

ZONING BOARD OF REVIEW
Minutes
October 7, 2015
Coventry Town Hall
1670 Flat River Road
Work Session & Regular Meeting
6:30 p.m.

Meeting started at 7:00 p.m.

Members in Attendance: Bob Crowe, Denise DeGraide, Russell Lacaillade, Virginia Soucy, Jeanne Kostyla and Irene Drew.

Ms. Izzo: This Town has had several cases come back from the Superior Court that Findings of Fact were inadequate. In 2014 almost half of the cases in the State of Rhode Island came back to those Towns for the same reason. The record has materials in it but the Board does not recite Findings of Facts that they relied on to make their Decision. We are going to go through what Findings of Fact are. You need to say what you're basing your decision on. I have prepared handouts for you including a power point. Tonight's question is what do we need to put into the Zoning Decision? We lawyers write the decision for you but we can't put in something that is not there. You have to say it first. The law says the Decision has to include the Findings of Fact and any conditions you might put on and vote or if you didn't vote. Reason is the other big word. You have to state why you did what you did. Putting the reason on record is fair notice to people that you had a reason and you weren't just being arbitrary and capricious. As you know when you get overturned that is the reason you get overturned is because you were arbitrary. The courts give you a chance to put on the record what your reasons were. Just the facts including what may seem very obvious. You have to listen to people and accept whatever they want to put on the record. You don't have to believe everything everybody says but if an applicant has materials for you you do need to accept them in weigh them for whatever you think they are worth. You cite it. You say their names, they brought us these documents, repeat onto the record whatever it was. If you have personal observations or knowledge, which you often do, you say what the basis for it was. Strictly the facts on the record. One way to see what the court wants is to see what they do. In that Decision, *Irish Partnership*, the judge wrote in the Decision the basic facts about the property so everybody knows what he is talking about.

Ms. DeGraide: In the instance of an applicant submitting an aerial map, the circumstances that they had submitted here, not mail it to my home?

Ms. Izzo: Right, it has to be submitted as part of the application. By naming it you are receiving it; officially receiving the evidence. If that is the case you have to send it back and tell them to send it to the Clerk.

Ms. Izzo: Personal observations. Board members may take into consideration permanent factors within their knowledge. It's actually written in a case that you can use common sense. If you hear from an expert, someone who has qualified as an expert, it's a good idea after you hear from that person to put on the record a

summary of their testimony. Then you can say it affected or didn't affect your decision because it wasn't relevant.

Ms. Drew: With regard to the expert, I know there are different qualifications, who would we consider an expert?

Ms. Izzo: Its sort of the same qualifications as court. You will listen as they give a rundown of their education and experience and then you can decide if that seems to be expert enough.

Ms. Izzo: Facts are important because the decision has to state the sources of the legal conclusions. The content of the decision is what is important. The toughest is the resolve conflicts question. This is when people come before you and you have to decide what to do. One side will have to sway your more than the other. You need to listen carefully if there are two witnesses. You will say we have two witnesses on both sides of the issue and you will render a decision and say why. The way it doesn't work is if you listen to people, silently, then look at each and say "I think we are going to support this application" then have a vote. If there are people on both sides it is not fair to say "I did it in my head" and not put on the record how you came to that decision. The other thing the decision has to include is the vote. The reason is there is a little rule about how to vote in different kinds of cases. That comes from the statute. If you vote on a Zoning Official's question, you need three of the five members to reverse him and then on a general applicant issue you need four of the five members. That is why at the end of the decision we put what the vote is. If there are two out of three who didn't like the application you have to put on the record what their problem was. Say your reasoning for not liking it.

Mr. Crowe: At this time I would like to call to order the Coventry Zoning Board of Review. Fire exits are to your rear, the exits behind us take you into the building.

Mr. Crowe: We are going to approve the Minutes from last month.

Mr. Lacaillade: So moved.

Ms. Soucy: Second.

Mr. Crowe: Motion made and seconded all those in favor say aye.

Board: Aye.

Mr. Crowe: Nays? Ayes have it.

OLD BUSINESS

Ms. Assalone: As long as everyone has read it, the entire Decision does not need to be read again as long as you have reviewed it, you can ratify it on the record that it reflects your decision and it reflects your findings of fact and conclusion.

Applicant: Charles Chase
Owner: Same
Location of Property: AP 327 Lot 2; 124 Hall Road
Zone: RR-5
Existing Use: Vacant Land
Proposed Use: Construction of three (3) Green Houses

Applicant is seeking a Special Use permit to construct three (3) 20'x96' greenhouses to grow vegetables.

Ratification of Decision

Ms. DeGraide: I make a motion that we ratify the Decision.

Mr. Lacaillade: Second.

Mr. Crowe: Motion made and seconded all those in favor say aye.

Board: Aye.

Mr. Crowe: Nays? Ayes have it

Applicant: Sally A. Smith
Owner: Same
Location of Property: AP 324 Lot 66; 48 Indian Trail
Zone: RR-2
Existing Use: Single Family Dwelling
Proposed Use: Same

Applicant is seeking a Dimensional Variance to construct a 14'x24' two story addition 36' from property line where 50' is required.

Ratification of Decision

Ms. DeGraide: I make a motion that we ratify the Decision.

Mr. Lacaillade: Second.

Mr. Crowe: Motion made and seconded all those in favor say aye.

Board: Aye.

Mr. Crowe: Nays? Ayes have it

COVENTRY ZONING BOARD OF APPEALS

September 2, 2015

Town Council Chambers
1670 Flat River Road
Work Session & Regular Meeting
7:00 p.m.

Re: Appeal of Decision of Zoning Enforcement Official
Location of Property: AP 315 Lots 37.1 & 37.5; 394 Carrs Trail
Zone: RR-5

Appellant is appealing the Zoning Enforcement Officer's Notice of Cease and Desist Outdoor Activities dated June 8, 2015 regarding certain activity occurring on said premises.

Ratification of Decision

Mr. Peabody: There is something that we noticed on the Decision that we ask you to amend. It says "Zoning Board of Review" you were sitting as Zoning Board of Appeal. You may want to amend the decision on record.

Ms. DeGraide: I make a motion that we ratify the Decision with the amended edit of Zoning Board of Appeals instead of Zoning Board of Review.

Mr. Lacaillade: Second.

Mr. Crowe: Motion made and seconded all those in favor say aye.

Board: Aye.

Mr. Crowe: Nays? Ayes have it

NEW BUSINESS

Applicant:	Philip Theroux and Patricia Theroux
Owner:	Same
Location of Property:	AP 49 Lot 38; 220 Shady Valley Road
Zone:	RR-2
Existing Use:	Single Family Dwelling
Proposed Use:	Same

Applicant is requesting a dimensional variance to construct a accessory structure 16 feet from the side property line where 26 feet is required as well as a dimensional variance to construct the accessory structure in the front yard.

SWORN IN

PHILIP THEROUX
220 SHADY VALLEY ROAD
COVENTRY, RI 02816

Mr. Theroux: The existing building that I am using is a former summer cottage. I am using it for storage and it's not big enough. Its deteriorating and I want to demolish it and construct a 24x24x16x16 with a bump out in the back. The front needs to come past the house 10 feet. The existing is about 3 feet past the house so it would only be seven feet. This one would have a basement for more storage.

Ms. Drew: Is that a driveway in front of what you are tearing down?

Mr. Theroux: Yes, it's circular.

Ms. Drew: So there are other places to park other than the street?

Mr. Theroux: Yes.

Mr. Crowe: You aren't going any closer to the water and stay 136 where it is now?

Mr. Theroux: That is the existing. I am not going any closer to the water and no closer than 16 feet on the side property line.

Mr. Peabody: That is the front property line. For zoning purposes, the front of the property is where the road is.

Mr. Crowe: You are keeping everything where it is and squaring it off.

Mr. Theroux: The building will be a little bigger.

Mr. Crowe: What are you using this for?

Mr. Theroux: Storage, my boat and all the equipment.

Ms. DeGraide: What kind of utilities are you going to put in there?

Mr. Theroux: Just electricity.

Ms. Kostyla: Are you going to have outdoor plumbing?

Mr. Theroux: Water is not connected the building itself.

Mr. Lacaillade: What is the reasoning for a full basement?

Mr. Theroux: Extra room for storage. There will be inside stairs.

Mr. Crowe: Is there anybody here who wants to speak on this application? Either for or against? Hearing none.

Ms. DeGraide: I make a motion that we take this matter under advisement and render a decision within a reasonable amount of time.

Mr. Lacaillade: Second.

Mr. Crowe: Motion made and seconded all those in favor say aye.

Board: Aye.

Mr. Crowe: Nays? Ayes have it

COVENTRY ZONING BOARD OF APPEALS

October 7, 2015

Town Council Chambers

1670 Flat River Road

Work Session & Regular Meeting

7:00 p.m.

Re: Appeal of Suzanne Colwell

Location of Property: AP 324 Lot 20; Peckham Lane

Zone: RR-2

This case is on appeal in the Rhode Island Superior Court, where the Court has directed the Zoning Board to make sufficient findings of fact to support its decision that the relocation of fifteen campsites and accompanying construction did not constitute an illegal expansion or alteration of a legal non-conforming use.

Re: Appeal of Thomas Forcier

Location of Property: AP 324 Lot 20; Peckham Lane

Zone: RR-2

This case is on appeal in the Rhode Island Superior Court, where the Court has directed the Zoning Board to make sufficient findings of fact to support its decision that the relocation of fifteen campsites and accompanying construction did not constitute an illegal expansion or alteration of a legal non-conforming use.

Ms. DeGraide: Mr. Chairman, over the last couple of weeks we have received a lot of documentation with regards to this case that I need more time to study. I would like the Board to consider continuing this case until next month so we have time to review the paperwork that has been given to us.

Ms. Soucy: I agree.

Mr. Crowe: I agree.

Mr. Crowe: There is a lot of information to digest. I would like to have a motion made.

Ms. DeGraide: I make a motion that we continue this Appeal to next month.

Ms. Soucy: Second.

Mr. Crowe: Motion made and seconded all those in favor say aye.

Board: Aye.

Mr. Crowe: Nays? Ayes have it

Ms. DeGraide: Motion to adjourn.

Ms. Soucy: Second.

Mr. Crowe: Motion made and seconded all those in favor say aye.

Board: Aye.

Mr. Crowe: Nays? Ayes have it

Meeting adjourned at 7:45 p.m.