



**TOWN OF WESTBROOK  
ZONING BOARD OF APPEALS**

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866 BOSTON POST ROAD  
WESTBROOK, CONNECTICUT 06498  
(860) 399-3046 • FAX (860) 399-3092

**MEETING MINUTES – ZBA PUBLIC HEARING – 24 MARCH 2010**

The Westbrook Zoning Board of Appeals met on Wednesday, March 24, 2010, in the Multi-Media Room of the Teresa Mulvey Municipal Center located at 866 Boston Post Road. Legal Notice of the Public Hearing was published in *The Hartford Courant* on 10 March 2010 and 17 March 2010.

Chairman Mark Damiani called the Hearing to order at 7:30 p.m. and introduced Board members to the public present at the Hearing. Members present were Chairman Mark Damiani, Vice-Chairman John Boehme, George Rehberg, Eve Barakos, Bonnie Hall and Alternate Richard White. Also present was Administrative Secretary Janet L. Aiken.

Chairman Damiani read the procedures to be followed at the Hearing as well as the Legal Notice of the Public Hearing.

**No. 10-05** – Appeal of Raymond and Janet Behr, owner/applicant; Gregg Fedus, Fedus Engineering LLC, agent. Property located at Lot 17 – Pointina Road. Identified on Assessor's Map 28 as Parcel N12. HDR zone. Variance requested from Zoning Regulation Section No. 4.33.07 setback from tidal wetlands to allow 6.1' setback where 50' is required. Also, CAM approval needed. **CONTINUED from 2/24/10**

The applicants' architect, Matt Williams was present as well the Behr's attorney, Thomas E. Cronan of Madison, Connecticut. Attorney Cronan submitted a written request for a 40-day extension on this application to allow for DEP input as outlined in a letter of February 23, 2010 from Senior Coastal Planner, Mary-beth Hart, to the Board. It was agreed by all after lengthy discussion, that to present an application including the CAM that could well be modified pending input from DEP, would be unnecessary and a waste of time due to the issues surrounding the variance application. Chairman Damiani formally opened the hearing and read in part that letter as well as a portion of the Town's Conservation Commission's letter concerning this application. Attorney Cronan further explained he wanted to research that Commission's role and input as to this application. The Chairman noted he would contact DEP and request an expedited response in time for the Board's next meeting on April 28, 2010.

A motion was made by Mark Damiani, seconded by Bonnie Hall, to grant the extension request of 40 days as submitted, to the Board's next meeting, to receive DEP's input. The motion carried unanimously.

**No. 10-06** – Appeal of Darlene Santore, applicant; Pilots Point Marina, owner; Attorney Thomas A. Cloutier, agent. Property located at 631 Boston Post Road and identified on Assessor’s Map 25 (formally) as Parcel S40 (formally). Variance requested from Zoning Regulation Section No. 10.27.03 Signage to allow 134.015 sq.ft. where 22 sq.ft. is allowed, and Section No. 10.28.00 Portable Signs to allow permanent/unattached where 60 day term is allowed.

Present for the applicant was Attorney Ed Cassella, H. Brian Dumeer and Raymond Termini, as well as Rives Potts and Jack Colody from Pilot’s Point Marina. Attorney Cassella presented to the Board photos of business signs in the commercial boating zone to support his client’s variance request for the increased size for the signs. He explained they were appropriate, of good workmanship, aesthetically pleasing and visible to the general public, advertising what was available at The General Store. He further explained that there were numerous businesses surrounding The General Store location with many larger signs potentially interfering with the business’s viability because the building is set back off of Route 1 and the zoning regulations allowable signage square footage was too small to be seen and read by motorists. He also noted the signs were not internally illuminated.

The second variance request was for a permanent 2’ x 3’ sandwich board sign to advertise daily and seasonal specials offered at The General Store. Attorney Cassella produced photos of businesses in the zone using similar signs. He noted that the zoning regulations were not clear as to the 60 day time period – whether it was for an entire year, or if the permit could be renewed on a continual basis. He expressed concerns as to interpretation of the regulation by future Town officials and being denied renewal, adding that the word “total” in the regulation was troubling. Looking ahead in time for his client, he didn’t want a denial to occur. He further noted that to have to go to Town Hall on a continual basis to renew the permit every 60 days would pose a hardship for his client, taking time away from the running of the store.

Board members asked about the height of the sign posts, what would be advertised on the sandwich board sign and where it would be placed on the property, the fact that many signs in that zone have been placed without permits but that many have had variances granted, which were grand-fathered, how the size of the signage had been determined and why a particular size was chosen, how many signs are too many, if advance permits could be applied and paid for, the time and effort the Zoning Commission took to come up with the present regulation and its intent, and if the sandwich sign was to be used only seasonally why a year round permit would be required. The Board agreed that while it was unfair to deny a business a sign due to others flaunting existing regulations, the ZEO was continually pursuing illegal signage.

Rives Potts spoke in favor of the application. No one spoke in opposition.

A motion was made by Bonnie Hall, seconded by Mark Damiani, to close the public hearing portion of the meeting. The motion passed unanimously.

The public hearing closed at 8:26 p.m.

Respectfully Submitted,

Janet L. Aiken, Administrative Secretary  
Westbrook Zoning Board of Appeals

(TWO (2) micro cassette tapes were recorded for the 3/24/10 Public Hearing & Regular Meeting and filed with the Town Clerk's Office)

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Janet L. Aiken, Administrative Secretary

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Date submitted



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**MEETING MINUTES – ZBA REGULAR MEETING – 24 MARCH 2010**

The Westbrook Zoning Board of Appeals met on Wednesday, March 24, 2010, in the Multi-Media Room of the Teresa Mulvey Municipal Center located at 866 Boston Post Road. Chairman Mark Damiani called the Regular Meeting of the Zoning Board of Appeals to order at 8:26 p.m. Members present were Chairman Mark Damiani, Vice-Chairman John Boehme, George Rehberg, Eve Barakos, Bonnie Hall and Alternate Richard White. Also present was Administrative Secretary Janet L. Aiken.

**DECISIONS:**

**No. 10-05** – Appeal of Raymond and Janet Behr, owner/applicant; Gregg Fedus, Fedus Engineering LLC, agent. Property located at Lot 17 – Pointina Road. Identified on Assessor’s Map 28 as Parcel N12. HDR zone. Variance requested from Zoning Regulation Section No. 4.33.07 setback from tidal wetlands to allow 6.1’ setback where 50’ is required. Also, CAM approval needed. **CONTINUED to 4/28/10**

**No. 10-06** – Appeal of Darlene Santore, applicant; Pilots Point Marina, owner; Attorney Thomas A. Cloutier, agent. Property located at 631 Boston Post Road and identified on Assessor’s Map 25 (formally) as Parcel S40 (formally). Variance requested from Zoning Regulation Section No. 10.27.03 Signage to allow 134.015 sq.ft. where 22 sq.ft. is allowed, and Section No. 10.28.00 Portable Signs to allow permanent/unattached where 60 day term is allowed.

The Board took the application under consideration in two parts. As to the square footage of signage allowed in the Zoning Regulations for that zone, the Board’s discussion centered around the regulation’s intent, the science of signage determination including color, size, roadway speed limits and location, the crafting of the regulation by the Zoning Commission, height of the sign posts, surrounding businesses, appropriateness of the type and size of the signage as to the building, competing business advertising, regulation change versus the granting of signage variances, Town residents positions on signage located in Town and ongoing controversy, and that historically the Board has disagreed with the signage regulations but that decisions had to be made on a case by case basis.

A motion was made by Bonnie Hall, seconded by George Rehberg, to grant the variance from Zoning Regulation Section 10.27.03 Signage, to allow 134.015 square feet where 22 square feet is allowed, as applied for in the “Application Addendum” and as presented as follows:

Sign A consisting of the main sign on the top of the building measuring 216” long by 59” high, totaling 89.33 square feet;

Sign B consisting of two (2) signs affixed to two (2) white posts located next to Route 1, with the smaller sign B-1 60” long by 25” high, totaling 10 square feet and the larger sign B-2 96” long and 22” high, totaling 14.67 square feet;

Sign C consisting of four (4) small signs underneath the overhang of The General Store building each measuring 72” long and 10” high, totaling 5.00 square feet each, and with a total of 20.02 square feet for the four signs, and a total square footage of 134.015 square footage for Signs A, B and C, with the following STIPULATIONS:

- (1) the maximum height of the posts shall be 8 feet; and,
- (2) no other signs to be hung, attached or added.

The Chairman called for a vote on the motion and it passed with four (4) affirmative votes, with Eve Barakos in opposition.

As to the variance request from Section No. 10.28.00 Portable Signs, regarding the sandwich board sign, a motion was made by Bonnie Hall, seconded by Mark Damiani, to deny the variance due to lack of hardship. The motion passed unanimously.

#### **MINUTES -**

A motion was made by Mark Damiani, seconded by Bonnie Hall, to approve the Public Hearing minutes of 24 February 2010, as written. The motion carried unanimously.

A motion was made by Mark Damiani, seconded by Bonnie Hall, to approve the Regular Meeting minutes of 24 February 2010 with three changes:

- page 1, heading, “24 **January** 2010” changed to “24 **February** 2010”;
- page 2, motion to approve Appeal No. 10-03, third line from bottom of motion, “...due to the installation **if** a new...” changed to “...due to the installation **of** a new...”;
- page 2, second line from bottom of page, “...**seconded** line...” changed to “...**second** line from bottom...”. The motion carried unanimously.

#### **BILLS –**

A motion was made by Bonnie Hall, seconded by John Boehme, to approve the bill from Halloran & Sage of \$365.00 constituting one-third of the charge for the continuing Caltabiano lawsuit. The motion carried unanimously.

A motion made by Mark Damiani, seconded by Bonnie Hall, to approve a bill from Gould Larson Bennet Wells & McDonnell dated 3/2/2010 totaling \$1,425.00 as follows: \$825.00 re Anne Barton et al vs Westbrook ZBA, \$300.00 re Jeffrey & Marguerite Bergmann vs WZBA, and \$300.00 re Captain Stannard. The motion carried unanimously.

A motion was made by Mark Damiani, seconded by Bonnie Hall, to approve a bill from Board secretary Janet Aiken, for \$238.00. The motion carried unanimously.

A motion was made by Mark Damiani, seconded by Bonnie Hall, to approve a bill from the Hartford Courant for \$375.36. The motion carried unanimously. The previous month's Hartford Courant bill was presented to the Chairman for re-approval signature.

**CORRESPONDENCE –**

1. Public Hearing Procedures public meeting presented by Attorney Mark Branse on 3/31/10;
2. CRERPA/Gateway Land Use Commission Viewshed Survey of 3/4/10;
3. corrected minutes of 11/4/09 IWWC;
4. minutes of 2/2/10 IWWC regular meeting;
5. minutes of 4/2/10 IWWC regular meeting;
6. Cease & Desist Order dated 3/8/10 from ZEO Nancy Rudek to James Fiore of 24 McIntosh Drive;
7. 3/16/10 agenda for Westbrook Conservation Commission;
8. 3/10/10 agenda and minutes from Zoning Commission Special Meeting re proposed amendments;
9. 2/8/10 Board of Selectmen Regular Meeting re Budget Review/Revise/Finalize.

A motion was made by Bonnie Hall, seconded by Mark Damiani, to adjourn. The motion carried unanimously. The meeting adjourned at 9:10 p.m.

Respectfully Submitted,

Janet L. Aiken, Administrative Secretary

(TWO (2) micro cassette tapes were recorded for the 3/24/10 Public Hearing & Regular Meeting)

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Janet L. Aiken, Administrative Secretary

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Date submitted