

**CITY OF TORRINGTON
ZONING BOARD OF APPEALS
MINUTES
January 12, 2009**

Present: David Moraghan, Chairman
Kathleen Perrotti, Vice Chairwoman
James Marinelli, Member
Cynthia Vasko, Member
Genevieve Gangi, Memo
Karen Falk, Alternate
Marc Trivella, Alternate

Also Present: Mike O'Neil, Zoning Enforcement Officer

Not Present: Ken Edwards, Alternate

1. **Call to Order:** Chairman David Moraghan called the meeting to order at 7:00 p.m. in the City Hall Council Chambers, 140 Main Street, Torrington, CT
2. **Attendance:** Chairman Moraghan announced present and seated this evening will be Board members: Kathleen Perrotti, James Marinelli, Cynthia Vasko, and Genevieve Gangi. Also present are Alternate members: Karen Falk and Marc Trivella. Also present is Zoning Enforcement Officer Mike O'Neil.

3. **Minutes:**

a. 12-8-08

MOTION by Mr. Trivella to approve the 12/8/08 minutes, seconded by Ms. Perrotti, motion carried with Mr. Moraghan abstaining from voting.

Mr. Marinelli questioned whether November 10, 2008 meeting minutes have been approved. Mr. Moraghan responded that matter will be placed on the next agenda for approval.

4. **Hearings:**

Mr. Moraghan read the legal notice which was published in the Republican American.

- a. Variance
Applicant: Bruce and Elizabeth Falls
Location: 98 Starks Hill Road
Proposal: Expansion of existing barn greater than 10 percent, section 5.12.3
(Continued from 12-8-08 public hearing)

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Mrs. Falls announced their daughter Amy Hill will speak for them.

Mr. Moraghan announced Ms. Vasko and Mr. Marinelli will recuse themselves from this hearing. Ms. Falk and Mr. Trivella will be voting members on this issue.

MOTION by Ms. Gangi to open the public hearing, seconded by Ms. Falk, unanimously carried.

Ms. Amy Hill appeared before the Board and pointed to a map and the structure in question. She said they are grandfathered in as a farm and they are just shy of three acres. There was a miscommunication between Ms. Hill and Ms. Barbieri, Zoning Enforcement Officer. Ms. Hill believed they were allowed to expand their buildings, and as soon as she found out that was not the case, she came to meet with Ms. Barbieri. The map was pointed to and the buildings and details were discussed. Photos were submitted for the record.

Ms. Hill said the hardship is if they have to remove the shed, the llamas would not have any place to go. The racing pigeons would not be able to go outside, as when they are out now, they all do not come back due to neighborhood cats and a hawk.

In response to a question from Mr. Moraghan, Mr. O'Neil reviewed the structures that are currently on the property.

The application was reviewed and discussion followed.

Eric Marine of 100 Starks Hill Road appeared before the Board. In his opinion, the structure has already been put up, and it has been grandfathered as far as no additional dwellings will be put up, but for the benefit of the animals, he believes the permit should be approved. He does not want additional animals to be brought in.

No further comments from the public.

More discussion followed on the expansion of a non-conforming use. Mr. O'Neil noted farms are allowed in all zones.

Ms. Hill reviewed the types/varieties of animals/birds housed on the property.

Mr. O'Neil noted on the survey a notation for a future pole barn, and Mr. O'Neil wished to note that has nothing to do with tonight's hearing. Mr. Moraghan agreed and stated we are just dealing with the building that has a chicken coop on top.

MOTION by Mr. Trivella to close the public hearing, seconded by Ms. Gangi, unanimously carried.

Ms. Perrotti noted the miscommunication problem is difficult, but she does not believe this difficulty or hardship does not answer the question, it has nothing to do with pasture or the over ten percent addition.

MOTION by Ms. Perrotti to DENY the variance because the hardship has not been

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addressed in the application, and it's still a more than ten percent increase.

MOTION seconded by Mr. Trivella.

Ms. Perrotti voted in favor of her motion.

Ms. Gangi voted in favor of the motion.

Ms. Falk voted against the motion.

Mr. Trivella voted in favor of the motion

Mr. Moraghan voted to deny the application.

Mr. Moraghan stated he is sorry, and there is miscommunication, but in matters such as this, the Board's hands are tied on whether we can or can't grant a variance. Not only was there a problem here, but it was something the applicant created by building it. This is a technical issue here and he hopes the applicants can find some relief for the animals.

The motion to deny the variance is granted per Mr. Moraghan.

b. Variance

Applicant: Steven J. McKeen and Shirley M. Holick McKeen

Location: 25 Sherman Street

Proposal: Variance of five feet, from the requirement that an accessory structure be located ten feet from the dwelling. Section 5.2.1 (E)

Attorney William Conti appeared representing the applicant.

Mr. Moraghan stated the seated members will be the regular ZBA members, Mr. Moraghan, Ms. Perrotti, Mr. Marinelli, Ms. Vasko, and Ms. Gangi.

Mr. Conti submitted a photo of the public hearing sign. Mr. Conti reviewed the history of the property, back to 2005. Copies of the contract with the contractor (Pre-built) were distributed to Board members, which showed the contractor was responsible for obtaining zoning and building permits. The as-built survey was reviewed. During the permitting process, Mr. O'Neil had the contractor initial that five feet between house and garage was not correct, and that the correct distance is ten feet away. The initial on the map is the initial of the contractor, the change to ten feet. The contractor then constructed the garage only five feet away, after agreeing to a ten foot distance.

Mr. Conti referred to a previous court case similar to this situation, where a homeowner relied upon professional services of a surveyor, and this shows that the Zoning Board of Appeals does have discretion that when the applicant has done what he is supposed to do, this is a hardship that is not self-created, it is created by a third party, and this is certainly not the fault of the McKeens. Mr. O'Neil has submitted a letter in support of this position. A neighbor, Mr. Galgano, has indicated he is in favor of granting the variance. An attempt to purchase land from a neighbor was unsuccessful. Discussion followed, and Mr. O'Neil explained the inspection process in response to questions from Ms. Vasko.

No comments from the public.

MOTION by Ms. Perrotti to close the public hearing, seconded by Ms. Vasko, unanimously carried.

MOTION by Ms. Vasko to APPROVE the variance, seconded by Mr. Marinelli. Motion carried with all voting in favor of the motion. Mr. Moraghan abstained from voting.

5. Adjournment:

MOTION by Ms. Gangi to adjourn, seconded by Ms. Vasko, unanimously carried.

Lona Kirk
Land Use Office

cc: City Clerk, ZBA, ZEO, City Planner, Rich Calkins, J. Gallicchio