

**NORWICH DEVELOPMENT REVIEW BOARD
MINUTES**

May 3, 2018

Tracy Hall Meeting Room

Members present: Lawe, Dean, Ciccotelli, Teeter, Stucker, Carroll

Members not present: Rotman **Alternates present:** Pitiger, McCabe

Alternates not present: **Clerk:** Susan Pitiger, Phil Dechert

Others: Andrew Pearce, Barry Snyder, Lijuan Wei, Glenn Gurman, John Roback, John Eller

The meeting was called to order by Chair Lawe at 7:08 PM

1. **Agenda** – Approved – Changed to Add 5a Election of Officers
2. **Public Comments & Announcements** – None
3. **Minutes:** 4-19-18 Minutes were approved without changes
4. **Administrative Issues**
 - a. Election of Officers –
 - i. Teeter suggested that all board members should serve as chair for a meeting once over a two to three-year period. He also suggested term limits for chair. Nancy strongly disagreed concerning term limits.
 - ii. Teeter moved, seconded by Carroll that Dean be chair of the DRB, Lawe be vice-chair. Motion was approved.
 - iii. Pitiger was approved as acting clerk for the meeting.
 - b. Update
 - i. Director of Planning and Zoning Status - Dechert updated that the town has received several applications for Planning Director/Zoning Administrator and hiring will take place soon. The transition will take several weeks.
 - ii. Future Schedule:
 1. May 17, 2018 – Hearing – Subdivision Applications:
 - a. Continuation of Elwyn Preliminary Plan Review
 - i. 4:00 PM – Site visit, Elwyn property
 - b. Turco Final Plan Review
 - c. Stucker moved and Carroll and McCabe seconded a motion to thank Phil Dechert sincerely for his many years of service as the Planning Director.
5. **Public Hearing: 7:30 PM**
 - a. **#3APP18:** Continued from April 5, 2018 - Appeal of Zoning Administrator's Non-Action to written Zoning Complaints by John Eller, Applicant and Landowner, at 194 Kendall Station Road, Lot #06-072.000 regarding boundary lines on Kendall Station Road and structures and fences built by abutter Glenn Gurman at 186 Kendall Station Road, Lot 06-071.000.

The record in this case includes the following documents:

Submitted by Applicant

- A-1 Application #3APP18, dated 2-2-18
- A-2 Appeal Letter from Applicant with Enclosures, dated 2-2-18
 - a. Appeal Letter, dated 2-2-18

- b. Letter to Norwich Zoning Office, dated 11-18-15
 - c. Letter to Norwich Zoning Office, dated 5-11-16
 - d. Letter to Norwich Zoning Office, dated 10-25-17
- A-3 Glenn Gurman Warranty Deed, Book 181 Page 265, Recorded in the Town Clerk's Office, dated 4-3-07.

Submitted by Zoning Administrator

- ZA-1 Documents and Interested Parties list, dated 4-12-18
- ZA-2 Ortho Base (2016) Photo of 194 and 186 Kendall Station Road, dated 1-23-18
- ZA-3 Zoning Administrator Narrative, dated 1-23-18

Interested Party

- IP-1 Email from Glenn Gurman requesting a continuance of April 5, 2018 DRB Public Hearing, abutter at 186 Kendall Station Road, dated 4-4-18
- IP-2 Letter from Roger Blake, abutter at 176 Kendall Station Road, 4-11-18

The Chair opened the Public Hearing at 7:37 PM.

Present: Members: Lawe, Stucker, Dean, Carroll, Teeter, Ciccotelli, McCabe, Pitiger

Clerk: Sue Pitiger, Dechert

Applicant: John Eller

Interested Parties: Andrew Pearce, Glenn Gurman, Lijuan Wei, Barry Snyder, John Roback

Site Visit Report: Pitiger reported – 4:10 PM at 194 Kendall Station Road – Present: Members: Lawe, Dean, Stucker, McCabe Carroll, Pitiger; Clerk: Pitiger, Dechert; Applicant: John Eller Interested; Parties: Glenn Gurman and Lijuan Wei

Members observed the 7' fence and 4' fence separating the Eller/Gurman properties first from the Eller side. From observation of old tree trunk roots it was apparent what the original grade of the land was. Stucker and Carroll took measurements. The 7' fence ran from the westerly end of the property to the edge of the 75' river setback. For about 32' on the westerly end, the fence sat atop long-established grade, as well as on approximately the same amount of long-established grade on the easterly end. In the middle, new fill had been brought in, making a berm up to two feet tall in places, in order to keep the fence level at the top for the entire length. Therefore, the height of the fence in this newly graded area was at times 9' tall.

They observed a 4' fence running from the end of the 7' fence to the river's edge. As the 4' fence ran down a steep slope to the river, there was up to a 6" gap between the bottom of the pickets and the earth, making the fence about 4'6" by the time it ended.

From the Gurman side, they also observed that 7' fence mentioned above, as well as a 6' fence on the southerly side of Gurman's property close to the river bank and stairs leading down to a small dock.

They observed a carport structure on the southerly side of the Gurman property, set within the side setback of the neighbor. When it was built, it was the

ZA's understanding that it was a temporary structure meant to be removed in the summer months. That never happened.

Carroll moved and Stucker seconded the presence of 3 abutters and two interested parties, as well as the fence contractor for Mr. Gurman.

7' FENCE

Nancy Dean asked Mr. Eller to speak to his complaint. Mr. Eller submitted a site map of his property for septic which showed contours, A-4, done at the time of the property's subdivision. Eller requests relief for the 7 and 4' fences. He claims they are above grade because the 7' fence was illegally put on fill brought in by as many as ten trucks, and the 4' fence that tapers to 6 feet down by the river. Carroll and Stucker pointed out that they had found different results when they measured at the site visit. When asked if he complained at the time of the fence installations, Eller says he did. The ZA came out and stated that he saw a 7' fence. Eller followed up with a letter to the ZA, A2-B.

Mr. Gurman was asked to speak to the issues. His application to the ZA includes a map sketched out by the fence contractor with most of the area labeled "fill allowed" under the 7' fence. According to Gurman, the relationship between him and Eller has been contentious at best, and he was determined to follow the letter of the law in installing the fence. The contractor put a "P" poster (building permit sign) on the garage facing the street, as required. Eller later testified that he never saw the Permit sign, which is why he did not complain before the installation of both fences. Gurman's contractor testified that he had 2 truckloads of fill brought in to go under the 7' fence and one truckload to even out the land in front of the fence at the street side. Also, he claims to have spoken with Mr. Eller early in the project who was fine with the fill being brought in. Gurman's Exhibits include IP-3, 4, and 5, (Photos).

In rebuttal, Eller explained that he cut down the trees on his side of the fence, in front of the new 7' fence, because there was some wire there from the project that interfered with the tree maintenance. This has caused a sharp drop in land grade to be apparent.

4' FENCE

Eller says the fence is much more than 4' in spots and it blocks his view of the river. Gurman rebutted that Eller does not have a view easement. When Stucker and Gurman described their height findings from the site visit, Gurman agreed.

6' FENCE

ZA stated that the fence was in the 75' river setback area and has no permit, though it is a structure. There is no common practice now for treating this fence. It is not in the flood zone but is in the 75' setback. Eller said that he would not object if trees were planted there in its stead. When asked why he had put the fence there, Gurman said that Eller had used a shed on his property, now two stories, to visually invade their privacy.

CARPORT

The ZA could not answer if Eller has standing to object to the carport since he is an abutter with no provable injury. He will research this and get an answer to the DRB. At the time the carport was built, it was the ZA's understanding that it was a temporary

structure, because of the nature of the design and components used. Gurman said he never planned to make it temporary. The ZA has long since amended his opinion on temporary structures and treats all structures going up as permanent and in need of a permit.

Carroll moved, seconded by McCabe, to accept the documents in Exhibit ZA-1; Exhibits brought to meeting A-4 from John Eller, Applicant and IP-3, IP-4, IP-5 by abutter Glenn Gurman.

At 9:35 PM a motion was made by Carroll and seconded by McCabe to close the hearing. The motion passed 7-0.

6. Other Business

- a.** Draft Rules of Procedure – To be discussed at a future meeting

7. Adjournment

The meeting adjourned at 9:41 PM

Phil Dechert, Clerk

APPROVED 5-17-18

Future DRB Meetings:

May 17, 2018 – Hearings: 1. Continuation of Elwyn and 2. Turco

June 7, 2018 – No hearings scheduled

Development Review Board Agendas & Minutes are available at:

<http://norwich.vt.us/development-review-board/>