

**BOROUGH OF FENWICK
PLANNING AND ZONING COMMISSION
INLAND WETLANDS AGENCY
SPECIAL MEETING
MONDAY, MAY 20, 2019
MINUTES**

Present: Chuck Chadwick – Chair, Sallie Boody, T. Van Itallie, Art Wright, Rick Neely (Alternate), Marilyn Ozols – ZEO.

Absent: Bill Christensen.

Members of Public: Joe Shea, Brooke Girty.

1. **Call to Order.** C. Chadwick called the meeting to order at 4:33 p.m. and seated R. Neely as a voting member. A quorum was established (Chadwick, Boody, Wright, Van Itallie, Neely).

2. **Public Hearing: ZSpP19-001, 20 Nibang Avenue, map 10, lot 3, Robin & Joseph Zubretsky, owner;** Brooke Girty Design, applicant; Special Permit and Coastal Site Plan Review for new pool within 50' of CJL, demolition of old pool, and additions, generator, and site improvements.

M. Ozols reminded the Commission that this is still an advertised public hearing, but that the items requiring a special permit have been removed from the application, and it now requires only site plan/coastal site plan approval.

B. Girty presented. She stated that because it is difficult to complete a large project such as this between September and June, they are looking for approval for this portion of the work now so that it can begin immediately after Labor Day. The pool in the rear setback has been removed from the plan, but they still would like to replace the existing pool with a new pool farther from the seawall and they intend to submit applications for that to ZBA and P&Z in the future. The current plan is for renovations and additions to the existing house; they are adding a first floor bedroom but rearranging the interior so it will remain a four bedroom house; most of the addition is the new bedroom and a study plus there is an addition to the kitchen to create an eat in kitchen. She stated that it is a large lot and the proposed house will conform to Zoning Regulations for coverage, setback, and height, and she indicated the proposed changes on the elevation drawing and on the first floor plan.

A. Wright asked how much farther the house will extend to the west. B. Girty stated that it varied from 27' to 44' depending on where the measurement is taken from. Based on the site plan, the distance from the existing western-most wall to the new west wall is approximately 44'.

S. Boody asked about the change in square footage. The plan indicates that it will increase from 6,810 s.f. to 8,255 s.f.

In response to a question about the east side of the house, B. Girty stated that it is an existing sunken garage with a patio on top that extends to the property line but which is not perceived from the street. She added that no changes are proposed for this area.

B. Girty pointed out the 50' setback to the river and CJL on the site plan and stated that no change is currently proposed within that area.

A. Wright noted that the addition encroaches about 40' into the scenic view across the property from the street and members agreed that this view will be missed but there is still a significant area to the west of the proposed addition. B. Girty added that there is currently a pergola with heavy planting in this area so the actual change appears more like a one room addition than 40'.

B. Girty demonstrated on the plan how the driveway will be reconfigured and stated that the intent is to match the existing, which is a layer of gravel over a pervious material (chipseal). Members noted that the

plan calls out crushed stone to match existing, which does not make clear that the intent is impervious. Additionally, engineering comment 3A recommends a typical driveway section or a note regarding the type and depth of base material and the depth of crushed stone which indicates that he was not aware of a chipseal layer. B. Girty added that the plan shows a temporary construction entrance but no paved apron since HDC discourages them. C. Chadwick reminded the Commission that this is a continuing debate since a paved apron to protect the edge of roadway is always an engineering recommendation.

B. Girty stated that the proposed geothermal wells will be located out of the 50' setback. J. Shea explained how the closed loop geothermal wells will function and submitted a plan identifying the revised locations (**Ex. O**). B. Girty added that the use of geothermal also means that there are no ac compressors. She indicated the proposed location of the generator and transformer (currently onsite), which will be sunken behind plantings and a retaining wall and will appear flush from the road. She added that there is no room in the rear of the house for the generator and this location will not obstruct any views. She also pointed out the pool mechanicals and pool fences in the rear of the house and noted that they will be maintaining the required 25' wide view to the water.

Finally, she noted that there will be not change to the boat dock and she pointed out the shaded area on the seawall where the concrete wall will be reduced in height and replaced with a glass railing.

No public was present. C. Chadwick asked for any additional comment from members or the applicant. There being none, **A. Wright moved to close the public hearing. S. Boody seconded the motion and it was approved unanimously.**

Approved 5-0-0.

For: Chadwick, Boody, Wright, Van Itallie, Neely.

Against: None.

Abstain: None.

3. Possible Decision ZSpP19-001, 20 Nibang Avenue.

C. Chadwick compared this extension to others in the Borough noting that because it is parallel to the road, it could affect the view. However, there are no other structures nearby so it does not have the same impact that a similar extension in a different location might create. A. Wright added that the extension is 40' but it is on a diagonal which realistically makes it appear only about 30', and there is an additional 50' to the property line. He added that he raised the question originally because it is in the criteria, but he does not see it as an issue in this case.

S. Boody brought up the driveway material and all agreed that this is an issue and the note on the plan does not indicate a chipseal base. M. Ozols stated that the driveway is not included in the drainage calculations submitted by the applicant's engineer, which means that it was not considered as impervious coverage. The Commission discussed options and agreed that a stipulation could be added to require that the driveway be pervious. The applicant could come back in the future to request a modification for an impervious surface if desired.

The language in the proposed stipulation #8 was discussed and it was explained that this is not intended to be a prohibition like the hammer law, but rather to address the appearance of the site during the summer months if construction has not been completed.

Based on the discussion, S. Boody moved to find the application for Special Permit and Coastal Site Plan Review for building additions, a generator, and site improvements at 20 Nibang Avenue, is a Site Plan Review application rather than a Special Permit application, and with the stipulations noted, is consistent with the goals and policies of the CT Coastal Management Act and that it complies with the review standards in the Borough of Fenwick Zoning Regulations, and approves the application based on the plans and documents submitted with the following stipulations:

1. There shall be no temporary on-site stockpiling of demolition debris. Any demolition debris/material shall be loaded directly into trucks or dumpsters for removal from the site. No demolition material shall be buried onsite.
 2. Additional silt fence shall be installed if deemed necessary by the Zoning Enforcement Officer at the time of construction.
 3. Installation details and maintenance guidelines for the erosion barriers and temporary stone construction entrance pad shall be added to the plan.
 4. The driveway surface shall be pervious. A typical driveway section or a note regarding the type and depth of base material and depth of crushed stone shall be added to the plan.
 5. The type and depth of pervious base material to be provided under the pervious stone paver areas shall be added to the plan.
 6. Gutters shall be provided along the rear portion of the house to convey roof drainage to the infiltration system.
 7. All exterior lighting shall comply with Section 4.5.1 of the Zoning Regulations and shall be Dark Sky compliant.
 8. The applicant shall make every effort to build and finish construction during the 10 month period from September through June or to minimize any disturbed or unfinished appearance of the site and building between July 1 and Labor Day.
 9. An existing conditions survey (including the buildings, pool, septic system, drainage structures, driveway and patio/terrace) with distances to property lines, and calculation of post construction coverage shall be submitted prior to issuance of Zoning Compliance for a Certificate of Occupancy. All surveys and certifications shall be prepared by a licensed surveyor.
 10. Revised plans shall be submitted to address the above conditions and the approved site plan shall be endorsed by the Commission chairman and filed on the Land Records of the Town of Old Saybrook.
 11. In accordance with the adopted fee schedule, the applicant shall reimburse the Borough for all engineering fees prior to issuance of a Zoning Permit for construction and prior to issuance of Zoning Compliance for a Certificate of Occupancy. Reimbursement shall include all costs incurred to that point in time.
- A. Wright seconded the motion and it was approved unanimously.

Approved 5-0-0.

For: Chadwick, Boody, Wright, Van Itallie, Neely.

Against: None.

Abstain: None.

The record plans for this application are:

- *Proposed Site Development Plan, The Zubretsky Cottage, 20 Nibang Avenue, Borough of Fenwick, by Richard W. Gates, Land Surveyor, & Thomas E. Metcalf, P.E., L.S., dated April 4, 2019, rev. to 5/10/19*
- *The Zubretsky Cottage, 20 Nibang Avenue, Fenwick, Old Saybrook, CT, by Brooke Girty Design, dated Feb. 18, 2019, rev. 4/9/19*
 - *Proposed First Floor Plan, sheet A1, rev. 5/10/19*
 - *Proposed Second Floor Plan, sheet A2, rev. 5/9/19*
 - *Proposed Elevations (west & south), sheet A3, rev. 5/9/19*
 - *Proposed Elevations (east & north), sheet A4, rev. 5/9/19*

4. **Proposed Amendments to Zoning Regulations.** Review final drafts; set public hearing.

a. **Section 8 - Non-Conformance.**

Definitions and Sections 8.1 through 8.9

Proposed revisions based on the discussion at the last meeting (both a clean copy and redline copy showing the changes from the last version) were reviewed and discussed.

On a motion by R. Neely, seconded by S. Boody, is was voted to forward the proposed definitions and Sections 8.1 through 8.9 to public hearing.

Approved 4-1-0.

For: Chadwick, Boody, Wright, Neely.

Against: Van Itallie.

Abstain: None.

Section 8.10

No change was proposed to the determination section, but an alternate with more detail as to what constitutes a lawful nonconformity was provided. T. Van Itallie stated that he believed the requirement that it be lawfully created was contrary to state statute. After discussing the alternate, members preferred the original language.

On a motion by R. Neely, seconded by S. Boody, is was voted to forward the originally proposed 8.10 to public hearing.

Approved 5-0-0.

For: Chadwick, Boody, Wright, Van Itallie, Neely.

Against: None.

Abstain: None.

b. Section 5.2.3 – 50-foot setback.

A new draft with changes based on the discussion at the last meeting was reviewed.

On a motion by T. Van Itallie, seconded by A. Wright, is was voted to forward this proposed language to public hearing.

Approved 5-0-0.

For: Chadwick, Boody, Wright, Van Itallie, Neely.

Against: None.

Abstain: None.

c. Short Term Rental Regulations.

Members reviewed the new draft with changes since the last meeting. Members disagreed whether the intent of the last sentence in Section 4.3.13 was intended to prohibit events and, if so, whether it was adequate and whether it would also affect events held by Borough residents, but agreed to make no changes at this time. T. Van Itallie stated that their discussions had resulted in what he believes to be a reasonable regulation.

On a motion by R. Neely, seconded by T. Van Itallie, is was voted to forward the proposed definitions and Section 4.3.13 and 4.3.14 to public hearing.

Approved 5-0-0.

For: Chadwick, Boody, Wright, Van Itallie, Neely.

Against: None.

Abstain: None.

The public hearing for all of the discussed amendments was set for Saturday, July 20 at 9:00 a.m. at St. Mary's.

5. Approval of Minutes of previous meetings: Planning & Zoning/Inland Wetlands – May 15, 2019.

Members reviewed proposed additions to the minutes regarding Sections 8.4 and 8.7.

S. Boody moved to accept the Borough of Fenwick Planning and Zoning Commission minutes for the May 15, 2019 meeting as modified. R. Neely seconded the motion and it was approved unanimously.

Approved 5-0-0

For: Chadwick, Boody, Wright, Van Itallie, Neely.
Against: None.
Abstain: None.

6. Staff Report.

M. Ozols stated that she is reviewing the draft Old Saybrook and Borough of Fenwick Hazard Mitigation Plan. When complete it will be referred to the Commission and will need to be approved by the Board of Warden and Burgesses.

7. Other Business. None.

8. Adjournment.

At 6:54 p.m., it was moved by R. Neely and seconded by A. Wright to adjourn the meeting. The motion passed unanimously.

Respectfully submitted,
Marilyn Ozols, Acting Secretary