

1. Call to Order and Seating of Members

The Killingworth Zoning Board of Appeals held its regular meeting on Monday, June 27, 2016, at the Killingworth Town Office Building, 323 Route 81, Killingworth, Connecticut. In attendance were Bruce Dodson, Charles Martens, Les Riblet, Brian Young, Matt Young, Nancy Gorski (non-seated alternate) and Cindy Adametz (non-seated alternate). Chairman Dodson called the meeting to order at 7:01 PM.

2. Public Hearing and Consideration of Application -

The Congregational Church in Killingworth (owner/applicant) seeking a variance of Killingworth Zoning Regulation Section 500-44 Required Characteristics for proposed new 1.66 acre parsonage parcel, having to do with property located at 273 Route 81, Killingworth, Connecticut (Map 28, Parcel No. 29).

Present on behalf of the applicant was Robert Rimmer, Geoff Cook, Glen Johnson and Pastor Martha Bays. Mr. & Mrs. Holbrook from 12 Ely Lane were also present.

Secretary Martens read the Legal Notice of Public Hearing into the record, said notice having been published in the Hartford Courant on June 14 and June 21, 2016.

Chairman Dodson explained the public hearing and meeting procedures. The applicant submitted the Certificates of Mailing to the neighbors.

Robert Rimmer introduced himself noting he was Chairman of the Board of Trustees and an attorney. He stated the subject parcel was 1.66 acres, the minimum for the Town was 2 acres. Mr. Rimmer also referenced a zoning decision from a case that came down today from the Connecticut Appellate Court – Villages LLC v. Lori Longhi. He further noted the Connecticut Statutes state the applicant must demonstrate a variance would not effect the comprehensive zoning plan and strict adherence would cause undue hardship. As to the first requirement, is the use consistent with other uses in the area. The answer is yes. It is an R2 zone and will remain residential. Of the 20+ neighbors within 500 feet, there are 5 parcels that are smaller than 2 acres.

Mr. Rimmer submitted Assessor's cards from 5 properties – 2 lots on Route 81 and 3 lots from the Ely Lane Subdivision. It was also noted land was granted to the Killingworth Land Conservation Trust as part of the subdivision.

Mr. Rimmer noted the point of the application is can the area support a lot of less than 2 acres. He again noted the smaller lots – 267 Route 81 (1.4 acres), 6 Ely Lane (1.5 acres), 13 Ely Lane (1.8 acres), 294 Route 81 (.9 acres). He stated their request will not effect the comprehensive zoning plan. It will maintain a residential character. The lots under 2 acres are from the time period of 1999 to 2009. Its been 15-16 years now so know it works.

Charlie Martens noted all the building lots on Ely Lane had to pass the soil base zoning test. This is a unique type subdivision. They are smaller lots than 2 acres but meet all the requirements of soil based zoning. Mr. Martens noted this lot is 1.66 acres, but the soil hasn't been tested.

Geoff Cook noted they were not looking to subdivide land to build a pond.

Matt Young asked if this lot had septic and well on it as it did not show on the plan. Mr. Rimmer replied yes, Glenn Johnson would speak to that issue. Rimmer also noted they would be able to comply with the comprehensive plan and not upset the zoning plan.

Mr. Rimmer noted they have 20+ acres. The reason they are requesting 1.66 acres is because they are trying to correspond to stone walls. He reviewed the subject property and the areas to the west, east, south and north. The Memorial Garden is to the east. This is a columbarium where human remains are put. There are benches in the outdoor worship area and pathways from the Church to the Memorial Garden. They are asking for this because they don't want to cut off the central Church area from the outdoor worship area.

Pastor Martha Bays spoke about the uniqueness of the Memorial Garden to Killingworth. The area is a wooded walking labyrinth. They do burials of folks of the Church as well as non-Church alike. They feel strongly its appropriate the Memorial Garden be connected to the Church. At least half of those buried there have no connection to the Church. They go down the walkway, through the stone walls, sit at the benches and then do the Service. The far corner is the most beautiful spot in Killingworth. No other Church in Killingworth does this. For those who cannot afford it, it is free, otherwise there is a nominal charge of \$250. It is a sacred space to be treasured. The Church has no desire to break it up or destroy it. They are a community Church. They take community responsibility very seriously. They have a senior meal center.

Pastor Bays further noted they want to sell this property. The trend in the past 50 years has been that Pastors do not live on the Church property. The Ministerial Profession has gotten very professional. The trend is to get away from the Parsonages and let the Ministers live elsewhere. There currently are 3 Ministers living in Killingworth. Almost all neighboring Churches have sold their Parsonages. They are just not a piece of the Church that has value any more. That is not unique just to this Church. Its a trend across the country. To attract good competent Ministers going forward we have to allow house affordability not housing.

Pastor Bays spoke from the heart about the Memorial Garden. They do 12-14 Memorial Services per year. It would be an incredible hardship to take any of that land away in any way, shape or form.

Brian Young asked if there were any plans to expand the Garden. Pastor Bays replied not at this time. There is still plenty of room and they don't foresee the need to expand it.

Matt Young asked if the Garden could be moved over as 50 feet from the stone wall makes 2 acres.

Brian Young asked if the septic and well could be pointed out on the plan. Glenn Johnson, member of the Church and Professional Engineer, noted there is sufficient space for a code compliant septic system and 100% reserve if necessary. There is one there now. Mr. Johnson noted testing was done about a year ago and submitted to the ZCO. Geoff Cook noted there haven't been any issues with the septic or well in the past years. Mr. Johnson noted the septic had a code compliant repair approved by the Health Department in the 80's. Its a 4 bedroom house with 2 baths and a study.

Chairman Dodson read into the record a letter from the Zoning Enforcement Officer date 6/16/16. Dodson noted he agreed with the comments in the letter because if the Board were to approve the application as presented, it would become a matter of permanent record and go with the property. Charlie Martens supported that also.

The front and side setbacks were reviewed. Charlie Martens noted the applicant is asking to create more nonconformity.

Mr. Martens briefly reviewed soil based zoning. He stated they would need 2.67 acres even if all soils were B. Currently there is 1.6 acres so another acre is needed.

Mr. Johnson reiterated they have proven a new septic and reserve could be done on what is there. Mr. Martens noted just having a spot to put it in doesn't absolve the soil based zoning.

Mr. Martens stated he would imagine all those other lots on Route 81 were in before zoning. Ely Lane was probably a Conservation Subdivision.

Pastor Bays reiterated the Memorial Garden itself will always be that and nothing will be built there. It is sacred space.

There was discussion about including some portion of the Memorial Garden in the property that belonged to the house but would have easement restrictions. It would be part of the house property, but the Church would have use of it. Pastor Bays noted if it were anything but a space were people were buried, she might consider that, but this is a unique space.

It was noted even in affordable housing, one has to meet soil based zoning.

Mr. Martens noted he saw another problem that hasn't been mentioned. The access to the house is from the Church parking lot. That has to be changed as legal lots have to have access from their legal frontage. That would have to be addressed and shown on the plan. Mr. Johnson noted that would need an encroachment driveway permit from the State.

There was further discussion regarding the 23.9 foot setback. Mr. Martens noted that would have to be included in the variance. The problem is this would create a huge nonconformity.

Chairman Dodson noted the Memorial Garden was created by the Church and therefore is self-created.

Chairman Dodson reviewed the information on the assessor's page. Dodson also noted he was President of the Killingworth Land Conservation Trust. He indicated the Open Space area trail meets up with the Church.

There was a brief discussion regarding the possible submission of a Conservation Subdivision which would have to include the dedication of Open Space. Chairman Dodson noted ZBA has no authority over subdivisions.

Mr. Martens noted some of the issues are – what actually are the soils and the percentages, how big a lot would be needed, can you meet soil based zoning, the Memorial Garden is self-created, access needs to be shown from Route 81, the well, septic and reserve need to be shown on the plan. He reiterated the applicant does not have to ask for every part of Section 500-44. Just pinpoint the parts of the Required Characteristics that are needed. Mr. Martens noted the Board would like to work with you, but can't do it with what has been submitted.

Geoff Cook noted then there are incomplete plans and maybe there is the possibility of moving the property line to the north to eliminate the side setback issue with the garage.

Mr. Martens reiterated the major issue is the soil based zoning. That has to be addressed in some fashion. Mr. Johnson reiterated they do have that. The soils are all type B.

Pastor Bays noted they have spent about 2 years on this and each time they had to reject it because of the Memorial Garden. To deed it over to someone else would be problematic.

Mr. & Mrs. Holbrook, 12 Ely Lane, noted they don't have any problem with whatever they do, but have a concern regarding water deflection. If ground water is disturbed, that will effect their property. Part of their land is wetlands.

Chairman Dodson noted a Conservation Subdivision would require a significant piece of

property to be Open Space. That area could be in the back and abut the Killingworth Land Conservation Trust property. Mr. Johnson noted they could donate the existing trail. Dodson also noted assuming Planning & Zoning would grant an application for subdivision, they would not allow the sale of a house until access is granted.

Chairman Dodson noted if the applicant would like to withdraw the application and resubmit, the Board would waive the application fee. The applicant decided to withdraw the application.

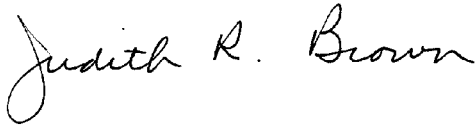
The hearing was closed at 8:15 PM.

3. Any Other Business – none.

4. Adjournment

There being no further business, the meeting adjourned at 8:16 PM.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith R. Brown".

Judith R. Brown, Recording Secretary