

Minutes, Public Hearing of Zoning Board of Appeals Meeting held January 14, 2014

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, January 14, 2014, beginning at 7:00 p.m. in CITY HALL AUDITORIUM, 110 RIVER STREET, Milford, CT, to hear all parties concerning the following applications, some of which may have required Coastal Area Site Plan Reviews or exemptions.

A. PLEDGE OF ALLEGIANCE

MEMBERS PRESENT: Joseph Tuozzola (Ch), Howard Haberman (Sec), William Soda, John Vaccino

ALTERNATES PRESENT: Gary Dubois

MEMBERS/ALTERNATES ABSENT: Richard Carey

STAFF PRESENT: Stephen Harris, Zoning Enforcement Officer; Meg Greene, Clerk

Mr. Harris called the meeting to order at 7:00 p.m. and announced the election of officers. **Mr. Haberman** nominated **Mr. Tuozzola** for chairperson, **Mr. Vaccino** seconded, and the vote was unanimous. **Mr. Tuozzola** took charge of the meeting. **Mr. Vaccino** then nominated **Mr. Haberman** for secretary, **Mr. Tuozzola** seconded, and that vote also was unanimous.

Mr. Tuozzola asked for known conflicts of interest for board members with any of the items on the agenda; none were raised.

B. CONSIDERATION OF AGENDA ITEMS

1. **38-40 Bridgeport Avenue** (BB) Daniel Bagley, agent, for McNeiece Enterprises, LLC, owner; Vary Sec. 5.5.4.1 to allow club/restaurant facility w/in 1500' of existing restaurant licensed premise. Map 18, Block 363, Parcel 5

Mr. Daniel Bagley, 38-40 Bridgeport Avenue, addressed the board. He stated that his goal was to get a liquor permit and reinstate use of the property as a yacht club. He said he had been at the address for 4 years and wants to increase boat slip usage, but in order to do this, more must be offered to customers. He noted that all the boat slips were filled when the site was a yacht club. He said he thinks food service is the missing piece of business. He said he currently can't compete with the Stratford Marina across the Housatonic River due to the lack of amenities.

DISCUSSION

Mr. Tuozzola confirmed that Mr. Bagley is not currently serving food. **Mr. Haberman** got clarification that only liquor, not food, had been served many years ago. **Mr. Tuozzola** asked if the use would be members-only. **Mr. Bagley** said he wanted the site to be a club that would attract boaters from all around the area, not just Milford. He said that the charm of Milford Harbor ensures that boaters will use it, but at his location, more amenities are needed to attract business. **Mr. Vaccino** asked if the facility would be seasonal and requested details on the nature of building's rehabilitation. **Mr. Bagley** said the yacht club had been a beautiful building and that he had painted and retiled it, as well as refaced the bar. He said he would like to have the club open year-round for members. **Mr. Haberman** confirmed that the plan was to serve members and visiting boaters, not the general public. He expressed concern about parking. **Mr. Bagley** said he had discussed a plan for optimizing more parking with nearby Bridge Restaurant owner Christopher Saley and they had agreed that boats should be removed from an adjacent area. He said his goal was for most patrons to arrive by boat. **Mr. Haberman** asked Mr. Harris if it would be the case that a board vote to authorize a club use would prohibit a future restaurant use. **Mr. Harris** said that the liquor license can only be used for club members; a public use would require Planning and Zoning Board approval via Site Plan Review. He added that if the use was limited to "members only," parking should not become an issue. He reminded the board that it can add conditions to approvals.

GENERAL PUBLIC COMMENT

Mr. Christopher Saley, 19 Marsh Street, confirmed that he had been in discussions with Mr. Bagley. Mr. Saley said he was concerned about the liquor license as well as parking for private events. He said Mr. Bagley had promised to

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remove all boats from the front lot at 50 Bridgeport Avenue as well as 38-40 Bridgeport Avenue and put lines on the lots. Mr. Saley asked that this be put on the record. He reiterated that he hoped to see the site used as a club, not a restaurant, and expressed concern about the placement of the building on the lot if a restaurant use was ever approved. Mr. Saley also indicated that he and his partner own property abutting 38-40 Bridgeport Avenue. He expressed lingering concern about the potential hours of yacht club events, but said he and Mr. Bagley had agreed to communicate about their plans and work together for the success of the entire area.

BOARD DISCUSSION

Mr. Tuozzola confirmed with Mr. Harris that a full site plan review would be required for a restaurant use. **Mr. Haberman** said he thought the location presented a good opportunity, if confined to club use. **Mr. Vaccino** commended the efforts of Mr. Saley and Mr. Bagley to build a good working relationship and come to agreement.

Mr. Haberman motioned in favor of application. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of revitalizing the yacht club and Devon area. A retraction and further discussion of the motion resulted in an amended motion and the addition of conditions, namely to restrict use of the facility to members and their guests, and that the site not be used by the general public. **Mr. Haberman** again motioned in favor, with **Mr. Vaccino** seconding. The motion carried with **Messrs. Dubois, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

2. **19 ½ Clinton Street** (R-5) Frank and Nancy Juliano, owners; Vary Sec. 3.1.4.1 rear-ym setback to 14' where 20' req; 4.1.1.4 allow a 6' distance between proposed addition and shed where 8' is req; all to construct a 4'x33' addition to house. Map 71, Block 757, Parcel 10A

Mr. Frank Juliano, 19 ½ Clinton Street, addressed the board. He stated that his lot is oddly shaped, very small, and that the house is small as well. He said the addition is needed because he and his wife are caring for his elderly stepfather and that there isn't enough space. He said that his abutters are mostly the City of Milford.

DISCUSSION

Mr. Tuozzola confirmed that the City owns the fencing surrounding his property, although Mr. Juliano owns a vinyl fence on the property as well. **Mr. Haberman** and Mr. Juliano discussed the shed in more detail.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or opposition to the application. Hearing none, he closed the hearing. After a short discussion, there were no issues in dispute, so he asked for a motion.

Mr. Haberman motioned in favor of application. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of hardship of the small nonconforming lot, based on submitted materials. The motion carried with **Messrs. Dubois, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

3. **0 Westmore Road: M-30/B-613A/L-34 & 37** (R-12.5) Warren Field, agent, for Field and Son Builders LLC, owner; §4.1.4 front-ym proj of 16.5' where 24' perm and side-ym proj of 4.5' where 8' perm to allow roof overhang and gutter proj on new house.. Map 30, Block 613A, Parcel 34 & 37

Mr. Warren Field, 17 Beacon Hill Lane, addressed the board. He said he was embarrassed by having to return to seek approval from the board about the same property the month after a variance had been granted for it, but said he had simply forgotten to allow for the overhang and gutter in the previous month's variance application.

DISCUSSION

Mr. Tuozzola commended Mr. Field's diligence in correcting the error.

BOARD DISCUSSION

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Mr. Tuozzola asked if anyone wished to speak in favor of or opposition to the application. Hearing none, he closed the hearing. After a short discussion, there were no issues in dispute, so he asked for a motion.

Mr. Vaccino motioned in favor of application. **Mr. Haberman** seconded. **Mr. Vaccino** supported his motion by reason of the immateriality of granting a request so closely related to a request granted the previous month, based on submitted materials. The motion carried with **Messrs. Dubois, Haberman, Soda, Vaccino and Tuozzola** voting **with the motion**.

4. **20 Highview Avenue** (R-5) Andrzej Smykowski, owner; Vary Sec. 3.1.4.1 side-yd setback to 4.1' where 5', side-yd setback to 8.6' where 10' req for addition. Map 49, Block 726, Parcel 10

Mr. Andrzej Smykowski, 20 Elizabeth Street, Shelton, addressed the board. He said remodeling the house would require a variance. He invited local contractor Patrick Devine to provide more detail on the project. **Pat Devine**, 9 Maddox Street, described the renovation, including the reducing the overall width of the home, while addressing the small size of the existing bedrooms and a need to expand one of them by going over an existing area on the first floor. He said the hardship was a small, non-conforming lot.

DISCUSSION

Mr. Tuozzola confirmed that first floor would be reduced in footprint. **Mr. Haberman** confirmed that the existing nonconformity on the first floor would be decreased and clarified a bump-out in the bedroom extension. **Mr. Tuozzola** confirmed that parking would not be affected.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or opposition to the application. Hearing none, he closed the hearing. After a short discussion, there were no issues in dispute, so he asked for a motion.

Mr. Vaccino motioned in favor of application. **Mr. Soda** seconded. **Mr. Vaccino** supported his motion by reason of hardship of the narrow lot and the reduction in an existing nonconformity, based on submitted materials. The motion carried with **Messrs. Dubois, Haberman, Soda, Vaccino and Tuozzola** voting **with the motion**.

5. **40 Deerfield Avenue** (R-5) Charles S. Moyher, agent, for Kristen Hosp and Matthew Hosp, owners; Vary Sec. 4.1.4 to 5.6' where 8' perm to construct stair & elevate existing house in place. Map 28, Block 575, Parcel 32

Mr. Charles Moyher, 67 Cherry Street, addressed the board. He stated that the house must be elevated to comply with FEMA regulations and that the stairs must be made code-compliant as they were to be moved to accommodate parking underneath.

DISCUSSION

Mr. Tuozzola confirmed that the garage in backyard had been removed. **Mr. Vaccino** confirmed that 2 cars could fit in the garage and that the back stairs were only connected to the deck.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or opposition to the application. Hearing none, he closed the hearing. After a short discussion, there were no issues in dispute, so he asked for a motion.

Mr. Haberman motioned in favor of application. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of hardship of the narrow lot, based on submitted materials. The motion carried with **Messrs. Dubois, Haberman, Soda, Vaccino and Tuozzola** voting **with the motion**.

C. OLD BUSINESS

There was none.

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D. NEW BUSINESS

Mr. Harris provided a letter submitted by Attorney Thomas Lynch of Lynch, Trembicki and Boynton regarding 516 Boston Post Road, requesting that an application be accepted to the ZBA prior to the usual 6-month resubmission waiting period. **Mr. Vaccino** asked if new information was provided with the request to be reheard; **Mr. Harris** said the application did not provide details. **Mr. Haberman** said that the reason for denial is going to persist regardless of the size of any tank and he would be disinclined to hear it again. **Mr. Vaccino** asked to review the letter, which he did together with **Mr. Soda**, who wondered what changes had been made for less congestion. **Mr. Vaccino** said safety was the primary concern and was trying to imagine how congestions could be reduced. **Mr. Tuozzola** said the nonconforming use would be expanded, and that the lot wouldn't support the use, despite the fact that the board generally thought the idea had merit from a business perspective. **Mr. Haberman** motioned to deny the request. There was no second. **Mr. Soda** motioned to grant the applicant a new hearing. **Mr. Vaccino** seconded. The motion failed with **Messrs. Dubois, Soda, and Vaccino** voting **with the motion**, and **Messrs. Haberman and Tuozzola** voting **against the motion**.

E. STAFF UPDATE

Mr. Harris reported that he would have ZBA bylaws for the board to consider by the end of February. **Mr. Tuozzola** expressed appreciation for the effort involved in creating them and that they had long been sought.

F. ACCEPTANCE OF MINUTES FROM DECEMBER 10, 2013, HEARING

Mr. Haberman moved they be accepted; the motion carried unanimously.

H. ACCEPTANCE OF APPLICATIONS FOR FEBRUARY 11, 2014, HEARING

Mr. Harris reported that 49-51 Melba Street had submitted an application.

The meeting was adjourned at 7:47 p.m.

Any other business not on the agenda, to be considered upon two-third's vote of those present and voting.

ANY INDIVIDUAL WITH A DISABILITY WHO NEEDS SPECIAL ASSISTANCE TO PARTICIPATE IN THE MEETING SHOULD CONTACT THE DIRECTOR OF COMMUNITY DEVELOPMENT, 203-783-3230, PRIOR TO THE MEETING IF POSSIBLE.

Attest:

Meg Greene
Clerk, ZBA