

TOWN OF SOUTHLINGTON
 ZONING BOARD OF APPEALS
 TUESDAY, FEBRUARY 9, 2010

Chairman Joseph LaPorte called the Public Hearing and Regular meeting of the Southington Zoning Board of Appeals to order at 7:00 o'clock, p.m. in the Town Council Chambers with the following members in attendance:

Robert Salka, Paul Bedard, Edward Kuklinski and Patricia Potter

Others: Frank Vinci, Zoning Enforcement Officer

Absent: Robert Sherman, Alternate
 Joseph LaRosa, Alternate
 Ronald Bohigian, Alternate
 Michael Milo, Alternate

A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance.

Mr. Salka explained to the audience the procedure to be followed in the presentation of an appeal. He advised that should their appeal be approved, they file it with the Town Clerk's Office before proceeding with the project.

JOSEPH LAPORTE, Chairman, presiding:

Public Hearing Items:

A. APPEAL #5759A, application of Claude Roy for special exception approval to allow the applicant to keep a family flock of chickens under Section 3-04.31A of the Zoning Regulations, 194 West Street, property of Claude & Stella Roy in an R-12 zone.

MR. VINCI: Will the applicant please state your name and address for the record.

MR. ROY: My name is Claude Roy. I live at 194 West Street. Plantsville.

The reason I'm here tonight is that my wife is not feeling that great and all the other stuff that we're buying has got all kinds of chemicals and so forth. We'd like to get a dozen chickens for our own

use so we know we're eating something good instead of all these chemicals and dying.

And, in the summertime, we are raising a little garden. And, that's about the size of it.

I don't want any roosters just chickens in the shed.

Again, I've a good sized lot, so I got no neighbors. On one side behind me is the factory. That's about the size of it.

THE CHAIR: Have you got that fenced in along the sides?

MR. ROY: I was planning on putting a fence on the side. Right now I've got a coup. About 35 years ago I had some chickens in there. It had to do with my kids that went to school. I've got an 8.5 by 9 coup that they were in before. And, I had a little fence around it before. But I took it down now.

But I plan on putting on a 10' fence around which is the back - 10 by 9 - 190 square feet in the back. And, on the sides it'd be another 10 by 8 which is another 85 feet. So that would be about 275 square feet. Outside, so they can roam around next to the coup.

THE CHAIR: So they are going to be fenced in.

The total square footage?

MR. VINCI: It's going to be less than 400 square feet as he indicated.

The building that the - chicken coup is not to scale. It's a 20 scale for this plan but that's not to scale. Originally, I thought it was 20 by 30 foot building and I was saying whoa, this way exceeds the 400 square foot we allow. But it's not to scale.

THE CHAIR: So, it's not to exceed 400 square feet.

MR. VINCI: Not to exceed the 400 square feet. He's aware of that. The applicant. You can condition that, if you want to, as well.

MR. SALKKA: What is - he's got, he's at 194. The applicant is at 194. We've got 180 and 202 on either side. What is on the other side?

THE CHAIR: There's a home on the other side.

MR.SALKKA: There's a home on either side.

(Everyone speaking at the same time.)

MR. VINCI: Go ahead?

MR. ROY: One side, where you know, the chickens are, there is a house opposite to my house which is lined up with my house but in the back they've got a three car garage which is way out and they keep antique cars in there. You know, that's all it's for.

On the opposite side, I do have another house which it lines up with my house. But the fact that there is nothing way in the back -

And, behind me is GMT. A factory.

THE CHAIR: Pretty isolated back there.

MR.SALKA: I'm not sure this is really a good idea. I just, I don't see a hardship here. He wants to raise chickens and I can understand that. You can buy natural eggs almost anywhere. In the grocery store you can get them.

MR. VINCI: If I may? This is not an application that needs hardship. This is a special exception application, so hardship is not required in this particular case. You see if you think it fits there.

MR. SALKA: You know, if there is, I mean, you have to look at each application on its own merit. And, on this particular application, it's because the applicant wants to raise the chickens. Okay?

This could be very precedent setting because if another application comes to us, they want to raise chickens, and there's no hardship required, how could we ever say no? I mean, we really can't. And, I understand it is application by application.

MR. VINCI: Well, again, this doesn't require --- this doesn't require hardship.

MR. SALKA: I understand, I understand that, Frank.

But we could have a hundred families come to us and say they want to raise chickens in their R-12 quarter acre lots. How do we say no?

And, I understand each application is on its own merit. But I don't see the merit of --- I'm not sure that we have firm ground to stand on this one.

MR. KUKLINSKI: The rules are okay the way he's got it here in our books. He could have twelve as long as he's got the right distance around it.

MR. SALKA: I know. I just, we could have every family in Southington raising chickens and you know?

THE CHAIR: I get your point.

MR. SALKA: That's my only concern. And, we've got to have some kind of legal standing to say there - it meets the requirements. But

you know, we've had applications where they've had handicapped children and they wanted to have five or six chickens because it was therapeutic. And, we approved that.

But I am not sure -- -I just think this could get out of control. And, I know we look at each one on its merit.

MS. POTTER: He's putting it dead center in his yard and he's not putting it near anybody's property. You've got to look at it at that way, too. I mean, he is going out of his way to make sure that it's fenced in.

MR. VINCI: I think, you know, certainly on - in the R-12 zone we have a lot of lots that are less than 12,000 square feet. They're grandfathered in with 8,000 square feet, 9,000 square feet, 10,000 square feet lots. There are multifamilies, two and three families all around them so the density is a lot more.

In this particular case, the lot is over a half acre. One of the abutters is a factory, so there is some nonconforming issues in the area.

Staff's comfortable with this one here. And, if you look at special exceptions, the regulations, how it fits into the neighborhood. Is it going to be a problem as far as vehicular or pedestrian traffic? Is it going to noise, objections from neighbors and so on and so forth.

You know, he said he wasn't going to have any roosters. You know, I understand where you are coming from, but this does not set a precedent. This is, you know -

MR. SALKA: I understand what you're saying, Frank. But I am not sure that it does not set a precedent. I understand what you're saying -

MR. VINCI: Okay.

MR. SALKA: -- but if someone comes in with this same criteria, how can we say know?

MR. VINCI: Well, you look at it in -

MR. SALKA: I understand we look at each one on its merit. It's a slippery slope.

THE CHAIR: One other thing. A dozen. Do they have to have a dozen?

MR. VINCI: No. You can -

THE CHAIR: That's what I'm saying.

MR. VINCI: You can approve the application, you deny the application or you can modify and approve the application.

MR. SALKA: Twelve chickens --- they'll have more eggs than they can ever eat.

MR. VINCI: So if you are not comfortable with twelve chickens, well, just say, tone it down to eight or something like that. Or ten. Whatever you're comfortable with.

THE CHAIR: I would think we'd cut it down to probably half a dozen. And, then if he wants to come in in a year, just to see how things go over there, I mean. A dozen seems like a lot.

MR. VINCI: Well, when you bring it up on action, you can talk about that, yes.

THE CHAIR: Okay. Have you finished your presentation?

MR. ROY: Yes, thank you.

THE CHAIR: Anybody here to speak in favor of the applicant?

(No response)

Anybody here opposed to the applicant?

(No response)

If not, this appeal is closed.

B. APPEAL #5760A, application of Tahoe Realty, LLC for a variance to extend a nonconforming building previously less than 2' from the front property line an additional 7" +/-, where 40' is required under Section 7A-00 of the Zoning Regulations, 42-44 West Main Street in an I-2 zone.

MR. VINCI: Please state your name?

ATTORNEY MECCARIELLO: Thank you. Good evening, Mr. Commissioner. Board members. Bryan Meccariello, 142 North Main Street on behalf of the applicant, Dean Michanczyk, Tahoe Realty, LLC. He is here tonight, as well as Jim Sakonchick, Kratzert & Jones.

I'll keep my comments brief. As Mr. Vinci mentioned, this is a variance to extend a nonconforming building previously which was less than 2 feet from the front property line an additional 7 feet. I'll have Dean and Jim explain briefly why that occurred.

I just want to set it up for purposes of tonight's discussion and tonight's discussion only, from a legal point of view, what we're talking about is, by regulation is a structure. We're only conceding it's a structure for the purposes of tonight's meeting because it's the only way a variance could be granted.

My contention is it is not a structure therefore, we didn't need to have a variance but we were asked to come here and we're here regarding that. So, other than that, I'll call Dean Michanczyk up here first just briefly to describe the purpose of this request.

MR. MICHANCZYK: Hi, Dean Michanczyk. 853 Andrews Street, Southington. This is very confusing to me. It seems to question where the old building line really was and most of the foundation for the old front that was taken down on Taylor's, was built over the sidewalk. So what is left of the foundation was underneath it. So who really know where that was? I'm not sure why we're even here. I mean how could it be questioned as far as where the old building line was.

The new front that we put on, I helped measure it. And, it was done exactly to the print. Where I paid Mehan to do an A-2 survey of this whole thing before it started.

So again, all these angles in the front of these buildings and then perpendicular lines from the old building line was perfect. The wetland measurements were on our print. So, we said, well, let's go with the print because it was unclear what they considered where this foundation was. We poured this during the Thanksgiving holiday because obviously we're trying to get this project done. So we made - I made the determination, well let's go with the print. That's what is approved by the town. So we did the measurements exactly.

And, then we come across the cease & desist on December 29th that says well, we're not sure, it could possibly - parts of it could be encroaching past the old building line. But nobody knows that.

THE CHAIR: Did you cut into the sidewalk down there?

MR. MICHANCZYK: You have to get to the footing and the footing is much bigger, so yes, we had to cut into the sidewalk to put the footing in. But the old building, when we took down the front, it was built right on top of the sidewalk. And, the foundation wasn't deep enough. We did have to come out. Because obviously, Jim Butler would not have passed something like that or if we want to build on it, it wasn't deep enough, but it was underneath the sidewalk.

And, it didn't follow the perfect line of the sidewalk; it was kind of all over the place. So obviously, we had to cut it to get the footing in.

So, nothing was --- obviously, we're not trying to take a few inches from the town but we're talking about, what, maybe four or five inches on one part. I know we had the corner of the building that was closest to the side road that goes through; we were right on the money. We found that.

But as far as where that other building line was, going by where the old foundation was, we said, well, let's go by the measurements on the print. And, that's what we did and that's why the foundation came up where it is.

THE CHAIR: That's how they built buildings years ago, anyways, close to the sidewalk.

MR. SALKA: No, I understand that. I just don't under--- again, to reiterate your point, I don't understand, well, first of all, why we have a cease & desist order on it.

MR. VINCI: Well, first of all, this issue got thrown in our department. Basically, somebody from the engineering department happened to be out in that area, and observed that the sidewalk was saw cut without town permission.

So, we looked into it. And, basically, and I don't think there was any intent, as Dean said, to do anything wrong but it got cut without town's approval, permission.

And, a foundation got put in its place. The existing foundation or the foundation that they have now, I think, exceeds what was there previously by about seven inches. I think he said that it was something under the ground that went on --- we don't under the ground. We count from the grade up.

So, there is, you know, it may have exceeded seven inches is what I was told from what was there previously.

Rather than address this or have something come up when the building is up and getting ready for a CO and they come in for a certificate of zoning compliance and we look at a plan that shows it's five inches or two inches beyond what was previously there, I can't sign off on a certificate of zoning compliance.

And, as you folks know, we've had people in here for six inches before or less because you have a test and it either it complies or it doesn't comply.

Staff has no problem with this.

MS. POTTER: The sidewalk will be replaced the way it was?

MR. VINCI: Yes. Right, exactly.

So, nobody did anything purposely to try to get away with anything. Unfortunately, it got thrown in our lap and then we had to deal with it. So, that's what we came up with.

Right or wrong, we don't always, you know, I had Mr. Sakonchick out there and we discussed it at length out at the site. You know, he had brought some excellent point up. But that's the stand we took because --- and that's how we see it. That's why the applicant is here.

THE CHAIR: To make the job right, they had to do what they had to do.

MR. SALKKA: The bottom line is it is not right now exceeding beyond the sidewalk?

MR. VINCI: No. I believe they're like one point inches, less than two feet from the sidewalk with the structure itself. But I think Mr. Sakonchick can talk to that. On the plans it says 1.8 feet from the sidewalk.

MR. SAKONCHICK: First, I would like to make clear that all of this activity is being done on Dean's land. We're talking sidewalk, we are not talking sidewalk within the town right of way. It's a sidewalk on private property. That's important.

MR. BEDARD: Just so I understand it. It sounds as though you basically had to cut in to the sidewalk the seven inches potentially that it (inaudible) but you're really cutting in for the footing, again, below the surface and not technically a structure that we're concerned with. You had to cut in there for footing purposes. Again the seven inches may have been a different deal but that is what we're looking at here?

MR. SAKONCHICK: And, also, this map is drawn --- the seven inches is to the base of sidewalk that's virgin ground. That's an older sidewalk.

Dean has testified today that in fact part of the building was built on the sidewalk. Unfortunately, that is no longer visible. So this map reflects an assumption that the building went no further than the sidewalk -- we're showing the seven inches even though based on his testimony that structure may have been further over.

MR. SALKA: But also, it's on his private property. It is not on the --- it is not beyond the property line itself according to this map that I'm looking at.

MR. SAKONCHICK: Yes, that is correct.

THE CHAIR: Okay, are we all set?

Have you finished your presentation?

MR. MICHANCZYK: Yes.

THE CHAIR: All set. Okay.

Thank you.

Anybody here to speak in favor of the applicant?

(No response)

Anybody here opposing the applicant?

(No response)

If not, this appeal is closed.

REGULAR MEETING

Approval of Minutes - Regular Meeting of January 12, 2010

Mr. Salka made a motion to approve the Minutes of the January 12th meeting. Mr. Bedard seconded. Motion passed unanimously on a voice vote.

NEW BUSINESS:

A. APPEAL #5759A, application of Claude Roy for special exception approval to allow the applicant to keep a family flock of chickens under Section 3-04.31A of the Zoning Regulations, 194 West Street, property of Claude & Stella Roy in an R-12 zone.

Mr. Salka made a motion to approve Appeal 5759A with the stipulation that the number of chickens would not exceed six and the

enclosure will not exceed 400 square feet and there will be no roosters on the property. Mr. Bedard seconded.

Roll Call:	Salka:	No
	Kuklinski:	Yes
	Potter:	Yes
	Bedard:	Yes
	LaPorte:	Yes

(Motion carries)

B. APPEAL #5760A, application of Tahoe Realty, LLC for a variance to extend a nonconforming building previously less than 2' from the front property line an additional 7" +/-, where 40' is required under Section 7A-00 of the Zoning Regulations, 42-44 West Main Street in an I-2 zone.

Mr. Salka made a motion to approve Appeal 5760A. Mr. Bedard seconded.

Mr. Salka noted we are questioning seven inches. It's on his own property. The feeling is it is not exceeding what it was before. He's just building where it was before. Again, it is so minor. I know we want to follow the proper procedures which then clear Frank for approving it.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

MISCELLANEOUS / OLD BUSINESS / NEW BUSINESS

None this evening.

Mr. Salka made a motion to adjourn. Ms. Potter seconded. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 7:20 o'clock, p.m.)

Joseph LaPorte, Chairman
Zoning Board of Appeals