

Killingworth Zoning Board of Appeals
Regular Meeting, April 22, 2013
Page 1 of 6

1. Call to Order

The Killingworth Zoning Board of Appeals held its regular meeting on Monday, April 22, 2013, at the Killingworth Town Office Building, 323 Route 81, Killingworth, Connecticut. In attendance and seated were Bruce Dodson, Charles Martens, Brian Young, James Lehane and Mark Williams. In attendance and not seated were Les Riblet and Debby Butler. There were about 15 interested citizens present as well. Chairman Dodson called the meeting to order at 7:10 PM.

2. Continued Public Hearing and Consideration of Application -

Town of Killingworth, owner, and Killingworth Volunteer Fire Company, applicant, seeking a variance of Killingworth Zoning Regulations, Section 500-44.D.(8), Maximum Building Height, to construct fire training tower, having to do with property located at 323 Route 81, Killingworth, Connecticut (Map 24, Parcel 07).

Chairman Dodson noted this was a continuation of a public hearing from last month and a site walk was done in the interim. He reminded everyone this application focuses on the question of a 6 foot difference in the height of the building in contrast to the 35 feet which is permitted in the Zoning Regulations in the residential zone. The conversation should be kept to that point. Chairman Dodson noted he let people speak more at the last meeting because there was clearly a lot of interest and concern in this matter. This meeting will be kept just to the subject of the 6 foot height variance.

The following letters were read into the record by Chairman Dodson, Recording Secretary Brown, Secretary Martens, and Commissioner Lehane, respectively as follows -

1. Letter from Leslie R. & Nancy Gorski, 18 Wolf Hollow Lane, dated March 25, 2013.
2. Dawn & Rafi Mohammed, 17 Wolf Hollow Lane, no date.
3. Richard & Suzanne Anziano, 4 Wolf Hollow Lane, March 24, 2013.
4. Beth & Al Rusilowicz, 8 Wolf Hollow Lane, March 25, 2013.

Chairman Dodson noted quite a few things brought up in the letters were addressed at the last meeting by the Chief and Bill Wright. He noted there would be no fire, only theatrical smoke. There will be use of water and possibly smoke from hay.

Chairman Dodson noted the most important thing to him was the opportunity to see the site and the red balloons set up 41 feet in the air above the site. It was everyone's conclusion it could not be seen from Route 81 or Wolf Hollow Estates. He noted he walked down Wolf Hollow Trail and could not make out the balloons or see anything. From the photos submitted with the application the second growth woods in the area are so thick you can't see through them for more than 200 feet. He asked if anyone had a different conclusion than that. The comment was made that 150 feet was going to be cleared around the facility. Dodson noted the photographs show one can't even see the Town Office Building. Mr. Lehane noted he drove it with his vehicle that day and it was so dense.

Chairman Dodson agreed there are a lot of other concerns but it was mentioned at the last meeting this would be an eye sore and it would destroy the middle of town. People moved here because it is such a beautiful rural community and it would be ruined by a big tower in the middle of town. Dodson noted what was seen was that a lot of effort was made to locate it down in back at a place where one would

Killingworth Zoning Board of Appeals
Regular Meeting, April 22, 2013
Page 2 of 6

actually be looking down slightly if one could see it. It was his conclusion that it was hard to even get a glimpse of it and it was much lower than expected. Mr. Nemergut talked about the elevation of the ground at the last meeting and one has to actually look down to see the top of the tower. He felt that was a significant difference. He agreed he would also hate to see a tower in the middle of town.

Chairman Dodson further noted this should not be referred to as a tower but a training facility. He didn't think it would be visible and also not an eyesore.

Guy Marino, who was at the site walk, noted once one gets at least 200 feet away its hard to see the balloons. His concern was clearing out 150 feet around the facility and then the Town decides to put an addition on the Town Hall, the buffer would be cleared out. Chairman Dodson noted that was an interesting point. Mr. Marino noted if that happened it would be seen summer or winter because all the little saplings and trees would be gone. A lot will also be cleared for the roadway to get down and back. Marino reiterated it would be more visible if the Town decides to do some kind of an expansion on the Town Hall in the future.

Rafi Mohammed noted they ended up with a huge building behind their house only about 50 feet from Wolf Hollow Trail that is the Town's sand and salt shed. He agreed with Mr. Marino about clearing out the rest of the brush. He also noted the brush stops the noise as well.

Mr. Lehane noted most of the concerns and issues raised in the letters that were read were technically Planning & Zoning issues. The only issue for the Zoning Board of Appeals is height and a hardship. Chairman Dodson noted if the additional 6 feet is approved by ZBA, an application will be submitted to Planning & Zoning at which time a public hearing might be held and they will discuss concerns and issues. The ZBA has no authority on that.

Roger Nemergut noted this will go before Planning & Zoning as a Municipal Improvement and suggested the neighbors make their opinions known to P&Z. He agreed it is not out of procedure for P&Z to hold a public hearing. Chairman Dodson noted the P&Z Chair had indicated to him there would be a public hearing at P&Z.

Roger Nemergut thanked Chairman Dodson for clarifying what the application was for and that the other issues were for Planning & Zoning to discuss and decide. He noted there was a site walk and that the ZBA Chair had asked him to take a look at the area. Nemergut indicated the tower would be 8 feet higher than the top of the existing sand and salt shed. He also noted the building would be 400 feet off the property line and there would be second growth vegetation. He asked members of the Fire Dept. to talk about the need for this facility.

Bill Wright noted the extra height is now required to reach some of the buildings in town. There are some 4 story buildings and the maximum reach of the town's trucks is 33 feet. That's why they need a 41 foot training facility. The Middle School has a height problem in the rear.

Chairman Dodson noted 45 feet is permitted in a commercial zone with approval. This Board approved the higher height because of the average grade calculated from the front to the back of the building. If they had to get on the building, they could do so from the front with the equipment they

Killingworth Zoning Board of Appeals
Regular Meeting, April 22, 2013
Page 3 of 6

had. This Board approved it because Planning & Zoning hadn't really considered a school in a residential zone. It seemed like a reasonable variance to grant for the public good.

Charlie Martens noted the building can be 45 feet in a commercial zone but the top 10 feet cannot be occupied by people (school).

Mr. Rusilowicz asked why Killingworth needs this size structure in town.

Arnie Moore, member of the KVFC for over 25 years, noted when he joined the fire department he was a single young man and trained whenever. His life has since changed considerably and there are other things to do with his life. Moore noted fighting fires is more dangerous than ever today. Buildings collapse quickly. The firemen put their lives at risk to save others lives. If the firemen are not adequately prepared and trained, they may not come home to their families. He noted big structural fires are not frequent in town and the only way to train is in the most realistic way possible. They only go 3 or 4 times a year to Middletown. All firemen have other responsibilities and to go to Middletown to train on a regular basis is a hardship. The new Middletown facility being constructed is in Westfield and that adds one hour travel time to get to and from the facility. The firemen work all day, have to travel to and from Middletown and then wrap up things back at the fire house and its 11:30 PM. That is a hardship and why they don't go to Middletown to train more often. Mr. Moore further noted in order for him to feel safe and confident, they need to train and the town needs to give the men the way to do that.

Anthony Pascucelli, firefighter, noted it is hard for him to make it to the Middletown training facility. He is a single parent. Perhaps they don't get any sleep that night. If they are not properly trained, they are putting themselves in danger. If everyone is in Middletown training, then who is left in town if something happens.

Chairman Dodson noted he has a problem with people challenging what the firemen do and need if that individual is not a fireman themselves.

Mutual aid was briefly discussed.

Eric Bergman noted he has lived in town 5 years and is now married with two small children. His wife works also. His time is very limited. Going to Middletown is a big deal. It's hard with two small children. No one should under estimate the training. Killingworth is a very good fire department. The leadership has done a very good job in getting training and the very best equipment. As a firefighter and town resident, he noted they need to be able to train for residential fires and they do that now only a few times a year because it is a burden to go to Middletown. He would like to see the fire department have all the training and tools it needs.

Guy Marino noted he thought this was not going to be a burn facility. Mr. Moore noted for those aspects they go somewhere else. This will be used for advancing hose lines up interior stairwells, carrying manikins down a ladder, etc.

Rafi Mohammed noted what hasn't been decided here is what separates Killingworth from Old

Killingworth Zoning Board of Appeals
Regular Meeting, April 22, 2013
Page 4 of 6

Saybrook, Clinton, Haddam. Why does the Town of Killingworth need this structure and why is it different from other towns. Chairman Dodson asked Mr. Mohammed if he learned that other towns were approving them and building them, would he approve it here. Mr. Mohammed replied yes.

Todd Hajek noted he didn't think Killingworth could be compared to what other towns do. As Chief, each has his own sense of accomplishments. The Town of Killingworth chose training. Other towns chose trucks and apparatus.

Ray DesJardins, Jr. noted Killingworth has one of the best trained fire companies around. People come here to train with Killingworth. The men need the time and ability to train and experience it themselves. He noted they all work and train real hard and are asking the town to give them a hand with this training facility.

There was discussion regarding the site walk. Chairman Dodson noted the members in attendance agreed and Guy Marino agreed the facility was not visible from any house. It was also noted this meeting was to decide on the 6 feet in height. This meeting is not to decide on funding or anything else.

There was discussion regarding clearing around the building. Mr. Nemergut noted they need a minimum clearing of 20 feet to get the trucks around the building. Chairman Dodson noted the driveway is already there. He asked if there would be any clearing to the north. Nemergut replied no, nothing between the driveway and to the north. They are west of the driveway away from Wolf Hollow. Nemergut reiterated they need a minimum area around the building for trucks and for parking. This is a Planning & Zoning matter. Parking could go to the other side. Mr. Anziano noted the second growth vegetation doesn't remain thick. Over time one will be able to see through it. Chairman Dodson noted that can be brought up during the Planning & Zoning meeting and the town might be required to plant screening or put up a fence. Width of the access road was reviewed.

Roger Nemergut noted the buffer can be maximized and the parking area location is flexible.

Guy Marino noted there will be 4 people who can see it, but no one else.

Chairman Dodson briefly reviewed once again the procedures for public hearing.

Motion by Martens, second by Young, to close the public hearing for KVFC at 8:00 PM. Voting in favor – Martens, Young, Williams, Lehane, Dodson. Opposed – none. Motion Carried.

Chairman Dodson noted he understands the concerns of the neighbors and something changing in their neighborhood. He further noted he was concerned before he saw how hard it was to see from the road and Wolf Hollow. He indicated there is language in the regulations regarding the ZBA's authority. The protection of public health and safety appears throughout the regulations and asked if members agreed that proper training of the KVFC might be considered as public health and safety to the people of the town.

Brian Young noted he would like to see the town's firemen trained to the best of their ability and it

Killingworth Zoning Board of Appeals
Regular Meeting, April 22, 2013
Page 5 of 6

would be advantageous to the town. They should be trained in a manner that the town needs and he saw this as a great benefit to the town. He understood the concerns of the neighbors, but he did not see that many people would be able to see the structure through the trees and underbrush. It isn't easily visible even in the winter. He didn't feel this was going to be as much of an eyesore as people think.

James Lehane felt this was a public safety question and there is some degree of hardship with the travel time. He indicated he has seen poorly trained firemen and has watched a house next door to him burn to the ground. He felt this was a public safety issue. Killingworth has houses in town that have walk out basements and 3 stories. He clearly felt this was a public safety issue. He also felt there are lots of legitimate concerns of the neighbors that can be dealt with when this comes before Planning & Zoning.

Mark Williams also felt this was a public safety issue and agreed there are concerns of the neighbors, but they should be brought up before Planning & Zoning.

Chairman Dodson reiterated there is a problem using the word "tower."

Charlie Martens noted this is a difficult question and decision. It is a volunteer department and there is a lot of dedication and time on the part of the volunteers. He reviewed the hardship which is generally created by the characteristics of the land. A variance goes to the land, not the owner or use. The hardship is created because the use would need a nonconforming structure. It's difficult to come up with a rationale of granting the variance on that fact alone. To overcome that issue, it is felt the health, safety and welfare of the community is pertinent. Mr. Martens referenced sections of "What's Legally Required" noting that variances of the zoning regulations may be granted only in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of the regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured.

Chairman Dodson noted one test for a variance is that it cannot be something that applies to other properties in the neighborhood. It provides for a unique situation that applies only to that parcel of land. In this case it would not affect any other property and if it were approved, it would not be setting a precedent. He also referenced Section 500-194 of the Zoning Regulations pertaining to the Powers and Duties of the Zoning Board of Appeals as it relates to hardship and the health and safety of the public.

Chairman Dodson noted this is not unlike the school. With the school there was a problem constructing the school on a property that was in a rural residential district. The Zoning Board of Appeals does not create policy.

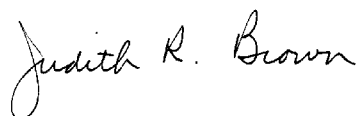
Motion by Dodson, second by Young, to grant the variance of Section 500-44.D.(8), Maximum Building Height, and waive the height requirement to allow a 41 foot fire training facility on the basis of public health, safety and welfare of the community. Voting in favor – Dodson, Young, Martens, Williams, Lehane. Opposed – none. Motion Carried.

3. Any Other Business – none.

4. Adjournment

Motion by Martens, second by Williams, to adjourn at 8:25 PM. Voting in favor – Martens, Williams, Young, Lehane, Dodson. Opposed – none. Motion Carried.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith R. Brown". The signature is written in black ink and is positioned below the text "Respectfully submitted,".

Judith R. Brown, Recording Secretary