

MORRIS Zoning Board of Appeals
COMMUNITY HALL • 3 EAST STREET • MORRIS, CONNECTICUT 06763

Special Meeting Morris Town Hall and Live on Zoom

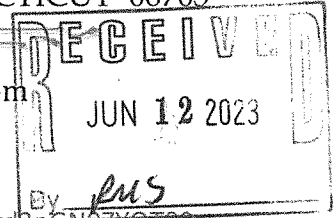
June 14th, 2023 at 5:30 pm

Call in # 1-929-205-6099

<https://us02web.zoom.us/j/2374621036?pwd=Q0puT0taVVFyYittVHBxd2pGN0ZlYT09>

Meeting ID: 237 462 1036

Passcode: 239114



Regular Members:

Allen Bernardini
James Wheeler
Giles Giovinazzi
Mark Conlon
Margaret Palumbo

Alternates:

Lewis Pulliam
Derick Galinski F.
Nancy Skilton

Staff: ZEO Tony Adili

Special Meeting Agenda

- 1. Call to Order**
- 2. New Business**
 - a. Application for a Variance ZBA 23-01**
- 3. Approval of Minutes**
 - a. January 25th, 2023 Special Meeting**
- 4. ZBA Communications and Bills**
 - a. Quarterly Newsletter**
- 5. Adjourn**

ZONING BOARD OF APPEALS APPLICATIONS
TOWN OF MORRIS
3 East Street, P.O. Box 66, Morris, CT 06763

Date: June 1, 2023	Permit #: 23-1
Billing Name: CLIFFORD M. WHEELER	
Billing Address: SAME	
Property Location in Morris: 321 THOMASTON RD.	
Contact Phone Number 860 2838492	
Contact Cell Number	

Fees listed are the minimum required and are to be paid upon receipt.

.....

SECTION I: ZONING BOARD OF APPEALS

Zoning Board of Appeals Variance (4500-468-0)	\$ 240.00	240 —
ZBA Surcharge (4502-475-0)	\$ 60.00	60 —

GRAND TOTAL:	\$ 300.00
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Print 3 Copies.

Original to Treasurer with Check or Cash

1 copy to Client, 1 copy to P&Z, I/W, or ZBA

TOWN OF MORRIS
ZONING BOARD OF APPEALS
APPLICATION FOR VARIANCE

Applicant CLIFFORD M. WHEELER Date _____
Location 321 THOMASTOWN RD. Mailing Address SAME
Phone # 860-2838492 _____
Property Owner (if not applicant) _____
Mailing Address _____
Phone # _____

STATE CLEARLY VARIANCE REQUESTED

I AM NOT SEEKING A VARIANCE, BUT A
REQUEST FOR RECIEF FROM THE UNANIMOUS
ACTION OF THE ZONING BOARD AT THIER MAY 31ST
2023 MEETING TO REMOVE FROM THE AGENDA
A TRAILER IN VIOLATION FOR THE PAST MANY
MONTHS AT 122 THOMASTOWN RD. ALLOWING IT
TO REMAIN IN VIOLATION.

MY REQUEST IS TO SIMPLY UPHOLD THE
TRAILER REGULATIONS AS STATED AND APPROVED
BY THE ELECTORATE OF THE TOWN OF MORRIS.

*****OVER*****

* Transcript of the Record of Hearing may be made available upon formal request at the prevailing price. *

- A Plot Plan 24" X 36" showing grade elevations drawn up by a registered surveyor with a photograph of the property and the land in question should be attached to this application.
- Request for postponement of Hearing shall be treated as a new application including all costs.

ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

DATE _____

APPLICANT _____

Location _____

Hearing Held _____

Action Taken _____

FEE SCHEDULE

All Applications to the Zoning Board of Appeals shall include a receipt from the Town Clerk that appropriate fee has been paid as follows:

Fees: \$240.00 Town plus \$60.00 State

* **Total Fees are: \$300.00**

*1 Appeal from Decision of Zoning Officer

*2 Application for Variance

695759

DATE: 6/1/23

NAME: Clifford Wheeler	
ADDRESS: 321 Thomaston Rd	
SOLD BY:	CASH C.O.D. CHARGE ON ACCT. MDSE RTD. PAID OUT

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	Z BA		
2	Application		300.00
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

CUSTOMERS ORDER NO. _____ RECEIVED BY: *Kiana Bellon*

KEEP THIS COPY FOR YOUR RECORDS

©REDIFORM® 5L527

CLIFFORD M WHEELER
OR REBECCA C WHEELER
321 THOMASTON RD
MORRIS, CT 06763

6052

51-70102111
105

CHECK AMOUNT

Date

6-1-23

\$ 300.00

Dollars

TOWN OF MORRIS

Three hundred and 00/100

Webster Bank
Webster Bank, N.A. Member FDIC

For: Z BA

1211170101010080961040116052

Noted Clerk

GREEN SHEET

Variances/V

MORRIS PLANNING & ZONING COMMISSION
COMMUNITY HALL • 3 EAST STREET • MORRIS, CONNECTICUT 06763

Regular Meeting Morris Town Hall and Live on Zoom
May 3rd, 2023 at 7:00 pm
Call in # 1-929-205-6099
<https://us02web.zoom.us/j/83261225058?pwd=OTIld3NqVDR0TWVBUjlkUjU3ZtQT09>
Meeting ID: 832 6122 5058
Passcode: 723581

David Wiig Chairman		
Barbara Bongolotti	Dylan Hovey	Alternates:
Helen White	William Ayles Jr. (Vice-Chairman)	Chris Ciaffaglione
Veronica Florio	David Geremia Jr.	Geoff Paletsky
Douglas Barnes (Secretary)	Kim Dore	Erika Leone
Staff: ZEO Tony Adili		
Planner Janell Mullen		

Minutes

1. Call to Order

The meeting was called to order at 7:01 with David Wiig, Douglas Barnes, Veronica Florio, William Ayles Jr, Kim Dore, and Erika Leone who was seated for Barbara Bongolotti present.

2. Agenda Review

Douglas Barnes made a motion to add number 9. Executive Session for a personnel matter to the agenda. Veronica Florio seconded the motion and the motion passed unanimously.

3. New Business

4. Old Business

5. Complaints

a. 136 Stoddard Rd

Remove from List

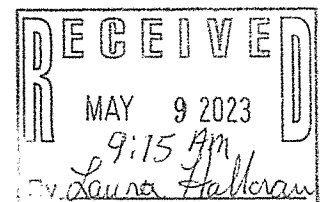
b. 95 Thomaston Rd

Douglas Barnes made a motion to take enforcement action on 95 Thomaston Rd for too many unregistered vehicles. Veronica Florio seconded the motion. The motion passed unanimously.

c. 120 Burgess Rd

No action taken, will be on June 7th agenda.

d. 9 Town Garage Rd



Remove from list.
e. 296 West Street

Remove from list.
f. 302 East Shore Rd

Remove from list.
g. 122 Thomaston Rd

Veronica Florio made a motion to remove 122 Thomaston Rd from the agenda. Kim Dore seconded the motion. The motion passed unanimously.

6. Other Business
a. February 1st meeting minutes

Veronica Florio made a motion to approve. Helen White seconded the motion. The motion passed unanimously. Erika Leone abstained.

b. February 1st Public Hearing Minutes

Veronica Florio made a motion to approve. Helen White seconded the motion. The motion passed unanimously. Erika Leone abstained.

c. February 15th meeting minutes

Item needs to be removed because the February 15th regular meeting was canceled.

d. February 15th public meeting minutes

Veronica Florio made a motion to approve. Kim Dore seconded the motion. The motion passed unanimously. Erika Leone abstained.

e. March 1st meeting minutes

Veronica Florio made a motion to approve. Helen White seconded the motion. The motion passed unanimously. Erika Leone abstained.

f. March 1st public hearing minutes

Veronica Florio made a motion to approve. Helen White seconded the motion. The motion passed unanimously. Erika Leone abstained.

g. April 5th meeting minutes

Veronica Florio made a motion to approve. Helen White seconded the motion. The motion passed unanimously.

h. April 19th meeting minutes

Veronica Florio made a motion to approve. Helen White seconded the motion. The motion passed unanimously. Erika Leone abstained.

i. April 19th Public Hearing Minutes

Veronica Florio made a motion to approve. Helen White seconded the motion. The motion passed unanimously. Erika Leone abstained.

7. Communications and Bills

a. ZEO Report

8. Executive Session for Personnel Matter

Veronica Florio made a motion to enter Executive Session. Kim Dore seconded the motion. The motion passed unanimously.

Veronica Florio made a motion to end the Executive Session. Kim Dore seconded the motion. The motion passed unanimously.

9. Adjourn

Veronica Florio made a motion to adjourn at 9:00 pm. Douglas Barnes seconded the motion. The motion passed unanimously.

CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES QUARTERLY NEWSLETTER

Spring 2023

Volume XXVII, Issue 2

SHORT TERM RENTAL OF HOME CAN BE PERMITTED USE

The owner of a large, shorefront home was issued a cease-and-desist order for offering his property for short term rentals. Typically, the rentals were for one week or less. The home was located in a neighborhood that permitted single family dwellings. The zoning regulations in effect at the time the owner started renting his property did not specifically permit short term rentals.

The owner appealed the cease-and-desist order to the zoning board of appeals claiming that the short-term rental of a single-family home was permitted because it was consistent with this permitted use as long as the rental was to a family and guests. The Board upheld the issuance of the cease-and-desist order finding that short term rentals were prohibited as they were not listed as a permitted use in the regulations at the time this rental activity commenced.

The matter eventually found its way to the State Appellate Court which ruled that under the applicable version of the zoning regulations, short term rentals are a permitted use of a single-family home. The court reached this decision by noting that the owner of a single-family home can do three things with it: he or she can live in it, sell it or rent it. A denial of one of these uses requires that the zoning regulations not be vague as to what is allowed. In the absence of

clear language on renting, the court would not impose a restriction on short term rental of a single-family home.

As a final matter, the court addressed whether the short-term duration of a rental of a single-family home took it outside the definition of the terms 'home' or 'residence' as used in the zoning regulations. The court found that as long as a single family occupies a building as a home or residence at a given time, the building is being used as a permitted use. It makes no difference the duration of the rental unless the zoning regulations specifically provide for a rental period. The court also notes that this decision does not apply to a situation where a property is not rented to a family but instead to a group of individuals. *Wihbey v. Zoning Board of Appeals*, 218 Conn. App. 356 (2023).

FUNDEMENTAL FAIRNESS REQUIRES FAIR HEARING

An application was submitted to allow for the excavation and development of a parcel of property for an office building. The zoning regulations required that a special exception application and site plan be filed with the Planning and Zoning Commission. In addition, the application needed to be reviewed by an architectural review board and variances were also needed to address some zoning compliance issues. The applicant had filed two similar applications with the

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Spring 2023

Volume XXVII, Issue 2

Commission, both of which had been withdrawn. In connection with the earlier applications, the necessary variances and architectural review had been obtained.

When the current application was filed, the planning office staff informed the applicant that his application was not complete. Staff informed the applicant that the variances would need to be obtained again as well as another review by the architectural board. The applicant's attorney strongly disagreed and demanded that the application be heard as scheduled.

At the public hearing on the application, the Commission essentially denied the applicant the right to speak. Instead, the Commission only wanted to know whether the applicant would withdraw the application or grant an extension so that the Commission's staff could review amended documents recently filed by the applicant. The applicant, through his attorney, rejected these options and wanted to proceed on the application. This led to the hearing being closed and the application denied as incomplete.

The Appellate Court found that by not providing the applicant with the opportunity to present its application and, specifically, address the issue of whether the application was complete, it denied the applicant his right to fundamental fairness. Fundamental fairness requires, at a minimum, that a person be allowed to produce relevant

evidence and to cross examine witnesses. By denying the applicant the opportunity to be heard on whether his application was complete, the Commission did not provide him with a fair hearing and thus could not reach an honest decision. A remand was ordered by the court for a full hearing before the Commission. In reaching its decision, the court took note of the use of profanity by some of the Commission members in regard to the applicant and his application. *Taylor v. Planning & Zoning Commission*, 218 Conn. App. 616 (2023).

75th ANNUAL CONFERENCE

The Federation's Annual Conference was held on March 23, 2023 at the Aqua Turf Country Club in Southington Connecticut. Our principal speaker was Hiram Peck, Planner for the Town of Avon, who made a presentation on how municipal land use agencies can comply with the numerous laws passed in 2021 that apply to local planning and zoning. In particular, Hiram's presentation addressed how affordable housing needs and requirements can be met and that by being proactive, municipalities can minimize the effects from any proposed state legislation on fair share housing.

In addition to this presentation, Attorney John Parese presented Length of Service Awards and Lifetime Achievement Awards to those

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Spring 2023

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nominated for these awards. If you would like any of the presentation materials, please contact us at contact.cfpza@gmail.com.

TELECOMMUNICATIONS ACT OF 1996 DOES NOT APPLY TO ALL WIRELESS SERVICES

In a recent decision involving municipal approval of the installation of small wireless facilities, a court has found that the Telecommunications Act of 1996 only applies to the provision of wireless telephone service and not to the myriad of other wireless services we now use on our smartphones. Thus, a wireless telecommunication provider's reliance on the Telecommunications Act of 1996 to overturn a municipality's denial of its application to install numerous small wireless facilities was misplaced. The purpose of this installation was to improve existing services to accommodate new 5G technology.

In deciding that the Village's decision did not come under the reach of the 1996 Telecommunications Act, the court stated the Act applied to providing access for remote users to telephone land lines. Since the existing wireless network in the Village provided this level of service, the Village's decision to deny additional wireless service did not violate the Act. *Extenet Systems Inc. v. Village of Flower Hill, No. 19-CV-5588-FB-VMS (E.D. N.Y. 2022)*

ANNOUNCEMENTS

Membership Dues

Notices for this year's annual membership dues were mailed March 1, 2023. The Federation is a nonprofit organization which operates solely on the funds provided by its members. So that we can continue to offer the services you enjoy, please pay promptly.

Workshops

Connecticut law now requires that every land use agency member receive 4 hours of training every two years. At the price of \$180.00 per session for each agency attending, our workshops are an affordable way for your board to 'stay legal'. Each workshop attendee will receive a booklet which sets forth the 'basics' as well as a booklet on good governance which covers conflict of interest as well as how to run a meeting and a public hearing.

ABOUT THE EDITOR

Steven Byrne is an attorney with an office in Farmington, Connecticut. A principal in the law firm of Byrne & Byrne LLC, he maintains a strong focus in the area of land use law and is available for consultation and representation in all land use matters both at the administrative and court levels.

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MORRIS Zoning Board of Appeals
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Special Meeting Morris Town Hall and Live on Zoom

January 25th, 2023 at 6:00 pm

Call in # 1-929-205-6099

<https://us02web.zoom.us/j/2374621036?pwd=Q0puT0taVVFyYittVHBxd2pGN0ZYQT09>

Meeting ID: 237 462 1036

Passcode: 239114

Regular Members:

Allen Bernardini

James Wheeler

Giles Giovinazzi

Mark Conlon

Margaret Palumbo

Alternates:

Lewis Pulliam

Derick Galinski F.

Nancy Skilton

Staff: ZEO Tony Adili

Agenda

1. Call to Order

The meeting was called to order at 6:00 pm with Allen Bernardini, James Wheeler, Mark Conlon, Nancy Skilton who was seated for Margaret Palumbo, and Lewis Pulliam who was seated for Giles Giovinazzi present.

2. Election of Officers

Mark Conlon made a motion to nominate Nancy Skilton for Chairman. Jim Wheeler seconded the motion and the motion passed unanimously.

Allen Bernardini made a motion to nominate Jim Wheeler as Secretary. Mark Conlon seconded the motion and the motion passed unanimously.

3. Application for a Variance ZBA 23-01 at 120 Looking Glass Hill

Mark Conlon made a motion to reject the Application and return the fee to the property owner because a Variance is not required. Jim Wheeler seconded the motion and the motion passed unanimously.

4. March 8th, 2022 Public Hearing Minutes

Jim Wheeler made a motion to approve the March 8th, 2022 Public Hearing Minutes. Lewis Pulliam seconded the motion and the motion passed unanimously.

5. ZBA Communications and Bills

Jim Wheeler made a motion to add budget to the agenda. Mark Conlon seconded the motion and the motion passed unanimously.

6. Budget

The Budget was provided to the treasurer.

7. Adjourn

Jim Wheeler made a motion to adjourn at 6:20 pm. Mark Conlon seconded the motion and the motion passed unanimously.