

**ZONING BOARD OF APPEALS**  
**January 28, 2014**  
**PUBLIC HEARING**

Charles Marino called the meeting to order at 6:00 P.M. with the following in attendance:

Charles Marino, Chair	Steve Macary, ZEO
Arlene Schwartz-Regan, Vice-Chair	Sue Goggin, Asst. ZEO
Basiliza MacCalmon, Secretary, Absent	Public - 3
Edward Rachuba	
David Cronin, alternate	

1. Charles Marino took attendance and noted there was a quorum. Dave Cronin was made a regular voting member in place of Basiliza MacCalmon.
2. **VOTED:** Unanimously on a motion by Ed Rachuba and seconded by Dave Cronin to **APPROVE** the November 19, 2013 Meeting Minutes as written.
3. **6:00 P.M. PUBLIC HEARING APPEAL #1965** – Mr. & Mrs. Zdzislaw (Jeff) and Halina Mycek, of 75-77 School Street, appeal the decision of the Naugatuck Zoning Commission to direct ZEO. Motion to withdraw air pollution complaint from the wood stove at 71 School Street. Regulation 41.1.

Charles told the applicants that they would need a majority vote because there are only 4 members present at the meeting. The applicants said they would like to proceed. Ed Rachuba read Appeal #1965 into the record. Charles Marino read the legal notices from the Citizen's News. Attorney John Gale said he was representing Mr. & Mrs. Mycek. He asked if Steve's report was part of the record. Steve said yes and that the commission has a copy. Attorney Gale showed the commission pictures of the Mycek residence. He said the house is a duplex and they have lived there for 17 years and there is no record of them coming before the zba or zoning commission. He said the Mycek's house is 2½ stories and the house next door is a one story house. He said up until 2011 the Mycek's have lived very peacefully in their house. He said in 2011 the use of the wood stove increased to 24/7 and the smoke started coming over to the Mycek's house. He said the smoke permeates the windows. He said the neighbors attempted to raise the smoke stack in an attempt to get the smoke higher up. He said Mrs. Mycek developed health problems in the form of a cough. The family moved from the side of the house closest to the Patchell's to the other side in an attempt to avoid the smoke. He said that it is a continuing problem. Attorney Gale said that wood smoke is not necessarily something the town would prohibit, but they also recognize that the zoning ordinance recognizes that there can be a time when one party is emitting smoke that becomes a health hazard. He said Mr. Macary has sited that ordinance (41.1) in his report. He said this provides Mr. Macary with the authority to issue a cease and desist order if in fact he finds this to be the case. He then read Section 41.1. He said that the Mycek's position is that this is interfering with the reasonable use of their property. He said they have received a report from the Mycek's doctor that the cough is smoke related. Attorney Gale showed the commission pictures of the smoke coming from the chimney that Mr. Mycek took. Steve said the zoning commission said it is not a public health issue. Attorney Gale said they are not

saying it is a public health issue, it is a health issue for Mrs. Mycek. Steve asked about barbecuing and if it's an issue because Mr. Mycek said it was. Attorney Gale said for the record it is not an issue. Charles said 41.1 reads "public health and safety" and he thinks it covers a greater area than just your next door neighbor. Attorney Gale said he interprets it differently. Steve asked Mr. Mycek if he still keeps his windows open in the winter. Mr. Mycek said no. Ed read a letter from the Naugatuck Fire Department dated November 13, 2013 that certifies that the Patchell's wood stove installation meets the clearance requirements of the Naugatuck Fire Safety Code. Attorney Gale said the use is the problem to the homeowners. Steve said it puts out 3.69 grams per hour which is well below EPA recommendations. He said the Mycek's contacted Valley Health and they sent a packet from the State of Connecticut regarding complaints to wood burning stoves and it says that "public health complaints related to smoke from wood stoves and fireplaces are most appropriately investigated by local health departments". There was a discussion on if the health department was contacted. Attorney Gale said notifying the health department is not an effective solution for anyone in the State of Connecticut. He said that the zba has the power to enforce the zoning ordinances. Ed read the December 18<sup>th</sup> zoning commission minutes item #5. Timothy Patchell, 71 School Street, showed the commission pictures of neighbors who also have wood stoves. He said it is not their only source of heat, however it is their primary source of heat. He said Mr. Mycek takes pictures of them every day. He said they cook in their backyard they get verbally abused because of the smoke from the charcoal stove. He explained that they are very close to the highway and they get a lot of exhaust from it. He said they burn seasoned wood. Charles asked how long they have the stove going in a 24 hour period. Tim said most of the day unless they are cleaning it. Tim said that they have no other heat source in the basement where they spend a lot of their time. Attorney Gale said Naugatuck is a dense community. It is not out in the country where the primary source of heat can be wood. There was a discussion on wood stoves in Naugatuck as primary heat sources compared to somewhere like Litchfield. Dave said when he visited there was a breeze and he didn't think the smoke went 6 inches past the cap toward the neighbor's house. Charles said he sat in his car for an hour and didn't smell smoke. Tim said it is a 6000 btu unit and measures about 24" x 24". There was no public comment. Ed said he's worked a lot with chemicals and he's found that everybody has different tolerances to different things. Arlene asked if there are other people using wood stoves. Tim said all around people are using wood stoves. There was no further comment by the applicant.

**VOTED:** Unanimously on a motion by Dave Cronin and seconded by Arlene Schwartz-Regan that the Patchell's should be allowed to keep the wood burning stove to heat the house.

The meeting recessed at 6:55 P.M.

The meeting resumed at 7:01 P.M.

**6:15 P.M. PUBLIC HEARING APPEAL # 1966** – The Views at Long Meadow Brook, LLC will seek a variance of Sections 24 and 24.1, Schedule B, 5.3 (side yard setback) and 24.10 (minimum buildable dimensions) on property located at Lot w-12 Rubber Avenue Extension; Applicant: Views at Long Meadow, LLC

Ed Rachuba read Appeal #1966 into the record. Attorney Michael McVerry, office at 35 Porter Avenue, gave Steve an affidavit of the mailing of notices and the tax clearance. He showed the commission a map from the Land Records and said they are dealing with Lot #2. He said his client proposed to build a house on Lot #2, which consists of 16,350 square feet and is in an R-30 zone. He said it is currently a non-conforming lot since zoning regulations were not in effect when the lot was created. Attorney McVerry said his client is seeking to build a house which is 33' x 30'. The R-30 zone has a 20' side line setback and they are seeking a 5' variance on the northwest side of the property. He said they could build the house sideways but it wouldn't be aesthetically pleasing or fit in with the neighborhood. James Cormier, the applicant, owns Lot #1 and #2 and the variance he is seeking abuts his own property. There was a discussion on non-conforming lots. Brittany Carvallo, 1131 Rubber Avenue, said they just moved in and wanted to know what the layout was going to be and how this affects them. Ed expressed concerns about it being too close if they grant the variance for the side setback. Scott Clemons, 1233 Rubber Avenue, said he was there because he thought the notice for this meeting was in regard to the whole Salinardi property. He said he is also a builder and would like them to be able to build something that's aesthetically pleasing to the neighborhood. Ed asked if they are going to build both houses at the same time. Mr. Cormier said yes. Mr. Clemons asked if they could do a lot line revision. Mr. Cormier said they cannot do that. The neighbors were fine with the project.

**VOTED:** Unanimously on a motion by Arlene Schwartz- Regan and seconded by Dave Cronin to **GRANT** Appeal # 1966 as presented.

4. There were no additional items added to the agenda.
5. **VOTED:** Unanimously on a motion by Ed Rachuba and seconded by Dave Cronin to **ADJOURN** the meeting at 7:48 P.M.

RESPECTFULLY SUBMITTED:

Basiliza MacCalmon, Secretary/sg