

**TOWN OF MONTVILLE
ZONING BOARD OF APPEALS**

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REGULAR MEETING – PUBLIC HEARING MINUTES

**Regular Meeting/Public Hearing
October 5, 2022, 6:00 p.m.
Town Council Chambers – Town Hall**

The Town of Montville has lifted the mask mandate effective Monday, February 28, 2022, throughout the Town facilities in coordination with the schools. Although the mask mandate has been lifted, Uncas Health strongly recommends that all individuals, both vaccinated and unvaccinated, continue to wear masks indoors. Comments will only be accepted at times designated during public hearings by the Chair of the meeting. The Zoning Board of Appeals Rules of Procedure, decorum, timeliness, and suitability shall be followed and enforced.

1. Call to Order.

Board Chairman MacNeil called the regular meeting of the Zoning Board of Appeals to order at 6:00 p.m.

2. Roll Call.

Board Members present were Douglas Adams, Vincent Attwater-Young, Joseph Berardy, Richard Gladue, John MacNeil, and Board Alternates Arthur Montorsi and Russell Wehner. A quorum was present.

Board Chairman MacNeil noted for the record all Board Members were present and had voting rights. Board Alternates could participate in discussion but would not be seated.

Also present for the meeting was ZEO Meredith Badalucca.

3. Minutes: Approve the Minutes of the September 7, 2022, Meeting.

Motion by Board Chairman MacNeil; seconded by Board member Adams to approve the Minutes of September 7, 2022, as amended. Discussion: Prior to the vote, Board Chairman MacNeil noted a minor correction regarding the Staff Report recognizing “ZEO” Badalucca not “ZWO” Badalucca under Agenda, Item 5. Voice vote: 5-0, all in favor. Motion carried.

4. Executive Session. -- None

5. Public Hearings/Applications.

- a. Public Hearing. 22 ZBA 3** – Applicant/Owner: Integrity Properties Group, LLC for a variance of Zoning Regulations 9.6.3 (R20 Rear Yard setback) for the location of a single-family dwelling with landing and stairs a distance of 39.3 to 39.2 from the rear property line at 19 Moxley Road (069-032-001) Uncasville CT (*App. Submitted 09/19/2022, Date of Receipt 10/05/2022. Public Hearing must open by 12/09/2022, 35 days to close from date of open.*).

Board Chairman MacNeil asked for the Staff Report. ZEO Badalucca reported into the record the Staff Report which was summarized and preceded by the Exhibit List for the Application as follows:

Staff Exhibits

1. Application and Plans entitled “Deck Modification Plan 19 Moxley Road, Uncasville, CT prepared for Callinan Construction, LLC, dated September 14, 2022.”
2. Abutters List and Certified Mail receipts
3. Public Hearing Notice posted to the Town of Montville Website on September 21, 2022
4. Public Hearing Notice published in The Day Newspaper on September 23, 2022 and September 30, 2022
5. Staff Report dated September 27, 2022

Staff Report

The property is located in the R20 zoning district on about 1.09 acres (47,480 square feet) and has approximately 170 feet of frontage on Moxley Road. The property is currently being developed with a single-family residence with a 10’ x 10’ deck and stairs. The lot development was approved on April 29, 2021 (#221ZP60). The site plan entitled “Callinan Construction, LLC, 19 Moxley Road, Montville, CT, Site Plan, Dated 4/22/2021, Revised 4/28/2021” provided at the time of approval showed the proposed single-family residence 18 feet from the rear yard setback line, a distance of 58 feet from the rear property line. The deck was not included on said plan. (ZEO Badalucca noted to the Board copies of the Plan for their review as Page 2 on the small and larger copies.)

The setback requirements for the R20 zoning district are 40 feet front yard, 10 feet side yard and 40 feet rear yard.

Pursuant to an As-Built/Existing Conditions plan submitted to this office on September 12, 2022, the single-family residence including a deck was actually constructed a distance of 30 feet to the rear boundary line.

In order to correct the non-conformity, the applicant proposes to relocate the encroaching deck to a distance of 39.2 feet to the rear property line with the corner of the dwelling located 39.3 feet to the rear property line. There is no violation of the side and front yard setbacks.

The Applicant states the hardship is “that during construction an extensive amount of ledge, several large boulders and the steep grade of the lot lead to an over correction on the placement of the building on the lot – 8 inches over rear setback.”

For the record, ZEO Badalucca noted the Applicant has shown on the Plan the larger deck will be removed and a landing with stairs to an at-grade patio will be constructed to bring it closer to the required setbacks.

ZEO Badalucca noted the Applicant was present to speak on the application. Board Chairperson asked if the Applicant wanted to explain the revised site plan and provide clarification for it. Michael Callinan, owner of Integrity Properties Group, LLC, introduced himself for the record per Board Chairman MacNeil's request. During the process of developing the single-family residence, a mistake was made, an overcorrection due to a steep lot and a lot of ledge to determine the best position to place the house without additional issues and blasting. Upon notification from Zoning, the large deck was removed. The landing was proposed as a second from of egress and for emergency purposes. As to the 8-inch overage of the foundation, the company takes full responsibility for the oversight and the plan was continually tweaked so the driveway was at a reasonable grade. Instead, Zoning should have been contacted as well as the Applicant's surveyor to have the site staked again and confirmed. Applicant Callinan has built other homes in the Town for first time homebuyers that he hopes to continue in spite of this error in judgment.

Board Chairman MacNeil inquired if the surveyor originally staked out the site for appropriate offsets. Applicant Callinan reported scaling was done for the existing conditions and that the site was not staked. As such, the residence was moved back 15 feet in good faith and the deck taken down. The Applicant confirmed to the Board Chairman the plan was submitted to Zoning before the residence was built and the pushback of 15 feet was done as the residence was right on the precipice, an attempt to get it on top that was clearly overlooked and will not be repeated.

Board Chairman MacNeil asked three (3) times if anyone wished to speak in opposition of the application. There were no responses. He also asked three (3) if anyone wished to speak in opposition to the application. There were no responses. There were no questions for the Applicant or the ZEO.

Motion by Chairman MacNeil; seconded by Board Member Adams to close the Public Hearing, 22 ZBA 3. Discussion: none. Voice vote: 5-0, all in favor. Motion carried.

- b. Discussion & Decision 22 ZBA 3** – Applicant/Owner: Integrity Properties Group, LLC for a variance of Zoning Regulations 9.6.3 (R20 Rear Yard setback) for the location of a single-family dwelling with landing and stairs a distance of 39.3 to 39.2 from the rear property line at 19 Moxley Road (069-032-001) Uncasville CT. *(DRD 65 days from close of public hearing.)*

Motion by Chairman MacNeil; seconded by Board Member Adams to GRANT a variance of Zoning Regulations Section 9.6.3 (R20 Rear Yard Setback) for the location of a single-family dwelling with landing & stairs a distance of .80 feet from the rear property line as requested in Application #22ZBA3 and as shown on a plan entitled "Deck Modification Plan, 19 Moxley Road, Uncasville, Connecticut, Prepared for Callinan Construction, LLC, Dated 9/14/22."

The hardship is the amount of ledge and large boulders limits the location of the dwelling on the lot that meet R20 required setbacks. The findings for the granting of the variances are the variance would be in harmony with the general intent and purpose of the Montville Zoning Regulations and would conserve the public health, safety, convenience, welfare.

Discussion: Board Chairman MacNeil remarked on the Applicant's comments that were apologetic and deemed an honest mistake given the imperfect lot as was explained. Board Member Attwater-Young noted adjustments were made for the egress. Board Chairman MacNeil clarified for Board Member Adams the reason for the removal of the deck and installation of stairs. He also noted for the record that all neighbors were notified about the modification as questioned by Board Member Adams. Roll Call Vote: *In favor*: Board Members Adams, Attwater-Young, Berardy, Gladue, and MacNeil, . *Opposed*: None. 5-0 vote. Motion carried.

6. New Business:

Board Member Attwater-Young noted the Board was an entity of the Town and asked that the Pledge of Allegiance be added as the second item on the Agenda going forward.

7. Old Business: -- *None*

8 Other Business: -- *None*

9. Adjournment

Motion by Board Chairman MacNeil; seconded by Board Member Adams, to adjourn the meeting at 6:17 p.m. Discussion, none. Voice vote: 5-0; all in favor. Meeting adjourned.

Respectfully submitted by:

Gloria J. Gathers
Recording Secretary, Town of Montville

**AN AUDIO RECORDING OF THE MEETING IS AVAILABLE ON THE
TOWN WEBSITE.**