

December 9, 2014

The public hearing was called to order at 6:07 p.m. by Stephen Offiler, ZBA Chairman.

Other members' present-Diane LeDuc, Robert Lassar, and Christine Farrugia.

Staff present-Russell Gray, Demian Sorrentino, and Joyce Gustavson.

The purpose of the hearing is to accept written and/or verbal comments on application #ZBA-14-03 by Bruno Gilbert of Gilbert Homes, Inc. for 0 Church Street (Map 03838, Block 024, Lot 025A) for a variance from Section 4.03 Frontage to reduce frontage requirements from 250 feet to 151.14 feet.

S. Offiler stated that the way the public hearing works is first we would hear testimony from the proponents, the applicant himself, opponents, followed by staff input and closing remarks.

Bruno Gilbert representing the Toutant family and Dalmik Well Drilling Company, current owner of the property, presented the application. This land was originally subdivided and approved as a subdivision but the applicant at the time never filed the mylars and this land has reverted back to a single parcel. While this piece of land is probably okay for road frontage, it certainly does not meet the regulations based on the requirements of the by-laws. The applicant would like to put a single family dwelling on the 20 acres of land, the well is already drilled and sufficient to support a home and the reason for the request for a reduction from the 250 feet road frontage requirement to 154 feet is because that is the available frontage.

D. LeDuc asked if this lot already exists.

B. Gilbert stated that it does. Originally they had subdivided it into ten (10) lots but that never happened and it has reverted back to a single lot.

B. Gilbert stated the house next to the lot has been sold and under the right of way, the owner would have rights of ingress/egress to the driveway. One (1) entrance would be sufficient for each site and would be more appropriate than having two entrances.

S. Offiler asked if there is a deeded right of way on record.

D. Sorrentino stated yes, the surveyor would have found it, so granting the right of way is not a problem because it already exists.

D. Sorrentino submitted into the record a Map – labeled Recommendation A, dated March 2006 for reference and a letter to Bruno Gilbert of Gilbert Homes, Inc. dated July 15, 2014 outlining the reasons(s) for denial and possible solutions to make a non-conforming lot a conforming lot (copy on file).

D. Sorrentino stated that the third parcel exists as a tract and there is no specific deed for it and it was never approved under the subdivision regulations. The house is located on a second tract which was formerly known as the L'Barge piece. If the variance is granted, this application still needs subdivision approval. This is not a lot of record.

D. Sorrentino stated that he could give a more comprehensive history on this application. He explained the subdivision plan that Mr. Gilbert referred to, dated March 2006, is the Patriot Drive Subdivision; (Referenced as Map - Recommendation A) it was nine (9) lots with proposed road frontage; in order to get more lots and because of the reduced frontage, frontage needed to be created by proposing a Town road. This plan was reviewed and approved by the Planning and Zoning Commission and subsequently never recorded. If you don't record a mylar on the land records within the statutory time frame, it is considered null and void. At some time after that, Lot #8 and a portion of Lot #9 was deeded out to another party. D. Sorrentino continued to explain from the Patriot Drive Subdivision map, the free split and illegal subdividing. The n/f L'Barge parcel was not legally created, it was created

by deed and was transferred to another party utilizing the Patriot Drive Subdivision plan for the legal description and presumably granting the right of way for the rest of the parcel. Lot 025A (the subject of this application) was a leftover tract and not an approved lot of record.

D. Sorrentino stated that a lot of record, (which is the crux of what is happening here) according to the Sterling Zoning Records, Section 2.01 is, "a lot which, on July 23, 2004, was both 1) listed as a separate and distinct parcel of land for tax purposes in the records of the Town Assessor; and 2) either described as a separate and distinct parcel of land in a deed or other instrument recorded on the Sterling Land Records, or shown on a subdivision plan approved by the Sterling Planning Commission and filed in the office of the Sterling Town Clerk in accordance with the Connecticut General Statutes Section 8-25".

The subject property is not shown on a subdivision plan approved by the Planning and Zoning Commission. The subject property does not meet any of these requirements outlined in the definition, and is therefore not considered a lot of record and is not entitled to a Zoning Permit. What is leftover is the original frontage 154.14 and in order for it to be considered a lot of record the Planning and Zoning Commission must approve it through a one-lot subdivision application, but it has too much frontage to be a rear lot and not enough frontage to be a frontage lot. The lot is in limbo between qualifying as a rear lot or a frontage lot.

D. Sorrentino proposes two (2) possible resolutions: 1) To remove 104.14 feet of frontage from the subject property, thereby making it a zoning-compliant rear lot. Fifty-four feet (54') actually 54.14 feet of frontage could be granted to the northerly abutter (DWC Aggregates, LLC), and that the Town of Sterling could accept fifty feet (50') of frontage to hold until such time that the property shown as now/formerly (n/f) Paul A. L'Barge on Reference Maps #2 and #3, is purchased by a new party. Said property n/f L'Barge was illegally created and enjoys no road frontage, the Town of Sterling would transfer fifty feet (50') of frontage to the new owner (upon sale) to make that parcel zoning-compliant as well. (This course of action would correct both of the non-conforming lots created by previous events, but no such action has been taken. 2) To seek a variance from Section 4.03 of the Sterling Zoning Regulations from the Sterling Zoning Board of Appeals. The variance could be to either: (a) reduce the minimum frontage requirement from 250 feet to 154.14 feet such that the property could be considered a frontage lot; or (b) increase the maximum frontage allowed for a rear lot from 50 feet to 154.14 feet, such that the property could be considered rear lot.

D. Sorrentino recommends that Mr. Gilbert or Mr. Toutant explain to the Zoning Board of Appeals why they did not choose the resolution that would resolve all of the problems without an action from this Board as this Board has to act on demonstrated hardships and the demonstration of a hardship should include evidence of unwilling parties to cooperate with the plan that would resolve all of the issues presented before us or something to that nature.

B. Gilbert stated that solution A is not an option that the owner of the property wants to take at this time and apparently the application for the variance for reduction in the frontage would still be appropriate.

D. Sorrentino asked what is the basis for granting the variance, what is the hardship.

R. Toutant stated that you are saying that I can't build a driveway with 50 feet of frontage.

D. LeDuc (addressing Mr. Toutant) stated that the issue is that your land does not meet the requirements of the regulations for a building lot. If you have less than 50 feet, between 25 and 50 feet then you can be considered a rear lot and you can build. If you are not a rear lot then you have to have 250 feet and you do not have that. So you have two ways to go, you can try to acquire another 100 feet from your neighbor and then you would have 250 feet or you can divest the extra 100+ feet and call yourself a rear lot.

D. Sorrentino stated that he understands that no one wants to give away land, but you will not get a zoning permit to build a house until this issue gets resolved. The Zoning Board of

Appeals needs an answer as to why giving away the land is not option, besides the fact that you just don't want to do it.

S. Offiler asked if anyone else had any other questions or comments.

Keith Pasay stated that he has the other illegal lot, n/f L'Barge piece under deposit and he is finding that this situation will create the same problem if and when they sell. He stated that he is not opposed to Mr. Toutant getting a variance, but he is concerned with the n/f L'Barge piece and is there a possibility that he can come for a variance to resolve the 25 feet that he needs to fix the problem.

D. Sorrentino responded that you could request a variance 25 feet to zero. The L'Barge parcel has zero feet of frontage.

K. Pasay stated that these problems were created together and this parcel will not be able to get a mortgage. He also spoke to C. Corson, DWC Aggregates, LLC and he was willing to work with something out with them.

D. Sorrentino presented a possible third solution would be to increase the frontage up to 250 feet by acquiring land owned by DWC Aggregates.

There was discussion regarding the private parties working together to find a solution without requiring action by the Board. All parties agreed to discuss the matter further but wanted some time to do so. B. Gilbert suggested continuing the meeting to late January. The Board recognizes this will require granting an extension of time by the applicant.

B. Gilbert submitted a letter into the record, dated 12/9/2014 granting the Zoning Board of Appeals an additional thirty (30) days so that the public hearing can remain open (copy on file).

S. Offiler asked if anyone else had any other questions or comments.

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The public hearing was continued to Tuesday, January 27, 2015 at 6:00 p.m. in the Senior Center Room at the Sterling Town Hall with the regular meeting immediately following.

Attest: _____
Joyce A. Gustavson, Recording Secretary

Attest: _____
Christine Farrugia, Secretary

December 9, 2014

The Zoning Board of Appeals Special meeting was called to order at 7:04 p.m. by Stephen Offiler, ZBA Chairman. Other member's present-Diane LeDuc, Robert Lassen, and Christine Farrugia. Member's absent-Alternate Jim Perry, Alternate Russell Dexter, and Alternate Lincoln Cooper.

Staff present-Russell Gray, Demian Sorrentino, and Joyce Gustavson.

Audience of Citizens: None.

Approval of Minutes: R. Lassen made a motion, seconded by C. Farrugia, to approve the 11/18/2014 special meeting minutes as written and presented. All voted in favor of the motion.

Unfinished Business:

a. Application by Bruno Gilbert of Gilbert Homes, Inc. for a Variance to Reduce Frontage Requirement from 250 feet to 154.14 feet for Property Located at 0 Church

Street: The public hearing on this application has been continued to 1/27/2015 at 6:00 p.m. in the Senior Center Room at the Sterling Town Hall, 1183 Plainfield Pike, Oneco, CT

b. Replacement for R. Waugh: J. Gustavson reported that the potential candidate who expressed interest in joining the Board could not attend tonight's meeting due to being sick. A copy of the January agenda will be mailed to her.

New Business: None

Any Other Business: D. LeDuc stated that the Zoning Board of Appeals should consider asking the Planning and Zoning Commission why a rear lot cannot have more than 50 feet of frontage. J. Gustavson will contact J. Rabbitt, Town Planner and ask that question.

Adjournment: R. Lassan made a motion, seconded by C. Farrugia to adjourn at 7:10 p.m. All voted in favor of the motion.

Attest: _____
Joyce A. Gustavson, Recording Secretary

Attest: _____
Christine Farrugia, Secretary