

**ZONING BOARD OF APPEALS
MEETING MINUTES
REGULAR MEETING OF TUESDAY, APRIL 15, 2025**

I. CALL TO ORDER

By: Gerrity Time: 7:03 p.m. Place: Annex and Zoom

II. ROLL CALL:

		PRESENT	ABSENT
REGULAR MEMBERS:	Thomas Delucco		X
	Caroline Dowd	X	
	Scott Francis	X	
	Michael Gerrity (Chair)	X	
	William Zenko	X	
ALTERNATE MEMBERS:	Peter DePaola		X
	Patricia Hodge (seated for Delucco)	X	
	Cheryl Ann Resha	X	
STAFF:	Jana Roberson, AICP, Director of Planning & Development		X
	Heidi Leech, Planning Technician/Zoning Enforcement Officer	X	
	Natalia Yeschick, Recording Secretary (via Zoom)	X	

III. READING OF LEGAL NOTICE

Francis read the public hearing notice into the record.

IV. EXPLANATION OF PROCEDURES

Gerrity explained the public hearing procedures.

V. PUBLIC HEARING

a. ZBA-25-3 – Request for variance from Table 4.04A.c of the Zoning Regulations to allow a complete reduction of the 20-foot rear yard setback along Coventry Lake at 4 Avery Shores in the LR Zone; Applicant: Cori Stolbun, Owner: Laura Smith.

Applicant Cori Stolbun and Ellie Hutchins were present to discuss the application. Stolbun said they are requesting to add a deck to the house facing the lake. There is uneven ground that is wet and muddy, and they would like to make it a safer place for their elderly and young family members.

Gerrity asked how high the deck would be over the yard. Stolbun responded that the deck will be right on top of the yard.

Gerrity asked why the deck needs to go so far out, and why it cannot be pulled into the property line. Stolbun explained it was pulled back to where Inlands Wetlands told them to pull it back to already. They were not aware the property line is not the rock wall.

Gerrity asked if the deck would exceed the rock wall. Stolbun responded that the deck will be up to the rock wall.

Gerrity asked if there would be a gate down to the water. Stolbun responded there would be a gate and a step down that was already there.

Francis confirmed the line on the chart provided going through the proposed area is the property line and not the concrete retaining wall.

Leech explained the confusion is that when they went to the Inland Wetlands Agency, they were using a proposed site plan, not the foundation as-built and the house was not placed exactly as proposed, so the measurements are off. The foundation as-built shown places the foundation only 12-feet 6-inches from the property line and they are proposing a 16-foot deck, so it goes over the property line. Hutchins responded that the posts are already installed from what was approved by Wetlands and they are not over the wall, they are up to it. Stolbun stated they thought they were all set to build after that approval but then found out they missed a step which is why they are now here.

Leech showed the survey and confirmed where the deck is ending stating it is 15 feet 6 inches in length but since the house is only 12 feet 6 inches from the property line based on the stamped A-2 survey, the proposed deck is beyond the property line.

Gerrity asked the applicants if they own right up to the water. Hutchins stated she always thought they did although she did know about the pins. Hutchins said Wetlands didn't have a problem with them going all the way up to the rock wall as long as it didn't go over.

Leech stated that the Inland Wetlands Agency's concern is proximity to the water but the ZBA's concern is property lines and setbacks. To our best knowledge this survey says they located iron pins and provided a measured property line. Gerrity asked whose property is beyond that property line to the lake. Leech responded that it is a bit of a grey area regarding who owns the lakefront and the sand versus littoral rights of the homeowners to use it. Leech said she discussed this with the Director of Planning in preparation for the meeting and found that there is no clear answer.

Gerrity explained we cannot approve them exceeding the property line but can approve a variance. Leech agreed that it is within their authority to grant a complete setback variance up to the property line.

Leech asked how the deck fits in with the stairs coming down from the upper deck. Hutchins responded that the deck will be going over the stairs. There is an existing upper deck they will also be replacing.

Gerrity explained they would need to get some answers about ownership of the beach as they cannot approve an extension beyond their property if they want the deck approved as submitted.

Leech mentioned the deed states the iron pins are the property line. Francis stated we can approve a variance up to the property line.

Dowd asked how much distance there will be between the property line and the existing stairs. Zenko answered that the property line goes right up to the retaining wall.

There was discussion regarding the property line in relation to the stone wall. Zenko stated it looks like there is an overhang of the deck over the wall. Stolbun responded there was originally supposed to be an overhang of the stonewall but Inland Wetlands reviewed it and made them pull it back to the stonewall.

Leech brought up an aerial photo depicting the proposed deck and property line. Leech explained the yellow line on the aerial map shown represents the property line based on the survey and the deck is in red. Leech stated that legally a variance beyond their

property line cannot be granted. They are proposing a deck of 15 feet, 6 inches, over the property line. There was some question as to whether the last two feet on the contractor's sketch were deck or not. Hutchins said the extra two feet is supposed to be the distance to the wall.

Gerrity asked where the helical piers are installed. Hutchins stated the helical piers are before the stone wall, and in the grass.

Gerrity explained the main issue right now regardless of whether we want to approve of the deck is if the helical piers exceed the property line. There are two unanswered questions: Do the helical piers exceed the property line? Who owns the property beyond the property line?

Leech explained that because we have an A-2 survey, stamped and signed by a CT licensed land surveyor showing located pins and a set rear property line, we have to go by that. The survey doesn't just say "closure line" like some other lakefront lots. It has a rear property line. Gerrity said it's like how the Town or the State technically owns the first few feet of your property along the road that allows them to do maintenance without being sued. Leech stated she did not find any formal right of way on file for their lakefront.

Zenko explained the Town has a policy that the lake gets lowered every winter to allow the residents along the lake to maintain walls or rocks etc.

Francis asked how far into the project they got? Hutchins responded that the contractor only installed helical posts based on what Inland Wetlands told them to do. They received a letter that they passed, and they received a permit. When the contractor went to Town Hall to request the posts get inspected it was pointed out that they do not have a permit for a deck. Leech explained there was confusion regarding the Inland Wetlands approval being mistaken for an approval to build a deck.

Gerrity explained this cannot be voted on tonight and suggested they take advantage of coming back next month to determine who owns that land and if they can do what they want on it. The deed says they own up to the pins. We cannot approve of a deck if it is beyond the property line. We will approve a deck up to the property line.

Hutchins explained to Leech that some of the posts that were attempted to be put in could not go in because of rock. Additionally, Hutchins would be amenable to reducing the size of the deck to within the property lines established by the licensed land surveyor.

The public hearing was closed.

MOTION: Move to approve the request for variance from Table 4.04A.c of the Zoning Regulations to allow for a complete reduction of the rear yard setback to the property line as established by the licensed Land Surveyor and located pins along Coventry Lake at 4 Avery Shores, with the finding that it is in harmony with the general purpose and intent of zoning regulations and will not be contrary to the public interest.

The circumstances unique to the property and not the result of the actions of the applicant are that the land is not level and is unsafe, and the variance will allow for safer family recreation, maintenance and safety.

By: Dowd

Seconded By: Francis

Voting:

For: Dowd, Francis, Gerrity, Hodge, Zenko

Against: None

Abstain: None

Motion unanimously approved.

b. ZBA-25-4 – Request for variance from Table 4.04A.a of the Zoning Regulations to allow a 9-foot reduction of the rear yard setback from 50-feet to 41-feet from the property line, at 287 Root Rd in the GR-40 Zone; Applicant/Owner: Mary Champ.

Champ is requesting to put a deck off the rear of her house to make it more useful for her growing family. She explained that she received a variance a few years back for an addition and the deck would connect to the addition. It would be 41 feet from the rear property line.

Leech brought up photos of the existing house and area of the proposed deck. The Board reviewed the proposal.

Zenko asked if the deck would encompass both exterior doors. Champ confirmed it will.

The public hearing was closed.

MOTION: To approve the request for variance from Table 4.04A.a of the Zoning Regulations to allow a 9-foot reduction of the rear yard setback from 50-feet to 41-feet from the property line, at 287 Root Rd finding that the new deck will not create any detrimental effects to the health, safety, or welfare to the public. This is in

harmony with the general purpose and intent of zoning regulations and will not be contrary to the public interest.

By: Gerrity

Seconded By: Dowd

Voting:

For: Dowd, Francis, Gerrity, Hodge, Zenko

Against: None

Abstain: None

Motion unanimously approved.

VI. NEW BUSINESS/DISCUSSION:

a. Approval of February 18, 2025, Regular Meeting Minutes

MOTION: *I motion that the minutes of the February 18, 2025, meeting be approved.*

By: Francis

Seconded By: Zenko

Voting:

For: Dowd, Francis, Gerrity, Hodge, Zenko

Against: None

Abstain: None

Motion unanimously approved.

VII. ADJOURNMENT:

The meeting was adjourned by Gerrity at 7:51 p.m.

Respectfully Submitted,

Natalia Yeschick

Natalia Yeschick, Recording Secretary

PLEASE NOTE: These minutes are not official until approved by the Zoning Board of Appeals at the next meeting. Please see the next meeting minutes for approval or changes to these minutes.