



# ZONING BOARD OF APPEALS

Clifford J. Hurgin Municipal Center  
1 School Street, Bethel, Connecticut 06801 \*(203) 794-8578

## ZONING BOARD OF APPEALS MEETING MINUTES September 17<sup>th</sup>, 2013 – BETHEL MUNICIPAL CENTER 7:00 P.M. – DENIS J. RIORDAN ROOM

**COMMISSION MEMBERS PRESENT** : M. Ryan; N. Santaniello; J. Hurgin;; W. Foster,  
S. Dolan; S. Palmer, P&Z Official.

J. Hurgin called the meeting to order at 7:04

### **PUBLIC HEARING(s) Continued:**

**13-04: Augustana Homes, Inc. 28 Simeon Rd.: Variance of Sec. 3.4.A.1(b) & (c) Lot frontage and minimum lot width ,Sec. 3.6.A.1 Minimum acreage (3) Sec. 3.6.A.2 Living units per acre.**

**13-05: Augustana Homes, Inc. Durant Avenue.: Variance of Sec. 33.4.C.1 (e) For rear yard setback**

Staff Report dated 9/17/13 by S. Palmer, Planning & Zoning Official, was read into the record.

Attorney Francis Collins of Collins & Hannafin et al., Danbury, CT. was present for the Applicant. Attorney Collins requested that the Board consider both applications concurrently. Such a request is permitted under the regulations and was accepted by the Board.

The variances requested are to permit the division of a 9.406 acre parcel of land into two (2) separate parcels consisting of 8.32 acres and 1.08 acres respectively. The property is located in the residential RR-10 Zone and is served by public sewer and water. Attorney Collins provided a brief history of the property, which is owned by Augustana Homes, a subsidiary of the Diocese of Bridgeport and which is currently developed with two distinct uses. The primary use is a 100 unit housing development commonly known as Augustana Homes which is a senior housing community that has restrictions for affordable units. The other use is a 44 unit congregate housing development for seniors who require full time care.

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The uses were developed separately and at different times. The senior housing development was first constructed in 1979 and the congregate housing was constructed in 1983. Apparently, after the congregate housing was complete, the Diocese sought a mortgage for development. A survey map was prepared showing what appeared to be new lot lines separating the two developments which was filed on the land records in 1984. In actuality, the lines were mortgage lines for financing purposes, not lot lines. The Tax Assessor at the time however, considered the map to be a first cut, splitting the lot in two. Consequently the two developments have been shown separately on subsequent town records and taxed as two lots though there is technically only one lot.

Attorney Collins stated that the division he requested would be in the same configuration as has been recognized in the Town records for 30 years now. No other changes to either development are proposed by this application. The variances necessary to permit the division consist of rear yard setback for the senior housing property. There are two buildings which will become nonconforming as a result. The variances regarding the congregate housing include lot frontage and minimum width as this property has no frontage on a public street. A variance is also required for minimum lot area. Lastly, due to the lot area, density of the congregate housing will exceed the limitations on the zoning regulations.

Attorney Collins entered into the record the return receipts for notification of abutting property owners, a copy of previous variances for the properties (#82-13 dated 5/17/82, #82-34 dated 11/18/82) and a Site Plan approved by the Planning & Zoning Commission dated 7/27/82. Also submitted was a "Data Accumulation Plan prepared for The Bridgeport Roman Catholic Diocesan Corp., Durant Ave, Bethel, CT" dated 8/8/13.

In stating his hardship, Attorney Collins indicated that he wishes to redress the error recorded in Town Land records for 30 years to formally subdivide these properties.

Those who spoke:

Joan Hudson Simone	27A Augustana Homes
Grace Taylor	33 Simeon Rd.

J. Hurgin closed the Public Hearing.

**13-08: Carolyn & William Heinemann, 13 Hickok Avenue: Variance of Sec. 3.4.c.1.a Front setback of 20' is required where 10' +/- is proposed for a one story addition.**

J. Hurgin opened the Public Hearing and read the Legal Notice.  
Staff report dated 9/17/13 by S. Palmer, Planning & Zoning Official, was read.

Carolyn Heinemann, Owner and Johnathan Encarnacion, Architect presented the Application to the Board. Mrs. Heinemann entered into the record the Return Receipts for notification of Property Owners and read a letter in favor of the Application by Rev. David A Pople, 22 Golden Hill Street

The Applicant requested a variance to permit the construction of a one story addition, 10 feet from the front property line where 20 feet is required. The property is located in the Residential RR-10 Zone, is 10,380 s.f. in area and is connected to Town sewer and water systems. The applicant noted that this property is on a corner lot with frontage on Hickock Avenue and Golden Hill Street and the house is already non-conforming as it sits 16.1 feet from the front property line along Golden Hill Street. The addition's proposed orientation is toward Hickock Avenue where the variance for front setback was requested. The property substantially slopes down along Hickock Avenue. A long retaining wall was constructed in the recent past along the western side of the house to create a level and useable area for an outdoor patio. This level area is also where the Applicant proposes the new addition for her personal use as an artist's studio.

The Applicant stated that, due to the topography of the property and the pre-existing, nonconforming nature of the lot, the proposed location is the only possible location available for the addition.

No one spoke.

J. Hurgin closed the Public Hearing.

**13-09: Gordon & Esmeralda Flash, 124 Chestnut Ridge Rd.: Variance of Sec. 3.4.c.(1).e Front setback of 35' is required where 32' is proposed 2<sup>nd</sup> floor addition.**

J. Hurgin read the Legal Notice. The staff report dated September 17<sup>th</sup>, 2013 by S. Palmer, Planning & Zoning Official was read into the record.

Gordon and Esmeralda Flash, Owners, were present for the Application and entered the Certification of Notification to Abutters for the record.

Mr. & Mrs. Flash requested a variance to permit the construction of a 2<sup>nd</sup> story addition to their single family dwelling. The addition will be 32 feet where 35 feet is required. The property is located in the residential R-40 Zone, is 1 acre in size, and is served by private septic and well systems.

Mrs. Flash explained that they wish to renovate and enlarge their raised ranch style home to a two story dwelling. The house was constructed in the early 1970's and a portion of the building was placed in the required 35 foot rear yard setback. No variance was granted at the time allowing its location but since the building has been in that location for more than 3 years it is now legally non-conforming according to CT. General Statutes. The building is a substantial distance from any neighboring residence, eliminating any adverse affect on the surrounding neighborhood.

The Flashes stated their hardship as the legally non-conforming location of the dwelling.

Those who spoke in favor of the application:

George Warner      122 Chestnut Ridge Road

J. Hurgin closed the Public Hearing.

W. Foster was seated for J. Streaman  
S. Dolan was seated for P. Verderosa

**WORKSESSION:**

**13-04: Augustana Homes, Inc. 28 Simeon Rd.: Variance of Sec. 3.4.A.1(b) & (c) Lot frontage and minimum lot width, Sec. 3.6.A.1 Minimum acreage (3) Sec. 3.6.A.2 Living units per acre.**

**13-05: Augustana Homes, Inc. Durant Avenue.: Variance of Sec. 33.4.C.1 (e) For rear yard setback.**

Motion by N.Santaniello, seconded by J. Hurgin to **APPROVE** a Variance of **Sec. 3.4.A.1(b) & (c) Lot frontage and minimum lot width, Sec. 3.6.A.1 Minimum acreage (3) Sec. 3.6.A.2 Living units per acre** for Application 13:04: 28 Simeon Road and a Variance of **Sec. 33.4.C.1 (e) For rear yard setback** for Application 13:04 Durant Ave.

The Board stated the Hardship as the recognition of separate and distinct uses for over 30 years.

Motion passed Unanimously.

**13-08: Carolyn & William Heinemann, 13 Hickok Avenue: Variance of Sec. 3.4.c.1.a Front setback of 20' is required where 10' +/- is proposed for a one story addition.**

Motion by N. Santaniello, seconded by W. Foster to **APPROVE** a variance of **Sec. 3.4.c.1.a Front setback of 20' is required where 10' +/- is proposed for a one story addition.**

An A2 Survey is required after construction is completed, prior to the issuance of a Certificate of Zoning Compliance.

The Board stated that a hardship is due to the topography of the property .

Motion Passed Unanimously.

**13-09: Gordon & Esmeralda Flash, 124 Chestnut Ridge Rd.: Variance of Sec. 3.4.c.(1).e Front setback of 35' is required where 32' is proposed 2<sup>nd</sup> floor addition.**

Motion by N. Santaniello, seconded by S. Dolan to **APPROVE** a variance of **Sec. 3.4.c.(1).e Front setback of 35' is required where 32' is proposed 2<sup>nd</sup> floor addition.**

An A2 Survey is required after construction is completed , prior to the issuance of a Zoning Compliance Certificate.

The Board stated that a hardship exists due to the legally non-conforming location of the house on the property.

Motion Passed Unanimously

**CORRESPONDANCE:**

Read into record a letter from Doug MacMillan, A.I.A. requesting a 35 day extension for Variance Application # 13-07; Verdi, 77 & 81 South Street

Motion by W. Foster, seconded by N. Santaniello to **APPROVE** the request for a 35 day extension for #13-07: Verdi, 77 & 81 South Street

Motion passed.

**MINUTES:**

Motion by N. Santaniello, seconded by S. Dolan to Accept the Minutes of the meeting of August 20<sup>th</sup>, 2013.

**INVOICES:**

Motion by W. Foster, seconded by M Ryan to pay Connecticut Media Group in the amount of \$828.92 for invoices related to Legal Noticing in the Danbury News-Times.

Motion Passed.

Motion to Adjourn at 8:05 p.m. by N. Santaniello, seconded by S. Dolan  
Motion Passed

Respectfully Submitted,



Nancy R. LoBalbo, Secretary, Planning & Zoning Department