

**MEMBERS PRESENT:** Howard Haberman, Nanci Seltzer, Joseph Tuozzola

**ALTERNATES PRESENT:** Tom Nichol, William Evasick, John Collins

**STAFF PRESENT:** Kathy Kuchta, Zoning Enforcement Officer, Rose Elliott, Clerk

The meeting was called to order at 7:01 p.m.

## **A. ELECTION OF OFFICERS**

**Kathleen Kuchta**, Zoning Enforcement Officer, opened the meeting and asked the Board for nominations for Chairman. Mr. Haberman nominated Fred Katen with Ms. Seltzer seconding. Hearing no other nominations, Ms. Kuchta asked the recording secretary to cast one ballot for Fred Katen; which Ms. Elliott did. Ms. Kuchta asked the Board for nominations for secretary. Mr. Tuozzola nominated Howard Haberman with Mr. Evasick seconding. Hearing no other nominations, Ms. Kuchta asked the recording secretary to cast one ballot for Howard Haberman; which Ms. Elliott did. The meeting was then turned over to Howard Haberman, in the absence of Fred Katen, to begin the meeting.

## **B. CONSIDERATION OF AGENDA ITEMS**

1. **767 East Broadway** (Zone R-5) Stephen W. Studer, attorney, for Irene Buckley and Ann Marie Mockler, owners – appeal the decision of the Zoning Enforcement Officer in her letter of October 5, 2010 alleging a violation of Section 4.1.7.3 of the Milford Zoning Regulations and ordering removal of fences waterward of principal dwelling. Map 22, Block 474E, Parcel 28.

**Postponed to February 8, 2011 meeting.**

2. **37 Village Road** (Zone R-5) Philip J. Micalizzi, owner– request to vary Sec. 3.8.4.2 to allow 3' side yard setback in lieu of 10' required for 1<sup>st</sup> floor deck. CAM required. Map 60, Block 741, Parcel 5.

**Philip Micalizzi**, 37 Village Road, said the old fire escape he had was pulling down the ledger boards and opening holes in the side of his house. It was all rusted out and the Fire Dept told him he had to take it down, so he did. He would be constructing balconies on the second and third floors but wanted to construct a deck on the first floor. Because the existing house is so close to the building next door, he needs to obtain a variance to construct the deck.

**Acting Chrmn. Haberman** confirmed the proposed deck would be larger than the existing slab to which Mr. Micalizzi said the width of the deck would not be made any larger but the length would be increased to incorporate an existing door. The house as it exists is only 2.5' from the property line.

**Ms. Seltzer** asked what egress the two upstairs dwellings would now have with the fire escape taken down.

**Mr. Micalizzi** said he was told by the Fire Dept. that if he had balconies, two means of egress and a window in each bedroom, that would be sufficient.

**Mr. Evasick** asked if the Building Dept. informed him of any ADA requirements to which Mr. Micalizzi said he had met with the Building Dept. and was not told of any such requirements.

**Ms. Kuchta** told the Board the house is a three family dwelling built in the 1960's. Nothing is being changed on the inside of the home, he is only replacing the fire escape with decks.

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

#### DISCUSSION:

**Acting Chrmn. Haberman** said he didn't have a problem with it. He is just extending the length to incorporate the sliding door. The fire escape was falling down and had to be removed. Ms. Seltzer wasn't clear as to the hardship and noted he wasn't required to put this deck in by the Fire Dept. as a means of egress. Acting Chrmn. Haberman said they need some type of egress in the back of their house. Ms. Seltzer asked Ms. Kuchta for clarification to which she answered the hardship is the size of the lot and the house is pre-existing with only 2.5' to the neighboring building. Mr. Collins commented that because the deck would be kept within the line of the dwelling, it would be okay.

**Mr. Tuozzola** made a motion to approve with Mr. Evasick seconding. The reason for approval is the deck is continuing along the same line as the previous fire escape and the house is pre-existing, non-conforming. The motion carried unanimously with Ms. Seltzer, Messrs. Tuozzola, Evasick, Nichol, and Haberman voting.

**3.306 High Street** (Zone R-12.5) George W. Adams, attorney, for ABAR Development, LLC, appellant, for Donna C. Kustra, owner – request to vary Sec. 3.1.4.1 lot width from 80' to 60.95' for Parcel B for proposed lot subdivision. Map 65, Block 310, Parcel 7.

**George Adams**, attorney, 300 Bic Drive, said Donna Kustra, owner, and Mark Romano, principal of ABAR Development, local builder and contract purchaser of the property, were in the audience. They are proposing to build a new house on parcel A and substantially rehabilitate then sell the house on parcel B. The proposal is to divide the existing parcel into two lots; one parcel to include the existing house and the other parcel to be a building lot for a new house. Parcel B, the lot with the existing house on it, requires a variance for the width from 80' required to 60.95'. However, the existing house does fit entirely within the setback requirements for the zone. Parcel A, would be the new building lot and would be conforming in every respect. They are proposing to create a lot that is 14,000 sq. ft.; more than 1,500 sq. ft. than what is required for the zone. The existing house, built in 1928, prior to Zoning Regulations, would still have 12,519 sq. ft. where 12,500 sq. ft. is required. Historically, this property was two parcels, a 58' parcel and a 83' parcel. They were combined prior to the purchase by Donna Kustra's parents in 1966. When this application first came before the Board in October of 2010, comments from the Board were made including one asking if any consideration was given to creating one fully conforming lot and one non-conforming lot – rather than two, non-conforming lots. This is exactly what they are asking to do now. The hardship is the shape of the lot and the fact the lot was configured from the Baldwin Homestead, prior to Zoning Regulations. One more house on a busy

thoroughfare would not create a traffic problem. They have addressed the concerns of the Board and feel they have a legitimate hardship. It would be unfair to deny Ms. Kustra the benefit of this request for a parcel that has been in her family for over forty years.

**Mr. Tuozzola** asked the width of #294 High Street to which Atty. Adams answered 80' but added that parcel is located in a different zone, the RO zone, which only requires 10,000 sq. ft. minimum lot size.

**Atty. Adams** added if #306 High Street had been located in that zone, they would not be before the Board this evening.

**Ms. Seltzer** thanked Atty. Adams for listening to the suggestions given by the Board and making the necessary changes.

#### OPPOSITION:

**Ben Dyczkowski**, 299 High Street, is against the application because it would increase the traffic and would create a safety issue due to the hill that obstructs the view of traffic in this area. The intersection of High Street and West Main Street is dangerous and accident prone. The proposed house shown on the plans looks small and would not be in harmony with the neighborhood, decreasing the value of the neighboring homes. He submitted his statement to the Board.

**Iwona Zankowska**, 299 High Street, presented the Board with a letter from a neighbor who was unable to attend the meeting. She said the traffic is increasing on High Street, which she called the entrance to Milford and to Historic District #2. Its location to the hospital, downtown stores and restaurants, train station, senior center and schools creates a noisy, pollution filled area with cars speeding down the road. This parcel is the only open space on the street. This beautiful area is very dense and cannot support another house.

**Linda Gustafson**, 294 High Street, said she spoke in opposition in October and is still in opposition. They are taking a lot that is 141' and reducing it to 60'. The driveway would have to be relocated to where the crest of the hill is. The proposed house size appears small for the neighborhood and there would not be a lot of room to work as there is no off-street parking on High Street. She concluded by saying this proposal would change the face of the neighborhood.

**Christina Baker**, 314 High Street, asked whether the proposed house is zoned as single family to which Acting Chrmn. Haberman said that was correct. He then read into the record the letter submitted by Iwona Zankowska, from Michelina Olenski, in opposition.

#### REBUTTAL:

**Atty. Adams** noted he couldn't see how the safety of West Main Street and High Street would be impacted. The size of the house shown on the plans only shows that a house would be able to fit within the setbacks on the lot. It was designed to be built further away from Mrs. Gustafson's house, however, a bigger or wider house could be built.

The hearing was closed.

**DISCUSSION:**

**Ms. Seltzer** said the size of the house was not within the Board's purview. She added one more house on the street wouldn't impact the traffic. She didn't have a problem with the application. Mr. Tuozzola said the density would not be affected. The square footage of this lot is more than enough. Acting Chrmn. Haberman said he still felt it would add to the density of the neighborhood, even though there is ample square footage. He didn't feel every piece of land had to be developed just because it was available.

**Ms. Seltzer** made a motion to approve with Mr. Tuozzola seconding. The hardship is this lot pre-exists the Zoning Regulations. The motion carried 4-1 with Ms. Seltzer, Messrs. Tuozzola, Evasick and Nichol voting in favor and Acting Chrmn. Haberman voting against.

- C. TABLED ITEMS**
- D. OLD BUSINESS**
- E. NEW BUSINESS**
- F. STAFF UPDATE**

Acting Chrmn. Haberman welcomed John Collins to the Board.

**G. ACCEPTANCE OF MINUTES FROM DECEMBER 14, 2010 HEARING**

The minutes were accepted unanimously.

**H. ACCEPTANCE OF APPLICATIONS FOR FEBRUARY 8, 2011 HEARING**

Ms. Kuchta informed the Board there were two variance applications and one appeal so far.

The meeting was adjourned at 7:44 p.m.

Attest:

Rose M. Elliott,  
Clerk ZBA