

CIVIC ASSOCIATION OF SHORT BEACH
ZONING BOARD OF APPEALS
P.O. BOX 2012
SHORT BEACH, CONNECTICUT 06405

DRAFT MINUTES FROM NOVEMBER 7, 2016 ANNUAL MEETING

Meeting held at Genarro's Pizza. Called to order by Chairman, Walter Kawecki. Present were Regular Members, Andi Hallier, Robert Schwall, Carleen Davis and Tom Perretta. Also present were Ms. Helen Wong and Mr. Frazier Bronson, and Attorney Marjorie Shansky.

1. Receipt of New Applications for Appeal

Ms. Helen Wong and Mr. Frazier Bronson, of 63 Little Bay Lane, submitted an appeal to the Board for a Variance of its Regulations, along with the requisite \$250.00 filing fee. The Chair advised Ms. Wong and Mr. Bronson that the Board would review the Application for completeness and compliance with the Board's Manner of Filing. If there is anything missing from the Application, the Chair agreed to advise the Applicants via email in advance of the next Regular Meeting of the Board, currently scheduled for December 5, 2016. Assuming that the Application is complete, it will be deemed accepted at the December 5, 2016 Meeting, and a Public Hearing on the Application will be scheduled for the Board's next Regular Meeting.

2. Minutes

The Chair made a motion to approve the draft minutes from the Board's October 3, 2016 Regular Meeting. The Minutes were approved as drafted unanimously upon voice vote.

3. Executive Session

The Board went into Executive Session to discuss the pending litigation concerning 51 Beckett Avenue. Ms. Hallier did not participate in this Executive Session, and Ms. Wong, Mr. Bronson and Attorney Shansky also left the room during Executive Session.

The Board re-convened the public portion of the meeting following Executive Session. The Chair announced that the Board would vote on a Stipulated Judgment concerning the appeal of its decision regarding 51 Beckett Avenue, as submitted by Attorney Shansky on behalf of Nancy and John Clifford of 51 Beckett Avenue, and as approved by the Board's counsel, Peter Cooper. Following a role call, the Chair announced the Board's approval of the draft Stipulated Judgment as submitted by Attorney Shansky. Members Kawecki, Davis, Schwall and Perretta voted to approve the Stipulated Judgment.

4. Old Business

The Chair resumed discussion of the changes Mr. Hallier initially proposed to the “Rules of the ZBA of Short Beach” at the August 1, 2016 Regular Meeting, discussion of which was tabled at the ZBA Regular Meeting on October 3, 2016. The Chair circulated a copy of the proposed rule changes, which were discussed *seriatim*.

At the outset, The Chair noted his general incorporation of inclusive, gender-neutral terms throughout the Rules (*e.g.*, where once the Rules read “him,” they now read “him/her.”).

Under Section I, which pertains to ZBA Officers and their duties, the proposed revision concerns the selection of a ZBA Chairman. Currently, Section I provides: “A Chairman shall be appointed as provided in the Bylaws of the Association.” As amended, Section I would read, in pertinent part, “A Chairman shall be *appointed* by the regular members of the Zoning Board of Appeals.”

Ms. Hallier questioned the use of the word “appointed,” as italicized above, as opposed to use of the word “elected.” Ms. Hallier agreed to consult Conn. Gen. Stat. § 8-5 and determine the precise language dictated by the Statute.¹

The Chair next suggested the addition of language under Section I of the ZBA Rules which would afford the Board’s Chairman the ability to appoint an Acting Chairman in the event of his/her unavailability. If approved, the 7th sentence in Section I would read as follows: “If the Chairman shall be absent from a meeting, *the Chairman may appoint a temporary acting Chairman. If the Chairman does not appoint a temporary acting Chairman*, a member shall be elected by a majority of the regular members of the ZBA to be acting Chairman.” (changes *italicized*).

The Chair also proposed a revision to Section II of the ZBA Rules which would allow the Board to designate a ZBA Member to assist the Board’s Secretary in the execution of her duties as necessary. This designee would also assume the Secretary’s duties in her unexpected absence. This provision permits Alternate Members of the Board to be designated as the Secretary’s assistant and to assume the Secretary’s duties in her absence. If approved, the relevant portion of Section II would read: “*The Board may designate a member to assist the Secretary in the execution of the duties of the Secretary, and who shall assume the duty of the Secretary in case of his/her absence due to important reasons. This designee may be an alternate member.*”

Brief discussion was held regarding the reference to the “Court of Common Pleas” contained in Section II. Ms. Hallier pointed out that this reference is anachronistic. Under Section II, the Secretary is deemed “Clerk of the Board,” and authorized to receive notices of appeal from the Board’s decisions. Those appeals are heard by Connecticut’s

¹ Upon further review, Ms. Hallier has confirmed that Conn. Gen. Stat. § 8-5 provides that the members of the Board are to “elect” the Chairman. “Such board by vote of its regular members shall *elect* a chairman from among its members”

Superior Courts. Thus, the reference to the “Court of Common Pleas” should be replaced with reference to the appropriate court (*i.e.*, the “Superior Court.”)

Under Section IV of the ZBA Rules, pertaining to the conduct of Board meetings, the Board discussed Mr. Hallier’s August 1, 2016 suggestion regarding the deletion of the following italicized language: “All regular meetings shall be open to the public with the exception of executive sessions *following the hearing of applications.*” Discussion was held regarding the superfluity of the italicized language, and the potential it presents for confusion among Board Members and members of the general public. If approved, the first sentence of Section IV would eliminate the superfluous language and read, simply: “All regular meetings shall be open to the public with the exception of executive sessions.”

Under Section VI(1), pertaining to the “Manner of Filing Appeals,” the Chair incorporated Mr. Hallier’s August 1, 2016 suggestion that appeals of reviews of action, and not just appeals for variances, be included in the appeals process. Section VI(1), as revised, would read as follows: “All applications for an Appeal for a Variance *or Appeal For a Review of Action* shall be contained in the official form adopted by the Zoning Board of Appeals for that purpose. . .” (changes in italics). As currently drafted, Section VI(1) does not explicitly provide for an appeal of a “review of action.”

Further proposed changes to Section VI(1), pertaining to the ZBA’s Manner of Filing, include changing the time limit within which an Applicant may bring an appeal to the ZBA from “two (2) months,” to the more precise “sixty (60) days.” If adopted, the pertinent provision would read, “An appeal shall be taken to the ZBA *within sixty (60) days* after the denial of an Application for Zoning Permit by the Executive Board of the Civic Association of Short Beach.”

Also among the proposed changes to the ZBA Rules was Mr. Hallier’s August 1, 2016 suggestion that the amount of the filing fee for appeals be deleted from Section VI(2). The Chair noted that the elimination of a specific dollar amount would alleviate the need for the Board to revise this Section each time it decides to change the amount of the fee.

With regard to the documentation an Applicant must submit to the Board in support of his/her Application under Section VI(3), the Board discussed the need for “A-2” surveys, as opposed to “Property and Boundary” surveys, the number of “wet-signed” original surveys an Applicant should submit, and the cost thereof to the Applicant. Discussion was held regarding the Board’s need for this information in adequate format and number of copies, bearing in mind the cost to the Applicant.

Currently under consideration are two proposed sets of amendments to the applicable ZBA Rule (Section VI(3.3)), which requires that an Application be supported by reliable and accurate documentation:

Applications shall be accompanied by all of the following documents:

Proposal (1): “Twelve (12) original copies of a Property and Boundary Survey, dated after 8/13/96 and conforming to Sec. 20-300B of the Regulations of Connecticut State Agencies² and each bearing the signature and seal of a Connecticut licensed surveyor, such survey to include:

- Title, block, north point, numeric and graphic scale, location map, seal and signature of preparer and signature, street address, assessor’s map, block and lot number and all revision dates.
- Boundaries of the property certified to a State of Connecticut Class A-2 Survey standard (effective 8-5-98)
- Location of all existing buildings, additions, structures, walls, fences, property size, frontage, septic system and landscaping.”

Proposal (2): “Two (2) original copies, each bearing the signature and seal of a Connecticut licensed surveyor, and ten (10) full-sized, duplicate copies, of a Property and Boundary Survey.”

Ms. Hallier questioned whether the copy of the Application that must be filed with the Town Clerk’s office for public inspection must be an original, or whether a full-sized copy would be acceptable. The Chair agreed to consult the Town Clerk regarding its public inspection requirements.

The Chair also proposed the following addition to Section VI(5): “The Zoning Board of Appeals at its discretion may deny an appeal (without prejudice) for a failure to comply with any of the foregoing rules. *Any resubmitted application shall incur a new filing fee.*”

Finally, with respect to Section VI(7), the following italicized revision was proposed: “Applications are to be submitted to the ZBA, at a ZBA meeting. *Only complete applications accompanied by the filing fee and all required documents, collated together, may be submitted to the ZBA.*

*Application[s] will be reviewed for completeness and accuracy in accordance with Section 10.2.3 of these rules.*³

Applications deemed complete and accurate will be deemed accepted at the next regular meeting of the ZBA, at which time the date(s) for a public hearing will be set.”

² Upon further review, Ms. Hallier has confirmed that this citation is erroneous. The correct reference is to Reg. of Conn. State Agencies § 20-300b-2, a copy of which is annexed hereto. Notwithstanding the error in citation, the context in which this regulation is relied upon is sound.

³ 10.2.3 provides: “The powers and duties of the Zoning Board of Appeals include the following: . . . To determine and vary the application of these Regulations in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of these Regulations would result in exceptional difficulty or unusual hardship, so that substantial justice will be done and the public safety and welfare secured.”

The Chair moved to table further discussion of these proposed changes to the ZBA Rules until the Board's next meeting, in order to afford all members an opportunity to review them. Mr. Perretta seconded the Chair's Motion, and it passed unanimously by voice vote.

5. Bills and Correspondence

None.

6. New Business

This is the Board's Annual Meeting, at which time it must elect its permanent officers for the coming year.

Ms. Davis nominated Ms. Hallier for the position of Secretary for the coming year. Mr. Perretta seconded the Motion. Ms. Hallier was elected to the position of Secretary by voice vote.

Thereafter, Mr. Schwall nominated Mr. Kawecky for the position of Chairman. Ms. Hallier seconded the motion, and Mr. Kawecky was elected to the position of Chairman by unanimous voice vote.

7. Adjournment

Ms. Hallier moved to adjourn the meeting. Ms. Davis seconded the Motion, which was thereafter approved by voice vote, and the meeting was adjourned.