

MEMORANDUM

TO: Planning and Zoning Commission

Zoning Board of Appeals

Town Council

FROM: Eric M. Trott, Director of Planning and Development EMT

DATE: March 18, 2020

SUBJECT: Variance applications

This memorandum is in response to comments and recommendations that were made by a former member of the Zoning Board of Appeals (ZBA) at recent Planning and Zoning Commission (PZC) and Town Council (TC) meetings. The former member's comments relate to the applications that were reviewed by the ZBA during her tenure and a variety of conclusions that were rendered about the type of applications the ZBA reviewed. Recommendations were made by the former member to the PZC about how the Zoning Regulations should be amended to address the concerns. Attached is a copy of the letter that was read into the record by the former member and was attached to the PZC minutes.

The alleged concerns raised by the former member specifically involve the following:

- : Fees charged to applicants.
- : Applications involved Coventry Lake properties.
- : Predominance of ZBA applications were for shed structures.
- : Need for Zoning Regulation changes to create more flexibility.

Planning Staff reviewed the ZBA application records for the years 2014 to 2019, which is the time frame of the former member's tenure. Based upon that research, the following results were found:

Total ZBA applications = 52

Total withdrawn applications = 2

Total applications involving Coventry Lake properties = 24

Total applications involving Lake Residence Zone properties = 26 (the Lake Residence Zone includes Coventry Lake and Pine Lake Shores)

Total applications for variances involving sheds around Coventry Lake = 4 (2 involve lot coverage, 2 involve setbacks)

The research indicates that nearly half of the ZBA's applications related to Coventry Lake and Pike Lake properties. This is not unusual since these are the areas in town where there is the largest concentration of nonconforming lots and structures. Due to this fact, it is logical that a large number of applications would be made concerning these properties.

However, the research indicates that variance requests for sheds are not the predominant application that the ZBA considers, as evidenced above. Since the ZBA is not empowered to issue use variances, the standard application that the Board considers is for relief of the dimensional standards (setback distances from property lines or the amount of impervious coverage on a lot). The ZBA considered a variety of variance requests, other than sheds. These projects involve the following: additions, single family residences, garages, driveways, decks and porches.

It is important to note that Staff monitors the nature and type of ZBA applications that are administered to be aware of any 'themes' that exist. These themes can represent a problem with the Zoning Regulations that require the attention of Staff and the PZC. If there is a section of the zoning regulations that repeatedly is the subject of a variance, which may cause an undue burden on the community, then it should be examined and corrected.

Based upon the research Staff has performed, it does not seem prudent to suggest that changes in how sheds are administered is warranted at this time. Sheds in the Lake areas are not the predominant type of application that the ZBA considers. Amendments were made to the Zoning Regulations in 2006 and 2015 to create more flexibility for primary (residences) and accessory structures (ie: sheds) on nonconforming lots in the following manner:

- : Increase in the lot coverage factor in the Lake Residence Zone, if infiltration methodologies are employed to improve stormwater protection. This is probably the most significant amendment that has been adopted.

- : Sliding scale for setbacks on smaller, narrower lots that provides more choices for the location of a structure to conform.

- : Allowance of a shed by right of no larger than 100 square feet on a nonconforming lot.

- : Greater flexibility provided in the accessory structure regulations that allows smaller sheds to be located closer to property lines.

The Commission discussed the comments of the former member and two Commission members responded that while they understand the recommendations, the Commission and the Board must be cognizant of negative impacts that can occur with the significant reduction of required setbacks to property lines. Both the Commission and Board must carefully consider the impacts to public health, safety, welfare and property values when regulations are created or varied. The significant density as well as the close proximity of residences and accessory structures in the Lake Residence Zone warrant special attention when considering neighbor's interests.

With respect to the fees charged to applicants, the Town is subject to the requirements outlined in the CT General Statutes for legal notice publication. It is necessary to print no less than three legal notices in The Chronicle for each ZBA application - two legal notices advertising the public hearing and one for the decision.

For many years, the Town budgeted funds to cover the payment of the required legal notices for all land use board and commission applications, which amounted up to \$7,000 per year. Several years ago, Planning Staff recommended that the applicant bear the responsibility of paying for the legal notices as part of the standard fees that were collected. The intention was to reduce the Land Use Department budget overall. This change in the Land Use Fee Ordinance succeeded in providing a significant cost savings for the Town.

A total of \$600 for legal notice fees is collected for land use applications requiring public hearings. This equates to \$200 per printing, which is the average cost to print a single legal notice. The legal notice fees needed to be adjusted over time to cover the routine price increases of The Chronicle, because the fees collected were not covering the cost of the legal notices. The applicant is also required to pay a \$60 application fee to the State of Connecticut.

Staff is unclear how the fee of \$961.00 was calculated, which was referenced in the former member's letter. The maximum Town fee for a ZBA application can be no more than \$769.00 - \$100 base fee, \$600 legal notice fee, \$60 State fee, \$9.00 public hearing sign fee for a max 3 road frontages. Perhaps, the amount quoted also included the cost to contact abutting property owners by certified mailing, which is also required for variances.

It is also important to note that since 1994, there has been a significant reduction in the number of ZBA applications that are administered by the Board. When Planning Staff began working for the Town, it was not uncommon for the Board to have 10 or more applications in one evening. The large number of applications reflected the fact that there were numerous elements in the Zoning Regulations that needed to be amended. This was accomplished in the years 1995 through 1999, as well as 2006, when a comprehensive revision to the Zoning Regulations was completed. Please refer to the attached graph and table indicating the ZBA application history.

Planning and Zoning Staff will continue to monitor the effectiveness of the Zoning Regulations as well as the nature of ZBA applications to insure that there is a clear sense of equity, clarity, and reasonableness with the Land Use Departments regulations and practices. It is the Department's intention to remain responsive to community land use needs and receptive to input on the processes, so that a fair balance of property interests can be preserved.

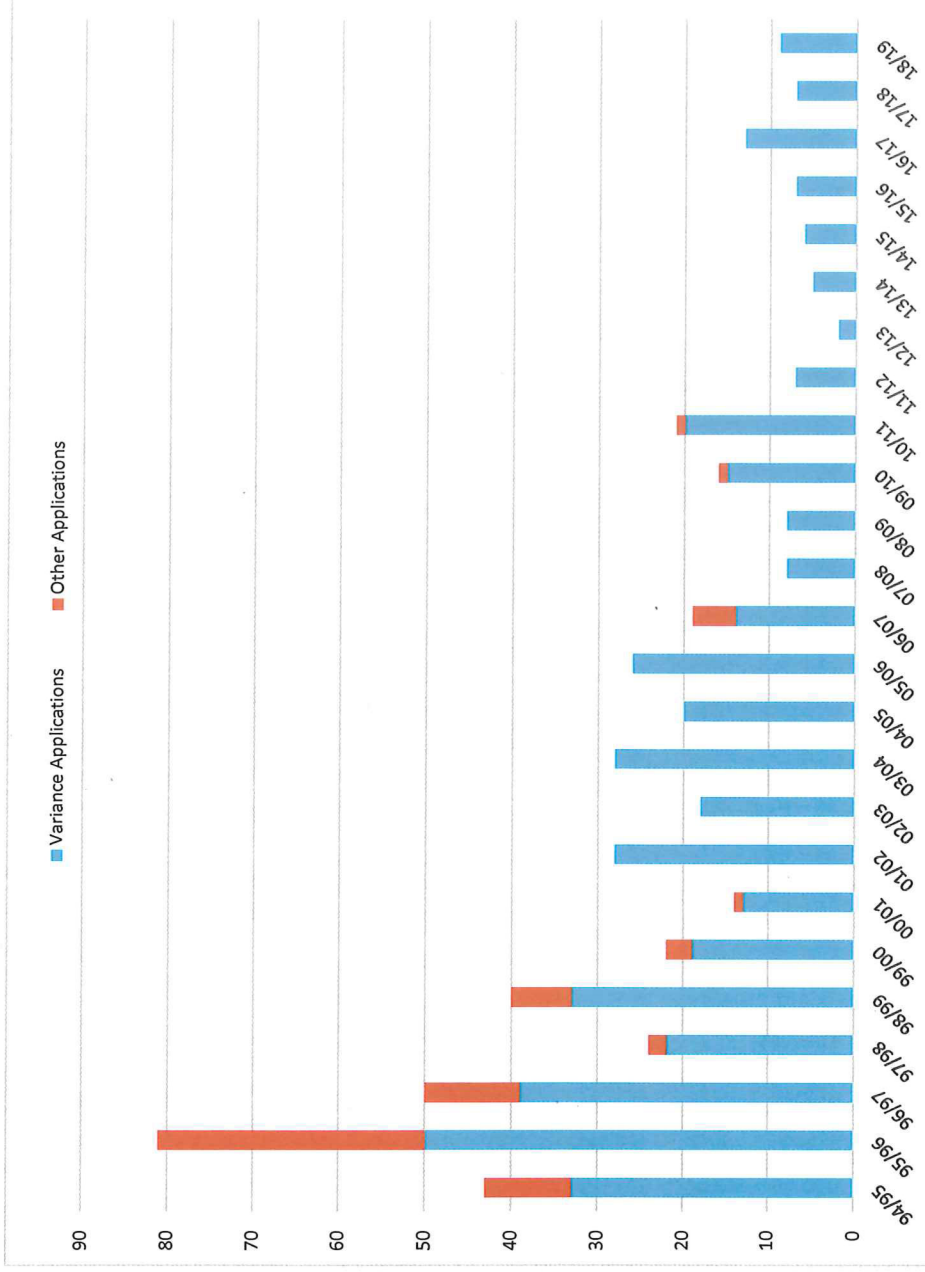
Please don't hesitate to let me know if there are any questions on this matter.

Thank you very much.

ZBA Yearly Total Variance Applications
Fiscal Year 94/95 - 18/19

Other = Special Exception, ZEO Appeal, Motor Vehicle Dealer/Repairer Location Applications
Totals do not include withdrawn applications

	Variance Applications	Other Applications	Total
94/95	33	10	43
95/96	50	31	81
96/97	39	11	50
97/98	22	2	24
98/99	33	7	40
99/00	19	3	22
00/01	13	1	14
01/02	28	0	28
02/03	18	0	18
03/04	28	0	28
04/05	20	0	20
05/06	26	0	26
06/07	14	5	19
07/08	8	0	8
08/09	8	0	8
09/10	15	1	16
10/11	20	1	21
11/12	7	0	7
12/13	2	0	2
13/14	5	0	5
14/15	6	0	6
15/16	7	0	7
16/17	13	0	13
17/18	7	0	7
18/19	9	0	9
	<u>450</u>	<u>72</u>	<u>522</u>



ZBA talk

Hello, my name is Carol Chipkin. I live at 454 Cassidy Hill Road.

I spent the last 6 years as a member of the Zoning Board of Appeals. In those years the applicants cost of appearing before the ZBA increased from \$588.00 to \$763.00 and went as high as \$961.00.

In those 6 years, by my account, the ZBA acted upon 49 cases. Of those 49 cases, 26 were located around the lake. As you all know, the properties around the lake are very small (postage stamp size) and they do not comply with the current distance from property line zoning regulations and they predate the current zoning regulations. I also noted that because of their size these properties are among the least expensive in Coventry.

Most of the 26 cases were requests for a storage shed. You're forcing these property owners to pay \$763.00 for permission to install a shed that cost \$2500.00 with no guarantee that permission will be granted. One of the cases, involved an individual who paid \$588.00 to the town for the right to build a handicap ramp.

I'm requesting you change the zoning property line distance requirements for the homes around the lake. Due to the size of the properties I believe a 1 foot distance, from property line seems appropriate. By mandating the ZBA fees, which are a hardship, on the most vulnerable homeowners in Coventry you are discouraging property improvements. If, on the other hand, you encouraged improvements by lake property owners, it would raise property values which would raise tax revenue for the town.

Pattee responded that the PZC does not set application fees. Pattee recalls an application of someone wanting to keep chickens and they had to spend that amount of money on the application, as well.

Staff reported at one time the Town was spending \$8,000-\$9,000 on legal notices. All citizens were paying part of the applications fees. During a budget process Land Use was told to be frugal and creative so the pay-as-you-go or as-you-develop fee system began to be used. Applicants now bear this responsibility. The legal notice fees are the largest part of the application fees and continue to rise 2-3% per year as newspapers are struggling. Towns are lobbying to remove the need to notice in newspapers and notice in other manners. Newspapers are lobbying to remain part of the noticing process. The average for a standard legal notice is \$200 per printing and three printings are required for each application.