Approved

Ayes Wendt, Callo, Lisi, Paniccia, Pinto

Nays None

Abstain None

MEETING ADJOURNMENT

Chairman Wendt adjourned the meeting at 8:24 p.m.

Respectfully submitted,
Carol Re, Recording Clerk



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Town of Monroe Zoning Board of Appeals
7 Fan Hill Road, Monroe, CT 06468
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APPROVAL

Application ZBA-2015-01 – File #1375
462 Main Street – B-1 District – Assessor Map 46, Lot 11

JV462 Main Street, LLC (Owner/Applicant)

February 3, 2015

WHEREAS, the Town of Monroe Zoning Board of Appeals (hereinafter “ZBA”), upon the holding of a duly noticed Public Hearing opened and closed on February 3, 2015, considered an application from JV462 Main Street, LLC, John Chaves, Member (“applicant” and “property owner”) seeking an area variance of §4.1.5 of the Zoning Regulations to permit a side yard setback of 10 feet in lieu of the required 30 feet at a residential zone boundary and for an area variance of §6.2.4(B) of the Zoning Regulations to allow a side yard landscape buffer of 10 feet in lieu of 30 feet, both to permit a portion of a proposed primary and reserve septic structures within the required side yard setback and side yard landscape buffer, as detailed in the following application materials and plans:

Application:

- Application ZBA-2015-01 – 462 Main Street, JV462 Main Street, LLC;
- Attachment “A”;
- Abutters List;

Plans:

- Survey Plan, Land Engineering & Surveying, LLC, 09/04/12, revised 07/01/14;
- Grading, Drainage, Utility, Sediment & Erosion Control Plan, Land Engineering & Surveying, LLC, 09/04/12, revised 01/05/15; and

WHEREAS, the approximate 0.9 acre subject property is located at 462 Main Street (Route 25) within a Business District 1 (B-1); and

WHEREAS, the subject parcel is not within 500 feet of a town boundary; and

WHEREAS, the subject parcel includes regulated wetlands and 100-foot upland review area; and

WHEREAS, a Wetland Permit pertaining to proposed site development of the subject parcel in coordination with three other abutting parcels (464, 466 and 470 Main Street) has been obtained by the applicant (IWC-14-11, File #891, approved 11/12/14), while a related application is pending before the Planning and Zoning Commission for Special Exception Permit (SEP-2014-13); and

WHEREAS, the subject parcel is located within the West Pequonnock Watershed, for which the applicant completed required notices thereof on January 12, 2015, to the Commissioner of Public Health and the Aquarion Water Company of Connecticut pursuant to Connecticut General Statutes §8-3i; and

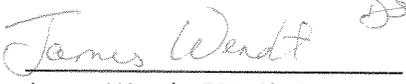
WHEREAS, on January 9, 2015, a copy of the public hearing notice was filed in the office of the Monroe Town Clerk and was published in the Monroe Courier on January 22 and 29, 2015; and

WHEREAS, January 22, 2015, the applicant mailed a copy of the public hearing notice of the proposed Area Variance application to abutting property owners within 100 feet of the subject property as evidenced by submission of certified mail receipts (and subsequent returned “green” cards); and

WHEREAS, the subject property includes an existing residence building originally constructed in 1956, as well as associated residential accessory uses and structures (these features would be demolished and replaced with new commercial development); and

WHEREAS, according to written comments from the Trumbull Monroe Health District dated January 15, 2015, the “variance area...is higher in elevation and is more suitable to accommodate a primary and reserve septic system. The eastern portion of the proposed primary area (54’ LF of CLT-48) and reserve areas up gradient are the only really suitable areas for an onsite sewage disposal system which could accommodate 800 ± gallons per day of dry retail space;”

NOW THEREFORE BE IT RESOLVED, the ZBA at its meeting held on **February 3, 2015**, upon motion by **JENNIFER PINTO** and seconded by **PAUL LISI**, voted **FIVE (5)** in favor and **NONE (0)** in opposition to **APPROVE**, for the reasons stated below, the above referenced application for an area variance **specific and solely to the use, structures, plans and other application materials submitted**, as follows:

<u>James Wendt</u>	<u>Chairman</u>	<u>AYE</u>	For the ZBA:  James Wendt, ZBA Chair
<u>Paul Lisi</u>	<u>Vice Chairman</u>	<u>AYE</u>	
<u>Marion Callo</u>	<u>Secretary</u>	<u>AYE</u>	
<u>Jennifer Pinto</u>	<u>Alternate (seated)</u>	<u>AYE</u>	
<u>Domenic Paniccia</u>	<u>Alternate (seated)</u>	<u>AYE</u>	

BE IT FURTHER RESOLVED, the ZBA relies on the following reasons in support of this **APPROVAL**:

- Based on written comments of the Trumbull Monroe Health District, the variance area is the most suitable location for an onsite sewage disposal area; and

BE IT FURTHER RESOLVED, that the area variances approved herein shall be subject to the following:

1. At minimum, a staggered double row of evergreen trees shall be planted and maintained within the remaining length and extent of setback and landscape buffer area, the design of which shall be acceptable to the Town Planner and Planning and Zoning Commission.

2. The area variance approved herein shall be specific and limited to onsite subsurface sewage disposal facilities as detailed on the application plans as submitted. A copy of the application plan as approved shall be marked as “Final Approved” and maintain in the record file of the ZBA. Any changes to the area variance extent or content shall render this approval null and void. Said approved area variances shall be inapplicable and non-transferrable to any other uses, structures or improvements on the subject premises.
3. The owner shall record an original copy of this approval document (as provided by the Planning and Zoning Department) in the Monroe Land Records. A copy of said recording, showing all marks of recording, shall be filed in the office of the Planning and Zoning Department. This approval shall not take effect until the date of such recording and completion of the filing of the recorded copy as set forth herein.
4. The area variance approved herein, in of itself, does not authorize any physical construction to commence, all other required administrative, health, fire, wetlands, zoning and building permits are required prior to any construction. Development of the subject property shall be subject to compliance with all regulations and requirements effective at the time of applications for a Certificate of Zoning Compliance and Building Permit.
5. Failure to comply with the above conditions within six (6) months of the date of this approval shall render this approval null and void.