

**BOROUGH OF FENWICK  
PLANNING AND ZONING COMMISSION  
INLAND WETLANDS AGENCY  
SPECIAL MEETING  
TUESDAY, JANUARY 21, 2020**

**MINUTES**

**Present:** Chuck Chadwick – Chair, Sallie Boody, Art Wright, T. Van Itallie, Bill Christensen (via phone), Rick Neely (Alternate), Marilyn Ozols – ZEO; Attorney Michael Zizka – Commission Counsel.

**Absent:** R. Keeney.

**Members of Public:** D. Neely, F. Keeney, J. Van Itallie, F. Gilhool.

**1. Call to Order.**

C. Chadwick called the meeting to order at 4:00 p.m. A quorum was established (Chadwick, Boody, Wright, Christensen, Van Itallie).

- 2. PZC19-001. 15 Pettipaug Avenue, map 10, lot 25.** 15 Pettipaug, LLC, owner; 15 Pettipaug, LLC by T. Van Itallie, Jr., applicant; Application for Finding of Nonconforming Use or Structure for rental for an average of 5 times a year, mostly for one week but a smaller number for less than a week, and also for a two-week period or longer.

This application is postponed. The process defined in the Zoning Regulations requires notifications and a public hearing.

- 3. Proposed Regulation Amendments:** definitions and regulations relative to front yard and walls as structures. Finalize proposal and set public hearing date.

Attorney Zizka summarized the intent of the amendments to develop regulations that will work for Fenwick's lots with some consideration for how lots have been treated in the past. He noted that there are many lots that are not consistent with Euclidean shaped lot zoning and that Fenwick has an unusual number of streets that have been discontinued. He added that the intent was to not change which line is the front lot line when a street is discontinued and reviewed the two alternatives for frontage: the first keeps the frontage in the same location after discontinuance as before discontinuance since the road still is an easement of access. The second moves the frontage to the new lot line (center of the road). In the first instance the front lot line can be interior to the lot.

It was noted that the deeds transferring portions of discontinued roads to abutters have prohibited using the additional land to enable creation of an additional lot but are not specific to anything else. B. Christensen expressed the belief of many that no benefit to the owner was intended.

M. Ozols noted that the language as proposed would make the lot line interior to the lot if it is a front lot line, but not interior to the lot if it is a side lot line. A. Wright expressed the opinion that the front and side lot lines should be treated in the same way. After further discussion, it was agreed that the lot line should remain in the same location as it was prior to the inclusion of the discontinued road in the lot and Attorney Zizka should draft further amendments to treat the side lines in the same way as the front lines.

Relative to the definition of structure, Attorney Zizka explained that the intent was to clarify that walls are different from fences, irrespective of the New England interpretation that a wall is a stone fence. Seawalls are covered by an exception in Section 5.2.3 so do not need to be called out specifically in this definition.

F. Gilhool, 10 Sequin Avenue, stated that allowing walls within the setback could forever change the feel of Fenwick and cited Section 4.5.4b of the Regulations to corroborate this.

Members further discussed whether walls should be allowed in the setbacks and what heights might be appropriate if they are. S. Boody stated that the Commission should be forward thinking and think about the impact of sea level rise. After discussion, S. Boody suggested allowing both free-standing and retaining walls up to three feet in the setback. A. Wright and T. Van Itallie concurred and it was decided to bring this number to public hearing.

Attorney Zizka will provide revised language and after it is received, M. Ozols will begin the referral process and schedule a public hearing for some time in the spring.

4. **Approval of Minutes** of previous meeting: Planning & Zoning/Inland Wetlands – December 2, 2019.

**S. Boody moved to accept the Borough of Fenwick Planning and Zoning Commission minutes for the December 2, 2019 meeting as presented. T. Van Itallie seconded the motion and it was approved unanimously.**

**Approved 5-0-0**

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

Against: None.

Abstain: None.

5. **Staff Report.**

M. Ozols reported that:

- Applications are still anticipated for the Shoreline Resiliency project at the Hepburn Family Preserve, Maple Avenue / Nibang Avenue Intersection Improvements, 34 Pettipaug, and 2 Agawam. Work at 104 Sequassen and 7 Pettipaug will likely require only administrative permits.

6. **Other Business.** None.

7. **Pending Litigation:** 9 Pettipaug, LLC and Eniotna, LLP v Planning & Zoning Commission for the Borough of Fenwick. Executive Session anticipated.

**A. Wright moved to go into executive session at 5:25 p.m. to discuss pending litigation and invite Attorney Zizka and M. Ozols to attend. T. Van Itallie seconded the motion and it was approved unanimously.**

**Approved 5-0-0**

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

Against: None.

Abstain: None.

**A. Wright moved to come out of executive session at 5:50 p.m. S. Boody seconded the motion and it was approved unanimously.**

**Approved 5-0-0**

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

Against: None.

Abstain: None.

No actions were taken during the executive session.

8. **Adjournment.**

**At 5:50 p.m., it was moved by S. Boody and seconded by T. Van Itallie to adjourn the meeting. The motion passed unanimously.**

Respectfully submitted,  
Marilyn Ozols, Acting Secretary