

**ZONING BOARD OF APPEALS
Monroe, Connecticut**

**MEETING MINUTES
July 5, 2016**

Meetings are Audio and Video Recorded

Meeting: Zoning Board of Appeals
Regular Meeting – July 5, 2016
7 Fan Hill Road, Town Hall, Council Chambers

Present: James Wendt, Chairman
Marion Callo, Secretary
Dominic Paniccia
Michael Pinto (alternate)
Ryan Condon (alternate) – Seated
Ben Maini (alternate) – Seated

Absent Vacant Board Member Seat
Robert Saraco, Jr.

Also Present: William Agresta, Planning and Zoning Administrator
Rebecca Wood, Recording Secretary

OPENING OF MEETING

- **Call to Order** – Chairman Wendt called the meeting to order at 7:33 p.m.
- **Roll Call & Seating of Alternates (if required)** – Board members were seated on a roll call with the seating of alternates Condon and Maini for the vacant full member seat and absent Saraco.
- **Election of Officers** – The election of new officers was tabled.

PUBLIC HEARINGS

- **ZBA-2016-03 File #1383– 2 Shelton Road, Assessor Map 63, Lot 68**
Application of the State of Connecticut Department of Transportation for an area variance of §3.1.5 of the Zoning Regulations for property located in a Residential Farming District 1 (RF-1) pertaining to the taking of two (2) separate portions of the subject property totally 4,956 square feet in area for highway purposes related to the State construction of a roundabout at the intersection of State Routes 110 and 111. The area variances seek to permit a lot area of 0.69 acres (0.8 acres existing) in lieu of the required minimum 1 acre. Property owner: Harmony Grange No. 92 Patrons of Husbandry. (Reconvened from June 7, 2016)

The public hearing was reconvened from the June 7, 2016 adjournment.

Chairman Wendt summarized what has happened since the adjournment:

- Notifications to Aquarion Water Company and State Public Health Commissioner were completed by the applicant and no responses had been received by the Board;
- Acknowledgement of receipt of a letter from the Mr. George Ward, President of the Grange, and Chairman/Vice President Executive Committee, Mr. Benofsky offering additional information was noted; and
- Acknowledgement of receipt from the State (applicant) of corrected application documents addressing the items as discussed at the June 7, 2016 hearing session.

Chairman Wendt opened the meeting to additional public comment:

Mr. Ron Bunovsky of 76 Hawley Place in Monroe, Vice President of the Harmony Grange, indicated that the Grange continues to have two main issues that are area related:

- The taking of the land by the State would result in 5,000 square feet less area than the Grange currently has, and State Statutes that apply are designed to have the Town judge whether what property is left, is still a lot suitable for use. The current Grange development and as a Meeting House would not satisfy the requirements for a new meeting house to be built in Town according to current standards.
- Parking for the Grange use is difficult and the talking will worsen that condition. The present Grange is fire rated for 550 people and would require 38 parking spaces in order to be conforming to current regulations.
- The taking of the property will result in additional grading that will begin to encroach upon the septic fields. The Grange wants but did not sufficient time before the hearing to have a B-1 septic survey completed to determine whether the Grange will have 100% replacement for its septic given the State takings.
- The minutes from the last meeting indicated a statement by Planner Agresta that additional parking for the Grange was planned as the Town would not wish to have an easement owned by and liable by, the Grange. The Grange has not as yet seen these plans, and does not believe the Grange will be able to function as a meeting house.

Mr. Gordon Gibson, representing the Harmony Grange, commented as follows:

- The maps that the Grange has received do not show past discussion of an alternative access driveway from Route 111 that apparently is not proposed by the State.
- A revised map illustrating the same amount of pavement but an increased amount of slope has been received.
- Where the State map indicates a well is really the Grange's septic tank cover; the actual well is at the corner of the building nearest to the proposed cul-de-sac. If the well has to come out of service for construction, there is no other well on the property.

Planner Agresta noted that the matter before the Board was an Area Variance for minimum lot area; there is also other land involved in the State taking of an easement for grading and construction which is separate from the application.

Gail Bunovsky, 76 Hawley Place, Monroe, served eight years on the Conservation Committee and five years as Vice Chairman, on the Board of Directors of the Fairfield County CT Farm Bureau, and is the Steward for the Harmony Grange. Ms. Bunovsky emphasized that both she and her husband were not opposed to the State round-about, but rather were trying to preserve the Grange which was originally created in 1889, with the building originating in 1932 and believed it is worth saving as a meeting house.

Mr. Robert W. Ike, Connecticut Department of Transportation (representative for the applicant), responded to comments as follows:

- Mr. Ike represented that the State was only at this meeting because of Statute 48-24 and the need to seek redress with the Zoning Board of Appeals for the minimum lot area variance. The State design employees will continue to work with the Grange to resolve any and all design issues possible.

Commissioner Callo requested that Planner Agresta summarize the process that would occur.

Planner Agresta explained that the State of Connecticut was taking the land in fee; the ownership of the cul-de-sac portion will change from the Grange to the State of Connecticut and after construction or some point in time, from the State to the Town.

Commissioner Callo then clarified that if the Commission did not grant this variance, the ownership would remain with the Grange with an easement in favor of the Town, with the Grange having liability for the land in use as a public road.

Mr. Ike responded that the State will not purchase the property in total; a defined easement would instead be taken and the Grange would be compensated at about 99% of the value that the ownership taking would generate. The State will make a monetary offer for the proposed acquisition. If the Grange does not accept the offer, the State will acquire property rights under Eminent Domain. The Grange can accept the offer or go to court for more compensation with a trial referee. The Grange would have a right to appeal, a right to negotiate, and have right to settle even before a trial. It is in the best interest of the State to settle any dispute and not go to court and incur further costs.

Commissioner Maini inquired if there was any other location for a cul-de-sac. Commissioner Paniccia stated that the Commission is in a difficult position. Chairman Wendt stated that there was not and stated that he would support a decision to approve, and agreed with Commissioner Paniccia that the Commission was in a difficult position with a difficult decision.

Chairman Wendt polled the Committee members and public for any further comments or discussion; none were offered. Polling the Board, Chairman Wendt closed the public hearing proceedings.

DELIBERATIONS

- **Meeting Minutes**

June 7, 2016 Minutes

MOTION: Paniccia – To approve the meeting minutes for June 7, 2016 as drafted.

SECOND: Condon

VOTE: 5-0-0 Approved

Ayes: Wendt, Callo, Paniccia, Condon, Maini

Nays: None

Abstain: Saraco, Paniccia

- **Determinations**

ZBA-2016-03, File #1383 – 2 Shelton Road, Assessor Map 63, Lot 68

APPLICANT: State of Connecticut Department of Transportation

OWNER: Harmony Grange No. 92 Patrons of Husbandry

MOTION: Paniccia – To approve the area variances per application ZBA-2016-03.

SECOND: Maini

VOTE: 5-0-0 – Approved

Ayes Wendt, Callo, Paniccia, Condon, Maini

Nays None

Abstain None

CLOSING OF MEETING

- **Correspondence / General Discussion**

None

- **Meeting Adjournment**

Polling the Board and hearing no objections, Chairman Wendt adjourned the meeting at 8:15 pm.

Respectfully submitted,
Rebecca Wood, Recording Clerk



Town of Monroe Zoning Board of Appeals
7 Fan Hill Road, Monroe, CT 06468
Phone (203) 452-2812 – Fax (203) 261-6197

APPROVAL

Application ZBA-2016-03 – File #1383
2 SHELTON ROAD – RF-1 District – Assessor Map 63, Lot 68
State of Connecticut Department of Transportation (applicant)
Harmony Grange No. 92 Patrons of Husbandry (owner)

July 5, 2016

WHEREAS, the Town of Monroe Zoning Board of Appeals (hereinafter “ZBA”), upon the holding of a duly noticed Public Hearing opened and adjourned on June 7, 2016, reconvened and closed on July 5, 2016, has considered an application from the State of Connecticut Department of Transportation (applicant) for an area variance of §3.1.5 of the Zoning Regulations for property located in a Residential Farming District 1 (RF-1) pertaining to the State taking in fee of two (2) separate portions of the subject property totally 4,956 square feet in area for highway purposes related to the State construction of a roundabout at the intersection of State Routes 110 and 111. The area variance is to permit a lot area of 0.69 acres (0.8 acres existing) in lieu of the required minimum 1 acre; and

WHEREAS, the property owner is the Harmony Grange No. 92 Patrons of Husbandry; and

WHEREAS, the requested area variances are detailed in the following:

Application and Plans:

- Application ZBA-2016-03 – 2 Shelton Road;
- Cover Letter, CTDOT, 05/09/16;
- Adjoining Property Owners List;
- Right of Way Survey, Robert J. Baron, PLS, State of Connecticut Department of Transportation, 02/2016; and

WHEREAS, the subject property is located on the southwesterly corner of Shelton Road (Connecticut State Route 110) and Hurd Avenue (a Town of Monroe public street) within a Residential and Farming District 1 (RF-1); and

WHEREAS, the subject lot also fronts on Monroe Turnpike (Connecticut State Route 111); and

WHEREAS, the site includes an existing Grange building built in 1932 which faces Shelton Road; and

WHEREAS, the existing lot is nonconforming in regard to its present lot area, as well as in regard to building and parking (which is located partially on the property and partially within the Hurd Avenue street right-of-way) setback from Hurd Avenue (which is less than the required 50 feet). The number of existing onsite parking spaces is also nonconforming. The property may also be further nonconforming in regard to the permitted maximum building/site coverage; and

WHEREAS, proposed “Taking Area 1” would be used for road widening on Route 111, while “Taking Area 2” would be used to construct a new cul-de-sac terminus for Hurd Avenue, which as part of the round-about construction would be closed off from Route 110, leaving the Grange parking lot between the new cul-de-sac and Route 110; and

WHEREAS, the subject property is not within 500 feet of a town boundary, is not subject to a Conservation Easement, does not include areas of 100-year floodplain or areas of wetlands, watercourses or regulated uplands; and

WHEREAS, the subject property is located within the Far Mill River Watershed, for which the applicant completed required notices thereof to the Commissioner of Public Health and the Aquarion Water Company of Connecticut pursuant to Connecticut General Statutes §8-3i, to which no responses were received by the ZBA; and

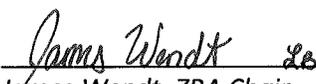
WHEREAS, on May 17, 2016, a copy of the public hearing notice was filed in the office of the Monroe Town Clerk and was published in the Monroe Courier on May 26 and June 2, 2016; and

WHEREAS, 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;

NOW THEREFORE BE IT RESOLVED, the ZBA at its meeting held on **July 5, 2016**, upon motion by **DOMENIC PANICCIA** and seconded by **BEN MAINI**, voted **FIVE (5)** in favor and **NONE (0)** in opposition to **APPROVE**, for the reasons stated below, the above referenced application for the 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>
<u>Marion Callo</u>	<u>Secretary</u>	<u>AYE</u>
<u>Domenic Paniccia</u>	<u>Member</u>	<u>AYE</u>
<u>Ben Maini</u>	<u>Alternate (seated)</u>	<u>AYE</u>
<u>Ryan Condon</u>	<u>Alternate (seated)</u>	<u>AYE</u>

For the ZBA:


James Wendt, ZBA Chair

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

- The related end construction of the Routes 111 and 110 roundabout and cul-de-sac terminating Hurd Avenue will impact the same area of land whether the variance is granted or not. As such, the area variance will have a greater impact on the ownership of the underlying affected lands than on its physical land impact (absent the area variance, the State has indicated in the alternative it would take a Defined Easement affecting the same land area);

- An opportunity appears to exist for a net increase in parking potentially available to the Grange through the related Hurd Avenue reconstruction and new terminus which could result in additional on-street parking than which presently exists;
- The changes to Hurd Avenue and access into and out of the Grange’s current nonconforming parking lot would be safer as it no longer would involve backing into an active street travel lane; and

BE IT FURTHER RESOLVED, any related compensation determination is between the State of Connecticut and the property owner, not the ZBA; and

BE IT FURTHER RESOLVED, the ZBA hereby authorizes the publishing of a Notice of Decision consistent with the requirements set forth in Connecticut General Statutes §8-7; and

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

1. The area variance approved herein shall be specific and limited to the lot area reduction as set forth in the application materials and plans as submitted. Any changes to the area variance extent or content shall render this approval null and void. Said approved area variance shall be inapplicable and non-transferrable to any other uses, structures or improvements on the subject premises.
2. The applicant shall provide five (5) signed and sealed certified copies of the project plans, which plans shall be revised to reference this approval and the limited extent of variance granted. Upon satisfactory submission, said copies as approved shall be marked by the Planning and Zoning Department as “Final Approved” with a copy maintain in the record file of the ZBA.
3. Upon satisfaction of Condition #2 above, the applicant shall record an original copy of this approval (as provided by the Planning and Zoning Department) in the Monroe Land Records, consistent with the requirements set forth in Connecticut General Statutes §8-3d. 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. This approval, 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.