



**TOWN OF WINDSOR, CONNECTICUT
ZONING BOARD OF APPEALS**

January 15th, 2025 @ 7:00 pm

TOWN HALL – Ludlow Room - 275 Broad Street.

Hybrid Meeting – Via Zoom and In-person

APPROVED MEETING MINUTES

PRESENT: Chairman Joe Breen, Commissioner George Bolduc, Commissioner Jim Durant and Commissioner Dawn Kirkwood.

Staff: David Langworthy-Building Official/Zoning Enforcement Officer, Todd Sealy - Town Planner and Jennifer Bretas - Recording Secretary.

CALL TO ORDER – PUBLIC HEARING:

The meeting was called to order at 7:00 pm by Chairman Breen in the Ludlow Room.

• **LEGAL NOTICE:**

The Legal Notice, which appeared in the Hartford Courant on January 3rd and 10th, 2025, was read into the record by Commissioner Bolduc.

• **PROCEDURES:**

Commissioner Kirkwood read the procedure for presentation of a variance application and appeals. Hearing no comments, the meeting proceeded.

• **ESTABLISHMENT OF QUORUM:**

Chairman Breen announced that normally the ZBA has five commissioners.

Being that there were only four tonight, the decision on the applications would have to be a unanimous four votes. There were four commissioners seated and a quorum was established. Hearing no further objections, he declared the meeting to proceed.

Town Planner, Todd Sealy shared that during his Connecticut Association of Zoning Enforcement Officials (CAZEO) training he learned that the best procedure for having an appeal and a variance for the same applicant, would be to vote on the appeal first, whether or not to uphold the Zoning Enforcement Officer's order or to rescind it. Then, once the Commission had made a decision on that, then the variance application would be heard. Each one would require its own separate public hearing. The first order of action the Commission should take would be either to uphold the cease and correct or rescind the cease and correct, in which case the Commission would be essentially saying, there is no violation occurring here. If the board upholds the order, which would mean the violation does exist, the Commission would then have to act on the variance application to determine whether or not it is an appropriate use of a variance. The appeal is saying that as it currently exists, Mr. Perkins has to either cease or correct. The correction is the variance, which is why the variance has to be heard second. Mr. Sealy added that the corrective action could also be to either remove the fence or, as Mr. Perkins has done, submit the application for a variance.

PUBLIC HEARING:

Chairman Joe Breen OPENED the public hearing at 7:05 pm.

CASE HEARD DURING PUBLIC HEARING:

ZV-24-27 - 232 Rood Ave. – Appeal - Section 4.4.15D – Fence – Secondary Front Yard Setback, R11 Zone, Perkins

Mr. Scheheed Perkins, of 232 Rood Avenue, stated for the record that he purchased the property for him and his family about four years ago. There was a very old wooden fence there that needed to be repaired. Mr. Perkins couldn't replace it right away, but after a rotted out tree had to be removed last spring he decided to replace the fence, using the same post holes used with the old one, same width and length just different materials were used.

Public Comment: No public comment

Zoning Enforcement Officer Comment: Building Official/Zoning Enforcement Officer, David Langworthy explained the appeal that was in front of the Commission and stated the Zoning Enforcement Officer (ZEO), Jim Zeller, received a complaint about the location of a fence at 232 Rood Avenue. Mr. Zeller inspected it and left a door hanger on 11/07/2024. The Officer spoke with the property owner, Mr. Perkins, who stated that he replaced an old wooden stockade fence that was in disrepair. Mr. Zeller explained the regulations and how to file a plan of correction appeal, and/or apply for a variance. A cease and correct letter was issued on 11/18/2024 for a 6 foot fence, not set back 10 feet from the property line. The Officer's suggestion was to remove or reposition the fence to be in compliance with the zoning regulations. On 11/27/2024, the property owner filed a ZBA appeal and a variance request application.

Mr. Langworthy added that the old fence could have gone back 30 years and that Mr. Perkins did a one for one replacement in the exact location of the existing fence. It might have been conforming back then, but it would not be conforming in today's regulations. The issue is that for him to erect a 6 foot fence, he would have to set it 10 feet back from the property line and if you measure 10 feet from that property line on the plot plan it puts the fence going into the corner of the house and the corner of the garage. So for him to comply with the regulations, the fence would be right up against his house and in the garage as well. There is a legal hardship here, for it is impossible to put up a fence that complies with the regulations.

Discussion: Chairman Breen asked if the issue was the distance from the street to the property line which should be 10 feet and Mr. Perkins' fence varies from 4 feet, in some areas, to 6 feet from the curb line. Mr. Sealy added that Section 4.4.15D of the regulations states that on corner lots; fences, walls, or hedges, up to a maximum height of 6 feet, may be erected in front of the secondary building line, which is the location of where Mr. Perkin's fence was installed. The secondary building line is a building line adjoining the side that does not contain the front door. If a fence is set back 5 feet from any property line, for each additional foot of height above 4 feet, i.e. 5 feet high at 5 feet from any property line, and 6 feet high at 10 feet from any property line.

CLOSE OF PUBLIC HEARING:

Chairman Breen CLOSED the public hearing at 7:16 pm to vote on the appeal.

COMMENCE REGULAR BUSINESS MEETING

Chairman Breen OPENED the regular business meeting at 7:16 pm.

CASE HEARD DURING THE PUBLIC HEARING:

ZV-24-27 - 232 Rood Ave. – Appeal - Section 4.4.15D – Fence – Secondary Front Yard Setback, R11 Zone, Perkins

Motion: Commissioner Kirkwood moved to uphold the finding of the ZEO that this is a violation of the zoning regulations for purpose of discussion, so the appeal would be lost.

Seconded: Commissioner Durant

Discussion: Commissioner Kirkwood thought that it was pretty clear that because of the time the new fence was erected, it currently is in violation of the zoning regulations as they are, and that the proper procedure would be to follow a correction action and apply for a variance. At this point she would uphold the findings of the ZEO.

Vote: 4-0-0, DENIED, 7:20 pm.

CLOSE REGULAR BUSINESS MEETING

Chairman Breen CLOSED the regular business meeting at 7:20 pm.

REOPEN PUBLIC HEARING:

Chairman Breen REOPENED the public hearing at 7:20pm.

CASES HEARD DURING PUBLIC HEARING:

1. #25-01 - 232 Rood Ave. – Variance - Section 4.4.15D – Fence – Secondary Front Yard Setback, R11 Zone, Perkins

Discussion: Mr. Perkins talked about how this new fence makes him, his family and the neighbors who abut it have a sense of security, since the old one was in disrepair and that he just wanted to make it look better and to keep the neighborhood beautiful.

Commissioner Kirkwood added that in order to comply with the 10 foot setback, it would put the fence through Mr. Perkins' living room or some other part of his house. His legal hardship is that based upon the structure of the corner lot, and where the house currently exists, he would be unable to meet the 10 foot requirements.

Public Comment: No public comment

Zoning Enforcement Officer Comment: Mr. Langworthy added that he did go online to look at the existing fence as far as Near Maps would go, about nine years, and it was an old wooden, dilapidated fence, that was falling down in many sections. The new fence is a vast improvement than what was there before.

Mr. Sealy read some staff comments into the record; the Engineering Department stated that the existing fence appears to be within the town-right-of-way and must be moved. The town did communicate with Mr. Perkins that the fence may have to be moved onto the property line because of this fact. The variance would allow him to go up to the property line if approved.

The comments from the Planning Department were according to the plot plan of the property, for the applicant to comply with the regulations, a 6' fence would be set into the corner of the house and the garage. Because of the unique character (shape) of the lot, this would reduce the usable area for the backyard. There does not appear to be any line of site issues with the location of the fence as shown in the images. If the variance application is approved, the applicant should make sure the fence is located on the property line and not in the right of way. Mr. Sealy also said that the cleanest thing for the applicant to do would be to apply for the variance and then that way it's on the land records forever, and if any homeowner decides to replace the fence, if the Commission approves it, then it would cover that property.

2. #25-02 - 801 Stone Rd. – Variance - Section 4.4.15A – Fence – Front Yard Setback, AG Zone, Blake

Discussion: Chairman Breen read into the record the variance for 801 Stone Rd. Mr. Sealy stated that the application has been continued to the February meeting. It came to the Town's attention that there was a small technical defect in the legal notice that was sent to the abutters and so it was decided by both to postpone until the regularly scheduled February 19th meeting.

CLOSE OF PUBLIC HEARING:

Chairman Breen CLOSED the public hearing at 7:26 pm.

COMMENCE REGULAR BUSINESS MEETING

Chairman Breen REOPENED the regular business meeting at 7:26 pm.

CASE HEARD DURING THE PUBLIC HEARING:

#25-01 - 232 Rood Ave. – Variance - Section 4.4.15D – Fence – Secondary Front Yard Setback, R11 Zone, Perkins

Motion: Commissioner Kirkwood moved to approve, for the purposes of discussion.

Seconded: Commissioner Durant.

Discussion: Commissioner Kirkland felt that a legal hardship had been clearly indicated subject to town comments about making sure that it's on the property line and moved to approve the variance and added that the fence sounds like it certainly is an improvement over what was there, on the lot, and its situation provides a hardship that makes it impossible to comply with the current regulations. Commissioner Durant added that he agreed and asked what would be the next course of action for the applicant. Mr. Sealy stated that the Engineering Department would work with Mr. Perkins to bring him into compliance with setting the fence on the property line, so it'll take no further actions from the Commission.

Vote: 4-0-0, APPROVED, 7:30 pm.

NEW BUSINESS:

1. **Communication from staff liaison:** Chairman Breen asked if there might be any other applications for next month's meeting. Mr. Sealy answered that today we received an application, but the applicant also submitted a correction form, so they wanted to uphold their right to appeal, but they may work with the ZEO to correct the action.

Mr. Sealy was excited to talk about the kick-off of the Plan of Conservation and Development (POCD) update, titled "Our Project is Windsor 2025". By State statute the town is required to update the POCD every 10 years. If you go onto plan.windsorct.com, you can find all the information. They will also be looking to have some public workshops in the near future, and will be working with a consultant to schedule those. He said they would let all the Boards and the Commissions know when those opportunities come up. They have a survey that was just launched and encouraged all residents, Boards and Commissioners to participate. They would love to get your feedback on topics related to land use, housing, economic development, transportation, sustainability and some other things. We are going to be doing some marketing very soon, and having displays and surveys in the libraries, and a couple of other public spaces. Mr. Sealy is very excited to kick off this project and he looks forward to hearing from the community on how we can better serve our residents.

2. **Communications from public:** No communications from the public.
3. **Communications from Board Members:** Chairman Breen mentioned that he gave the ZBA report to the Town Council in December. The Council was a little surprised that the Commission had so few meetings. Chairman Breen stated with some changes in the zoning laws and a lot of variances no longer needed applications, he felt that may be the reason.
4. **Minutes acceptance for September 18th, 2024**
Motion: Commissioner Kirkwood moved to approve the minutes of the September 18, 2024 meeting as presented.
Seconded by: Commissioner Bolduc
Vote: 4-0-0, APPROVED

5. Vote on new Monthly Meeting schedule for 2025

Motion: Commissioner Kirkwood moved to approve the new monthly ZBA meeting schedule for 2025.

Seconded by: Commissioner Durant

Vote: 4-0-0, APPROVED

6. Vote for Chair position 2025

Motion: Commissioner Kirkwood nominated Joe Breen to be the Chair for the Zoning Board of Appeals. All Commissioners were in favor.

Vote: 4-0-0, APPROVED

Vote for Secretary position 2025

Motion: Commissioner Kirkwood nominated George Bolduc to be the Secretary for the Zoning Board of Appeals. All Commissioners were in favor.

Vote: 4-0-0, APPROVED

OLD BUSINESS:

There was no old business.

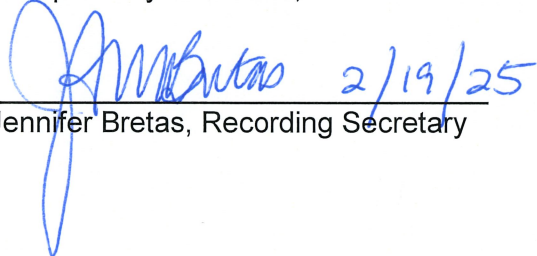
ADJOURNMENT:

Motion: Commissioner Kirkwood made a motion to ADJOURN the meeting at 7:41 pm.

Seconded: Commissioner Durant

Vote: 4-0-0, APPROVED

Respectfully submitted,


Jennifer Bretas, Recording Secretary

I certify that these
Minutes were accepted on:


George Bolduc, Secretary Zoning Board of Appeals