

# TOWN OF GROTON ZONING BOARD OF APPEALS

Minutes of Public Hearing/Meeting – Monday, 15 October 2007 – 7 PM  
Groton Town Hall – 101 Conger Boulevard – Groton, NY

## **Board Members** (\*absent)

Lyle Raymond, Co-Chairman  
Steve Thane, Co-Chairman  
Patricia Gaines  
\*Carolann Darling  
Vacancy

## **Others Present**

Joan Fitch, Recording Secretary  
Gary Coats, Code Enforcement Officer

## **Applicants/Public Present**

Bernard Parry, Jr., Applicant; Michael & Linda Rood, Applicants; John & Janet Anguish, Rick Neville, Sr.; Willis Sheldon

## **PUBLIC RE-HEARING #1**

### **Bernard W. Parry, Jr., Applicant/Reputed Owner – Smith Road – TM #25.-1-10.3 - Lot Size Too Small**

(Reference is made to the Minutes of the 19 September 2007 Public Hearing on this matter.)

The second Public Hearing was opened at 7:44 p.m. by Co-Chairman Steve Thane who read aloud the Legal Notice as duly published. Proof of Publication has been placed on file for the record.

**A motion was then made by Board Member Pat Gaines to re-hear this appeal. The motion was seconded by Co-Chairman Lyle Raymond, with the vote recorded as follows:**

**Ayes: Co-Chairman Raymond  
Co-Chairman Thane  
Member Gaines**

**Nays: None**

**Absent: Member Darling**

**Motion carried.**

**This becomes Action #6 of 2007.**

It was noted for the record that all fees had been paid and that no communications had been received pertaining to this appeal.

Co-Chairman Thane recognized the appellant who stated that he wanted to sell this property. CEO Coats stated that Mr. Parry had no intention of moving here (he resides in Liverpool, NY). At one time he had a buyer for the property, but that is no longer the case because of the lot size problem. Once this problem is solved, the property will be placed back on the market.

Co-Chairman Thane then asked for any public comments, which were received as follows:

John Anguish – 358 Smith Road – Had to have an acre when he developed his land; applicant should meet the lot size requirements too. It's nothing but swamp. Put in "hundreds of tons" of fill in own lot in order to build there and put in septic system. Mr. Jones who owns surrounding land would be glad to sell him enough to make it an acre, or buy the land himself. Opposed to granting of variance.

**With everyone heard who wished to be heard, Co-Chair Thane closed the Public Hearing at 7:45 p.m.**

DISCUSSION/DECISION

At 7:46 p.m., Co-Chair Thane read aloud Section 112 of the Code which pertained very well to Mr. Parry’s case. This section dealt with non-conforming vacant lots of record. Since the subject parcel was created before 1977, it is a non-conforming lot of record. This section of the Code stated that “in any district in which one-unit residential buildings are permitted, notwithstanding limitations imposed by other provisions of these regulations, a one-unit residential building and customary accessory facilities may be erected on any single non-conforming vacant lot of record if the following conditions are met: the lot must not have a contiguous frontage or lot line in common with other lots in the same ownership, the minimum yard dimensions and other requirements not involving lot area or frontage conform to the regulations. . . , and the applicant must receive the Health Department’s approval of the development of a non-conforming lot.” This lot meets these requirements. A letter from the Health Department was previously placed on file and discussed at the September meeting.

Therefore, Co-Chair Thane stated that this section of the Code “covers Mr. Parry, and that he doesn’t have to have a variance.” The application should now be turned back to the Code Enforcement Officer.

**A motion was then made by Co-Chair Lyle Raymond that the case be dismissed because there’s no need for a variance, given Section 112 in the Zoning Code. The motion was seconded by Member Gaines, with the vote recorded as follows:**

<b>Ayes: Co-Chairman Raymond</b>	<b>Nays: None</b>
<b>Co-Chairman Thane</b>	
<b>Member Gaines</b>	<b>Absent: Member Darling</b>
<b>Member Darling</b>	

**Motion carried.**

**This becomes Action #7 of 2007.**

Co-Chair Thane advised the appellant that by dismissing the variance request and sending it back to the Code Enforcement Officer, it in no way guarantees that a building permit would be issued because of the fact that the County Health Department did not guarantee a septic system could be installed on the subject parcel. If the parcel is not acceptable for a septic system, then perhaps no building could be constructed thereon.

**PUBLIC HEARING #2**

**Michael & Linda Rood, Applicants/Reputed Owners – 830 Lick Street – TM #16/-1-18.17 – Building Height Greater Than Allowed**

At 7:52 p.m., Co-Chair Thane opened the Public Hearing and read aloud the Legal Notice as duly published. Proof of Publication has been placed on file for the record. It was noted that the required fees have been paid, and no communications have been received pertaining to this matter.

Co-Chair Thane recognized Mrs. Rood who stated that she and her husband, an independent trucker, were seeking a variance to construct a garage which would be two feet higher than what is allowed in the Code. The purpose for the garage is to house Mr. Rood’s tractor-trailer when it is not in use in order to keep it out of the weather and work on the truck as needed. The height of the tractor-trailer necessitates the requested height of the 36 ft. by 63 ft. garage.

Co-Chair Thane stated that he visited the site and there were no other issues there. All setbacks can easily be met, according to CEO Coats. Co-Chair Thane then asked for public comments, which were received as follows:

Willis Sheldon – 467 Clark Street – Only concern is building size; doesn’t want it large enough to operate a truck fleet/company from.

Mrs. Rood responded that her husband is an independent operator and this is how he earns a living; she called it a “one-truck operation.” CEO Coats added that there would be a separate process for the owners to go through if a business was to be operated from this property.

**With everyone heard who wished to be heard, Co-Chair Thane closed the Public Hearing at 8 p.m.**

DISCUSSION/DECISION

At 8:01 p.m., Co-Chairmen Raymond and Thane proceeded with the required questions (balancing test), with the responses being given by the ZBA members, after a brief discussion of each, as follows:

- 1. Can the benefit be achieved by other means feasible to the applicant without requiring a variance?

Finding: No, there's no other feasible way. All agreed.

- 2. Will it cause an undesirable change in neighborhood character or nearby properties?

Finding: No, it will not cause an undesirable change in the neighborhood; it's set way back on the property. All were in agreement.

- 3. Is the request substantial?

Finding: No, the request is not substantial; it's only 2%. All agreed.

- 4. Will it have physical or environmental affects?

Finding: No. All Board members present agreed.

- 5. Is the alleged difficulty self-created?

Finding: No, the difficulty is not self-created.

**A motion was then made by Member Gaines that, based on the findings, the Zoning Board of Appeals grants the variance for the building height as requested. The motion was seconded by Co-Chair Raymond, with the vote recorded as follows:**

<b>Ayes:</b> Co-Chairman Raymond	<b>Nays:</b> None
Co-Chairman Thane	
Member Gaines	<b>Absent:</b> Member Darling

**Motion carried.**

**This becomes Action #8 of 2007.**

**SETTING OF REGULAR MEETING DAY/TIME**

After a brief discussion as to availability, a motion was made by Co-Chair Raymond to set a regular monthly meeting date for the Town of Groton Zoning Board of Appeals as the third Wednesday of the month at 7 p.m., starting with 21 November 2007. The motion was seconded by Member Gaines, with the vote recorded as follows:

<b>Ayes:</b> Co-Chairman Raymond	<b>Nays:</b> None
Co-Chairman Thane	
Member Gaines	<b>Absent:</b> Member Darling

**Motion carried.**

**This becomes Action #9 of 2007.**

**ADJOURNMENT**

At 8:10 p.m., on a motion by Member Gaines, seconded by Co-Chair Raymond, and with all Board members present voting in the affirmative, the meeting was adjourned.

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Joan E. Fitch  
Recording Secretary

E-mailed to Town Clerk, Bd. Members, CEO &  
Town Attorney on 10/16/07.  
Originals & tape mailed.