

## Minutes of Public Hearings of Zoning Board of Appeals January 8, 2008

**MEMBERS PRESENT:** Richard Carey, Howard Haberman, Fred Katen, Edward Mead, Nanci Seltzer (7:22)

**ALTERNATES PRESENT:** David Hulme

**STAFF PRESENT:** Peter Crabtree, Assistant City Planner; Rose Elliott, Clerk

The meeting was called to order at 7:00 p.m. Chairman Katen turned the meeting over to Peter Crabtree, Executive Secretary of the Zoning Board of Appeals, for the purpose of election of officers.

### A. ELECTION OF OFFICERS

**Peter Crabtree** asked for nominations for Chairman. Mr. Mead nominated Fred Katen. There being no more nominations, Mr. Crabtree moved that the Secretary cast one ballot for Fred Katen for Chairman. Mr. Crabtree asked for nominations for Secretary. Mr. Katen nominated Howard Haberman. There being no more nominations, Mr. Crabtree moved that one ballot be cast for Howard Haberman as Secretary. Mr. Crabtree congratulated the officers and turned the meeting over to Chairman Katen.

### A. CONSIDERATION OF AGENDA ITEMS

1. **59 Ashburn Lane** (Zone R-12.5) Stephen J. Pujda, owner - request to vary Sec. 4.1.1.4 distance between garage and dwelling (steps) from 8' required to 5' provided to allow garage to remain. Map 92, Block 706, Parcel 76.

**Stephen Pujda**, 59 Ashburn Lane, asked the Board to allow the garage to remain.

**Chrmn. Katen** asked how long the garage has been there to which Mr. Pujda said three months.

**Chrmn. Katen** asked if a permit was pulled.

**Mr. Pujda** said yes. He said he thought the 8' was from the house not the steps.

**Chrmn. Katen** stated it appears the lot is a triangular shape and there isn't much room to put the garage.

**Mr. Pujda** agreed.

**Mr. Mead** asked if there was a foundation for the garage.

**Mr. Pujda** stated it is a pre-built garage from Coulter Farms and just sits on the blacktop.

There being no one to speak in favor or opposition the hearing was closed.

### DISCUSSION:

**Chrmn. Katen** noted the odd shape of the lot and the fact there is no other place on the lot to put it. Mr. Mead said it was an honest mistake by the homeowner in thinking the 8' was from the house and not the steps.

**Mr. Haberman** made a motion to approve with Mr. Carey seconding. The hardship is the irregular shape of the lot. Mr. Carey added there is no other place on the lot to put it. The motion carried unanimously with Messrs. Hulme, Mead, Haberman, Carey and Katen voting.

2. **27 Grant Street** (Zone R-7.5) Daniel Geremia, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 6' to allow air conditioning unit to remain. CAM required. Map 9, Block 124, Parcel 9A.

**Daniel Geremia**, 29 Saranee Circle, Trumbull, stated this is his new home that was just constructed and the air conditioner unit was put in, not knowing there would be a problem with the setback. The manufacturer and the contractor told him this location was the most efficient place for the unit. He submitted a letter from his neighbor, Scott Holliday, who was unable to attend stating he had no problem with where the unit is placed.

There being no one to speak in favor or opposition the hearing was closed.

#### DISCUSSION:

**Chrmn. Katen** stated that a letter needs to be sent to either the Building Dept. or the City Attorney that the Board does not want to hear any more variance requests for air conditioners. He said this is not the purpose of this Board. He repeated an official letter needs to be sent out. Mr. Mead said if someone comes with plans to the Building Dept., they should have the measurements before a permit is issued. If the measurements are not on the plans to begin with, when it comes time to get the Certificate of Occupancy, they should be made to have them removed. Mr. Crabtree confirmed that if someone comes before him, and the air conditioning units are not on the plan, and it shows up on the As-built, he should tell them a variance cannot be asked for, the units need to be moved to which Chrmn. Katen said that was absolutely correct.

**Mr. Haberman** made a motion to approve with Mr. Carey seconding. The reason for approval is that is the only place to put the air conditioner. The motion carried unanimously with Messrs. Hulme, Mead, Haberman, Carey and Katen voting.

3. **103 Orland Street** (Zone R-5) Frederick V. Johnson, appellant, for Gail Lamoureux, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 2' +/- to construct sunroom addition. CAM received. Map 38, Block 559, Parcel 30.

**Frederick Johnson**, 299 Highland Street, West Haven, said there was an existing concrete patio in the rear of the house. They were going to build on top of it and enclose it to create a sunroom. In investigating the structure, it was found that there was no foundation underneath the concrete patio, which is raised up about 2'. Unfortunately, the house and its patio are very close to the property line, hence the variance request.

**Mr. Haberman** asked how far is the patio from the property line to which Mr. Johnson answered 2', inline with the house.

**Mr. Johnson** said they will be building right over the patio and will not be encroaching anymore into the setback. A portion of the patio will be built on for the sunroom and the remainder will be kept as a patio.

**Mr. Mead** asked if the sunroom would be encroaching further into the setback with gutters or overhangs.

**Mr. Johnson** answered they would be matching the overhang of the house, about 10".

There being no one to speak in favor or opposition the hearing was closed.

#### DISCUSSION:

**Chrmn. Katen** said the sunroom would not be infringing anymore on the setback. Mr. Mead said the addition would follow the existing lines of the house. The lot is small.

**Mr. Mead** made a motion to approve with Mr. Haberman seconding. The reason for approval is the new addition will follow the existing lines of the home and the overhangs will also match those of the existing house. The lot is small and this appears to be the only place for the addition. The motion carried unanimously with Messrs. Hulme, Mead, Haberman, Carey and Katen voting.

4. **53 Oakland Avenue cor. Field Court** (Zone R-5) William H. Kramer, owner – request to vary Sec. 4.1.1.3 permitted accessory building height from 15' to 22'4" to allow detached accessory building to remain. CAM required. Map 28, Block 569, Parcel 2.

**Withdrawn.** Chairman Katen read into the record a letter from Ms. Stock to Mr. Kramer.

5. **13 East Avenue** (Zone R-7.5) Stephen W. Studer, attorney, for 13 East Avenue Association, LLC, owner – request to vary Sec. 3.1.4.1 lot area from 7,500 sq. ft. required to 4,623.88 sq. ft. and lot width from 60' required to 35' for lot line adjustment. CAM required. Map 38, Block 558, Parcel 98.

Ms. Seltzer recused herself.

**Attorney Stephen Studer**, 75 Broad Street, said they are looking to adjust the lot line between #13 and #15 East Avenue. These lots were originally created in 1918, prior to zoning regulations. #13 East Avenue consists of two historic lots, Lot #189 and Lot #190. There is a single family home on Lot #190. Lot #189 is vacant with only a small shed for storage on it and was used periodically for parking by the previous owner of Lot #190. #15 East Avenue consists of one historic lot, Lot #188, which contains a single family house on it. This is the residence of the Beirne's. The applicants propose to adjust the property line between #13 and #15 East Avenue. The intent is to convey a portion of Lot #189, 3,121 sq. ft., from #13 East Avenue to #15 East Avenue. The adjustment of the lot line does not create an additional lot and will not affect any street layout or area reserved for public use. If

the variance is granted and the lot line adjusted, the applicants commit to placing a restrictive covenant on that portion of Lot #189, which will be added to #15 East Avenue in order to preserve it as an open side yard and prohibit the construction of any principal structure in perpetuity. He submitted a copy of the proposed restrictive covenant, which will be recorded on the land records simultaneously with the lot line adjustment map. He submitted photos and stated the hardship is that both lots predate zoning. The proposed lot line adjustment will cause #15 East Avenue to increase in lot area and width to more closely conform to the present minimum lot standards. It will increase from 3,540 sq. ft. to 6,660 sq. ft. and from 35' width to 55' width. It will be in harmony with the neighborhood. He submitted a petition and a letter in favor of the application and a map of the neighbors signing the petition.

FAVOR:

**Dennis McBride**, 23 East Avenue, said the Beirnes' have been excellent neighbors and supports their variance request as it will be keeping with the character of the neighborhood.

There being no one to speak in opposition the hearing was closed.

DISCUSSION:

**Mr. Carey** asked Mr. Crabtree to clarify the application, which he did. Chrmn. Katen said this space will never be built on by virtue of the restrictive covenant.

**Mr. Carey** made a motion to approve with Mr. Haberman seconding. The reason for approval is this will reduce the nonconformity of the lot and the covenant will restrict any future development. The motion carried unanimously with Messrs. Hulme, Mead, Haberman, Carey and Katen voting.

6. **25 Raycroft Street** (Zone R-10) Stephen W. Studer, attorney, for K C Funding, LLC, owner – vary Sec. 3.1.4.1 to divide 12,962 sq. ft. parcel into two lots (A & B). Lot A, vary lot area from 10,000 sq. ft. required to 6,437+/- sq. ft. Lot B, vary lot area from 10,000 sq. ft. required to 6,481 +/- sq. ft. Lot A, vary lot depth from 100' required to 89.10' (existing); Lot B, vary lot depth from 100' required to 87.25' (existing). Map 41, Block 303, Parcel 27.

**Attorney Stephen Studer**, 75 Broad Street, stated he is here with Brian and Gary Bier, two members of K C Funding, LLC. The application is to allow for the division of a property that is 12,962 sq. ft., into two separate lots. The existing property is less than 100' deep and is pre-existing, non-conforming. Other than lot area and lot depth, no other variances are needed to build a single family house on each of the proposed lots. The hardship is the existence of a non-conforming use. The house at #25 Raycroft Street is an existing, two family dwelling in a single family zone. This use was established legally in 1942 by the Zoning Board of Appeals, by approving a use variance. K C Funding, LLC purchased the property in April of 2007. Rather than fix up the run down two family house, they are asking the Board to abandon the two family use. They plan to tear it down to build two new single

family homes on the proposed two lots of 6,437 sq. ft. and 6,481 sq. ft. The existing house has been the source of problems in the neighborhood for over 30 years. Numerous complaints and letters to the Building Dept., Planning and Zoning office and the Mayor's office were made. A third apartment was made in the garage behind the home before being taken to court by the City to have it removed. The creation of two single family homes would be more compatible with the character of the neighborhood than the existing two family use. He passed out copies of paperwork from the files to the Board. The granting of this variance will close out several prior variances for this property. He read them into the record. The size of the proposed lots would not be out of character with the neighborhood as there are a number of undersized properties in the area. He submitted a map of the neighborhood to the Board and added of the 28 properties within the 200' radius, 19 are smaller than the minimum required lot size, approximately 68%.

**Mr. Haberman** said they could also tear down the two family and rebuild it or build a single family home to which Atty. Studer said that was correct but not likely.

**Ms. Seltzer** asked what is the hardship.

**Atty. Studer** said it is the peculiar sense of circumstances that relate to this property. The existing two family use in a single family zone, granted by a variance in 1942; along with other variances that have allowed this house to become non-conforming. They have spoken with a number of the neighbors and this house has been a source of irritation to the neighborhood. They support this application.

**Mr. Mead** asked if they knew what type of homes would be built should this application be approved to which Atty. Studer said the homes would conform to the size of what is there now. There will be no McMansions.

**Brian Bier**, 39 Christine Terrace, said the proposed houses would be under 2,000 sq. ft.

**Mr. Carey** pointed out that if this application is approved, they can build whatever they want to build as long as it meets the regulations.

**Mr. Crabtree** stated the existing two family home was a perpetual problem that this application will relieve.

#### FAVOR:

**Noe Andy Charland**, 42 Raycroft Street, said he has lived there since 1965 and submitted 2 letters to the Board from neighbors who could not attend the hearing and an aerial view of the neighborhood. What is being proposed would be a godsend for the neighborhood and asked the Board to approve it.

**Henry Hiltz**, 53 Raycroft Street, has lived there over 70 years, and is happy to have the existing building torn down. His only concern is the water problem. The vacant lot had a stream flowing through it. It was filled in and pipes were installed but a heavy rain still creates problems. He is otherwise in favor of the variance.

**Marilou Csizmadia and Louis Csizmadia**, 24 Raycroft Street, said they are in favor of the application and submitted letters from 2 neighbors also in favor. It will be a benefit to the neighborhood.

**Barbara Fuller**, 31 Raycroft Street, hopes the Board approves it. This two family situation has been going on for too long. She added she is also concerned about the water problem.

**Barbara Knoth**, 16 Raycroft Street, has lived there for 46 years and asked the Board to approve this to get rid of a horrible eyesore.

**Carlos Rodriguez**, 36 Raycroft Street, has lived there for 25 years, and urged the Board to approve the application.

**George Elliott**, 48 Raycroft Street, is in favor.

**John Piselli**, 139 Westfield Road, is in favor.

There being no one to speak in opposition the hearing was closed.

#### DISCUSSION:

**Mr. Haberman** said he is not for subdividing properties. This is a substantial decrease of required lot size; three thousand square feet less than what is required. He didn't think previous variances established a hardship to grant another variance. He understands that if this is granted, no longer can there be a two family house on this property. Chrmn. Katen asked Mr. Crabtree if there was a fire at this two family home, could they rebuild a two family home to which Mr. Crabtree said they could up to 50%. Mr. Haberman asked Mr. Crabtree asked if the subdivision was granted, could a two family be built on either lot. Mr. Crabtree said no, it is a single family zone. Mr. Haberman added the fact that there are so many undersized lots in the area, that is not a hardship, either. The reason they created zoning was to prevent this kind of subdividing of the property and increasing the density. However, he does understand the issue of the two family home within the neighborhood. Mr. Mead said the existing home is in disrepair and should be taken down. He added all the homes on the street are only 80' or 90' deep. Mr. Haberman said they can rebuild a house on the existing lot. They don't have to build two. Mr. Mead agreed. Ms. Seltzer confirmed if they tear down the house, they could build one large house within the scope of the zone to which Chrmn. Katen said that was correct. Mr. Crabtree said once the two family is taken down, that is abandonment and they can only rebuild a single family. They could build an addition to the existing house but could not rebuild another 2 family house. Mr. Hulme said if this is granted, they could still build two houses without any variances. They would be smaller than one big house on the existing lot. Mr. Mead said he would rather see two smaller homes than one big one, overpowering all the other houses in the neighborhood to which Mr. Hulme agreed. Ms. Seltzer said seeing how the neighbors have come out in favor of the application, it appears they would also like to see two smaller single family homes. They are the ones who have had to experience the anguish of the existing house and she would support it.

**Mr. Mead** made a motion to approve with Mr. Hulme seconding. The reason for approval is the existing home has had a lot of problems over the years with the City. It is in disrepair and is hurting the neighborhood. The approval of the variance for two single family homes would be a better fit for the neighborhood. Chrmn. Katen asked Mr. Crabtree about the water problem, if it were a wetlands issue. Mr. Crabtree said it could be referred to them. Mr. Carey stated they are here to vote on the subdivision, not what style house is built, or if there is a wetland problem. If they are going to build houses on that lot, they may have to go for a site plan review, etc. This Board's job is to vote on the subdivision. Ms. Seltzer asked if this were a

division of a lot line or an actual subdivision. Mr. Crabtree said when they come in for a Certificate of Zoning Compliance, we will have them provide paperwork of the history of the property to see if it needs subdivision approval or not. If it needs approval, it will go before the Planning and Zoning Board and would automatically be reviewed by the City Engineer. The motion carried 4-1 with Ms. Seltzer, Messrs. Mead, Carey and Katen voting in favor and Mr. Haberman against.

7. **1 Norwood Avenue cor. Morningside Drive** (Zone R-10) Daniel Marecki, appellant, for Jane Holler & Daniel Marecki, owners – vary Sec. 3.1.4.1 front yard setback from 25' to 17'+/- to erect addition. CAM required. Map 49, Block 604, Parcel 1.

**Daniel Marecki**, 1 Norwood Avenue, said he is requesting a variance for an addition to enlarge his dining room. The existing front of the house is approximately 17'9" from Norwood Avenue and the proposed addition would keep the same distance and stay in line with the house.

**Chrmn. Katen** confirmed he was not encroaching any further into the setback than what is existing to which Mr. Marecki said that was correct.

**Chrmn. Katen** stated it didn't appear there was any other place to put it.

**Mr. Marecki** said there is nowhere else to put it.

**Mr. Mead** asked if the addition was going toward the waterside.

**Mr. Marecki** said yes.

There being no one to speak in favor or opposition the hearing was closed.

#### DISCUSSION:

**Chrmn. Katen** said the applicant is not encroaching any further into the setback than what is existing.

**Mr. Haberman** made a motion to approve with Mr. Carey seconding. The reason for approval is there is nowhere else to put the addition and it is not extending any further into the setback than the existing house line. The motion carried 4-1 with Messrs. Mead, Carey, Haberman and Katen in favor and Ms. Seltzer voting against.

8. **57 Melba Street** (Zone R-5) George W. Ganim, Jr., owner – vary Sec. 4.1.1.4 distance from proposed porch with steps to accessory structure (garage) from 8' to 6"+/-. CAM required. Map 29, Block 587, Parcel 20.

**George Ganim, Jr.**, 57 Melba Street, said he was previously granted a variance on June 12, 2007, to reduce the setback requirement for an addition. That variance included a request to vary the 8' requirement to 2.4' between the principal use and an accessory structure. He was here this evening to further reduce it to 6". The hardship is it is a non-conforming lot, 40'x116'. He is trying to improve the house and the neighborhood.

**Mr. Haberman** asked if this is already built to which Mr. Ganim said he started building it and then realized he needed a variance for it and applied for the variance of his own accord.

**Mr. Haberman** asked if the steps and the porch are built.

**Mr. Ganim** said the steps are there now because the builders are going in and out.

**Ms. Seltzer** confirmed a variance was received in June of 2007 for the front of the house and then a front porch and steps was added to that bringing it to within 6" of the garage.

**Mr. Ganim** said that was correct. It is not complete.

**Mr. Mead** said the first variance was for 2'4" between the garage and the stairs. He recalled he asked if the stairs could be moved over to the right for a lesser variance and was told the architect said it would be more esthetically pleasing keeping the stairs in the middle of the porch. Now you are asking to go down to 6". If there is an emergency and someone or something has to get around that garage, you only have six inches to walk.

**Mr. Ganim** said he made a mistake and that is why he is before the Board. The stairs are still in the center but come out further. While they were building they thought about putting a porch on that side of the house so you could sit out there when the sun is on the other side. Sometimes you don't think of those things in advance and he wished he had.

**Mr. Mead** confirmed the porch now goes the whole width of the house. He asked if that was part of the original variance to which Mr. Ganim said no.

**Mr. Mead** said the variance was granted for a partial porch in the middle of the house and now the porch runs the width of the house.

**Chrmn. Katen** asked what the hardship was.

**Mr. Ganim** said it is a non-conforming lot and he made a mistake.

**Chrmn. Katen** said a 5'8" x 27' porch and steps were added after a variance was already granted.

There being no one to speak in favor or opposition the hearing was closed.

#### DISCUSSION:

**Mr. Carey** said there is no hardship and Chrmn. Katen agreed. The hardship is the gentleman made a mistake. Six inches from the garage is ludicrous. If anything happens, no one can get in or get out or around. Mr. Mead added a variance was granted in June for a porch and stairs and he should abide by that.

**Ms. Seltzer** made a motion to deny with Mr. Carey seconding. The reason for denial is there is no hardship and a danger in coming so close to the garage. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Carey and Katen voting.

9. **73 Botsford Avenue cor. Joanne Drive** (Zone R-5) Walter Erikson, appellant, for Ugly Duck Home Buyers, LLC, owner – vary Sec. 3.1.4.1 front yard setback from 10' to 9' from Joanne Drive and Sec. 6.2.6 to allow restoration to exceed 80% limitation for single family dwelling to remain. CAM required. Map 12, Block 107, Parcel 111.

**Withdrawn.**



## **B. TABLED BUSINESS**

1. **35 East Avenue** – (Zone R-7.5) Frank Mingrone, owner – vary Sec. 3.1.4.1 side yard setback from 4' to 1' to allow accessory structure to remain. CAM received. Map 38, Block 558, Parcel 90A.

**Mr. Mingrone**, 35 East Avenue, said he was there for a 12'x8' shed and at the last hearing the Board asked him to check with the Building Dept. He spoke with Stephen Stefan who said he couldn't look at the shed without a variance. Mr. Mingrone stressed to Mr. Stefan that the Board wanted him to inspect it in order to decide whether or not it should remain and Mr. Stefan told him he had a Catch 22. Mr. Mingrone said the existing footings are 36" deep and he feels the shed will not move. He realizes the neighbor is worried about it being a fire hazard. When speaking to Mr. Stefan at the Building Dept. he asked about the regulations regarding that and he would be willing to conform with anything the Building Dept. deems necessary.

**Chrmn. Katen** asked Mr. Crabtree about the neighbor's fence that was right on the line.

**Mr. Crabtree** said that house was reconstructed and the subject of a CAM review. They went for a new house permit and kept the patio or deck from the previous house. It was not taken down, it was left there. What you see is the railing that goes around the patio or deck.

**Chrmn. Katen** asked what the hardship is to which Mr. Mingrone said the hardship is he has no space for storage. He realized that is not an actual hardship but he has no storage space.

**Mr. Crabtree** said there is no hardship.

**Mr. Mead** asked Mr. Crabtree what the regulations say the distance should be to the wetlands from an accessory building.

**Mr. Crabtree** said any work within twenty-five feet requires a public hearing with the Planning and Zoning Board.

**Chrmn. Katen** confirmed if approved here, Mr. Mingrone has to go before the Planning and Zoning Board to which Mr. Crabtree said that was correct. Mr. Mingrone will have to show how this shed is not damaging to the tidal wetlands. The shed is able to be relocated without needing a variance or going before the Planning Board.

**Mr. Mingrone** said he would work together with Mr. Crabtree to find a better location. He asked that if it is denied, could the Board allow him until the spring or summer to have it taken down or obtain a variance to reconstruct it in a different location.

**Chrmn. Katen** felt the Board could do that.

OPPOSED:

**John Hughes**, 39 East Avenue, said he is against the application. The shed is still 9" from the property. He is still storing volatile materials in it without benefit of a Building Dept. inspection of the electricity.

The hearing was closed.

DISCUSSION:

**Chrmn. Katen** said everything the neighbor says is true and still stands. The shed is very close, there is electricity, there is wetlands and other issues that cannot be dealt with by the Zoning Board of Appeals. You need to start over again. He felt the application should be denied.

**Mr. Carey** made a motion to deny with Mr. Carey seconding. The reason for denial is for all the reasons just stated and he added the statement by the Zoning official, Mr. Crabtree, that the shed could be moved to another location without a variance. The motion carried unanimously with Messrs. Mead, Hulme, Haberman, Carey and Katen voting.

**C. OLD BUSINESS**

**D. NEW BUSINESS**

**E. STAFF UPDATE**

**Mr. Crabtree** said Ms. Stock would be back as the staff member at the next Zoning Board of Appeals hearing.

**F. ACCEPTANCE OF MINUTES FROM DECEMBER 11, 2007 MEETING.**

The minutes were approved with Ms. Seltzer abstaining from the vote.

**G. ACCEPTANCE OF APPLICATIONS FOR FEBRUARY 12, 2008.**

The meeting was adjourned at 8:50 p.m.

Attest:

Rose M. Elliott  
Clerk - ZBA