

# December 16, 2010

**Present:** Polly Roberts, Randolph Snook, Peter Bowman, Todd Catlin

**Alternates:** Roderick Wyant III, Todd Peterson

**Absent:** Katharine Leab

**Staff:** Shelley White, Mike Ajello

**Guests:** Nick Solley, Lawrence Washington (C&L Restorations)

Chairman, Polly Roberts called the meeting to order at 7:35pm.

## **PUBLIC HEARING**

Seated: Polly Roberts, Randy Snook, Todd Catlin, Peter Bowman, Rod Wyant, Alt.

ZBA-0878 – Request of C&L Restorations LLC.(Washington), 132 Lower Church Hill Road, for Special Exception, Zoning Regulation(s) 12.14.1, 12.14.2 and 12.14.3 (noise generating equipment), to relocate 3 air conditioning condensing units to north side of existing garage.

Ms. Roberts read the legal notice published in Voices 12-5-10 and 12-12-10. Larry Washington of C&L Restorations was present to represent Mr. Speyer, the owner of 132 Lower Church Hill Road. He stated that the property owner would like to move three existing air conditioning condenser units to the north side (rear) of the garage. He stated the proposed location for the condenser units would be 337 feet from the nearest property line and one unit produces 71 decibels and the other two produce 68 decibels. Mr. Washington stated that when the units are moved the larger unit will produce 48 decibels at the property and the two smaller units would produce less. The Commissioners and Mr. Washington looked at the Property/Boundary Survey, prepared for Morris Electric, by T. Michael Alex, dated November 2010. Mr. Washington stated that the three units would be lined up parallel to the back wall of the garage. Mr. Snook stated that the noise level combines and the decibel level increases when three pieces of noise generating equipment are placed together. He stated that the regulation is based on one piece of noise generating equipment but that combining two pieces would increase the decibel level. The Commission discussed how to calculate the decibel level for a combination of three pieces of noise generating equipment. Ms. White confirmed that the Land Use Office received 4 out of 8 Return Receipt green cards. Mr. Ajello stated that Mr. Schienfeld, an adjoining property owner, called to say that he had no objections to the proposed relocation of the units. Mr. Catlin stated that he did not feel that there would be much of a difference regarding sound level where the existing units are located compared to the proposed location. He stated that air conditioning condensing units are less efficient the further they are placed from the building they serve and he was concerned that the spec sheet for the units state that the decibel level is stated as being “as low as 71 decibels.” The Commission had a brief discussion regarding the decibel level and agreed that the units, with a three sided stockade fence, and plantings around the fence, would produce less than 50 decibels at the nearest property line.

Motion:

to close ZBA-0878 – Request of C&L Restorations LLC.(Washington), 132 Lower Church Hill Road, for Special Exception, Zoning Regulation(s) 12.14.1, 12.14.2 and 12.14.3 (noise generating equipment), to relocate 3 air conditioning condensing units to north side of existing garage,  
by Mr. Snook, seconded by Mr. Wyant, by 5-0 vote.

## **MEETING**

Mr. Snook stated that he had nothing further to add and he supports this application. Mr. Catlin stated that he doesn't think the proposed change in location of the air conditioning condensing units is much different from the existing location and that a stockade fence is necessary. Mr. Bowman and Mr. Wyant and Ms. Roberts stated that they agreed with Mr. Catlin and Mr. Snook. Mr. Wyant stated he is satisfied supporting this application given there have been no objections from adjoining property owners.

Motion:

to approve ZBA-0878 – Request of C&L Restorations LLC.(Washington), 132 Lower Church Hill Road, for Special Exception, Zoning Regulation(s) 12.14.1, 12.14.2 and 12.14.3 (noise generating equipment), to relocate 3 air conditioning condensing units to north side of existing garage, passed by 5-0 vote.

## **PUBLIC HEARING**

Seated: Polly Roberts, Randy Snook, Peter Bowman, Rod Wyant, Alt, Todd Peterson, Alt.

Mr. Catlin recused himself because he is a neighbor of Mr. Solley.

ZBA-0879 – Request of Nicholas and Stephen Solley, 168 Woodbury Road, for Special Exception, Zoning Regulation(s) 17.5 (increasing non conformity), to construct 2 - 8 ½' x 6' dormers with 4' x 3' connector on the north side of dwelling.

by Ms. Robert, seconded by Mr. Snook, by 5-0 vote.

Mr. Nicholas Solley was present to discuss this application. The Commissioners and Mr. Solley looked at the map prepared for Katherine L. Conroy, dated December 1975 and the Right Side, Front, Rear and Left Side Elevations & Third Floor Plan, prepared for Solley Brothers Co. by Shepaug Realty, LLC and Design, dated 10-14-10. Mr. Solley explained that the third floor has always been a bedroom but has limited headroom and they would like to construct two 8 ½' x 6' dormers with a 4' x 3' connector on the back of the house. He stated that one of the proposed dormers would be located about 8 feet from a stream that runs through the property. He confirmed the Inland Wetlands Commission has approved this proposed plan. The Commission discussed that the nonconformity is that the dwelling is within the set back to the stream. Ms. Roberts read section 17.5.C.

Motion:

to close ZBA-0879 – Request of Nicholas and Stephen Solley, 168 Woodbury Road, for Special Exception, Zoning Regulation(s) 17.5 (increasing non conformity), to construct 2 - 8 ½' x 6' dormers with 4' x 3' connector on the north side of dwelling, by Ms. Robert, seconded by Mr. Snook, by 5-0 vote.

## **MEETING**

Mr. Peterson stated that he did not feel that there were any issues with the proposed plan. He stated the proposed plan was modest in scope and the third floor would be more usable with the addition of the dormer windows. Mr. Wyant stated that he felt it was an improvement to the existing dwelling. Mr. Bowman stated that he feels that this would continue the use of this single-family dwelling. Mr. Snook stated that he agreed with everyone and is in favor of this application. Ms. Roberts stated that she feels it promotes continued use of a family dwelling, brings the house up to modern standards and that the modifications are modest in scope.

Motion:

to approve ZBA-0879 – Request of Nicholas and Stephen Solley, 168 Woodbury Road, for Special

Exception, Zoning Regulation(s) 17.5 (increasing non conformity), to construct 2 - 8 ½' x 6' dormers with 4' x 3' connector on the north side of dwelling, passed by 5-0 vote.

### **Consideration of the Minutes**

The minutes of October 21, 2010 were considered.

Motion: to approve the minutes of the October 21, 2010 regular meeting of the Washington Zoning Board of Appeals as amended,  
by Ms. Roberts, seconded by Mr. Snook, by 5-0 vote.

### **Other Business/Discretion of the Chair**

#### 2011 ZBA Meeting Calendar

The Commission discussed what day they should meet in May of 2011 and agreed to meet the 2nd Thursday, 5/12/11. The Commission accepted the ZBA 2011 Calendar of Meeting Dates.

Motion:

to approve calendar of ZBA Meeting Dates 2011, passed by 6-0 vote.

#### Ethics Training

Mr. Catlin stated that he attended the 11/30/10 Ethics Seminar at Bryan Memorial Town Hall. He stated that he had a list of examples of when a commissioner should recuse himself or herself from a public hearing. He stated that two examples are: when there is a basic conflict that involves cash or any kind of favor, and 2. There is anything that has any sense of impropriety. The Commission briefly discussed this subject.

#### Land Use Academy Basic Training

Ms. Roberts stated that she attended the 11/20/10 Land Use Academy Basic Training for Land Use Commissioners at Central Connecticut University. She stated that there was a great amount of information at this seminar and that there were a couple of points that she would like to share with the Commission; 1. Two members must never discuss and application because it would be considered ex parte communication, 2. The Freedom of Information Act considers emails between commissioners as a defacto meeting. If there is an email between commissioners regarding an application it must be printed out and filed as part of the record, and 3. Commissioners should visit the site and review the application before the meeting. Ms. Roberts stated that Mr. Shapiro, Alternate Zoning Commissioner, was told that if an alternate is not seated for a hearing they may ask questions during the public hearing but are not supposed to comment or ask questions after the public hearing is closed.

#### Letter from Tulip Tree Collection

Ms. Roberts read the letter from Tulip Tree Collection addressed to Mr. David Owen, Chairman of the Zoning Commission, cc: Mark Lyon, First Selectman and Polly Roberts, Chairman, ZBA, dated November 10, 2010. The letter expressed concerns regarding the future plans for 1 Green Hill Road (old Texaco Station). Ms. Roberts stated that Ms. Hill, Land Use Administrator, responded to these concerns in a letter dated November 24, 2010. Ms. Roberts stated that there are no recent Zoning Permits or Special Permits approved for this property and there are no pending applications in the Land Use Office. In Ms. Hill's letter she informed Mr. Winston and Mr. Hunter (owners of the Tulip Tree Collection) that, regarding variances, approval or denial of an application does not set a precedent and that each property is different. The ZBA Commissioners and Mr. Ajello discussed how the regulations in the Commercial

District have been revised and changed since 2003.

Jacobsen/White Case

Ms. Roberts stated that the Attorney for Ms. Jacobsen filed a Petition for Certification to Appeal in response to the Town's Attorney filing a motion to dismiss.

Motion: o adjourn at 8:40 pm,  
by Ms. Roberts, seconded by Mr. Snook.

Submitted Subject to Approval,  
Shelley White, Land Use Clerk