

Minutes, Public Hearing of Zoning Board of Appeals Meeting held February 11, 2014

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, February 11, 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 / ROLL CALL

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

ALTERNATES PRESENT: Gary Dubois, Sarah Ferrante

MEMBERS/ALTERNATES ABSENT: Robert Thomas

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

Mr. Tuozzola called the meeting to order at 7:00 p.m. He 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. **49-51 Melba Street** (R-5) Thomas Lynch, Esq, attorney for Robert Stevens, owner; Vary Sec. 6.3.2 to allow incr in non-conformity for balcony, deck and stairs; Sec. 6.2.6 to commence restoration beyond 1-yr start req; Sec. 4.1.1.4 deck proj to w/in 3' of house where 8' req, stairs to w/in < 1' where 8' req; all to constr home addition. Map 29, Block 587, Parcel 18

Attorney Lynch, 63 Cherry Street, Milford, addressed the board. He distributed handouts with elevation views. He stated that he was presenting Mr. Steven's variance request for a property featuring 2 dwellings for the purpose of raising the shore-side dwelling. He said the shorefront dwelling was built in 1920 and the cottage built in 1910 prior to zoning regulations. He described the layout of the structures, the nature of the project, and the amount of damage sustained during Storms Irene and Sandy. He said the aim was to meet FEMA guidelines while modifying decking, stairs, and the entryway. He provided detail on the patio, existing waterside entryway, and the addition of an entryway toward the street. He described the extension of the stairway required by the elevation and its proximity to the cottage. He said that though having 2 houses in an R-5 zone is nonconforming, no existing houses will be removed or replaced. He described the other request: a time extension because more than 1 year has elapsed since Storm Sandy. He said the delay was created by a long insurance claims process. He reiterated that there will be no new construction except decking and the entryway. He said the hardship is the proximity to 2nd dwelling created by adding the entryway. **Mr. Harris** asked to be recognized by Mr. Tuozzola to add that the Planning and Zoning Board is considering regulation changes that could make this variance request moot. **Attorney Lynch** said he knew of the proposed changes, but that his client wants to proceed with the variance request due to contractor schedules.

DISCUSSION

Mr. Tuozzola asked Mr. Harris to read the proposed regulation 6.2.6., known as Discontinuance, which Mr. Harris did.

Attorney Lynch added that he felt the regulation meets the spirit of the regulation by meeting the public safety aspects of a home elevation. **Mr. Tuozzola** clarified that the variance pertains to the front staircase. **Mr. Vaccino** confirmed that although the back of the house seemed to be encroaching further into the rear setback, it is not.

FAVOR

Attorney Lynch presented several letters of support from neighbors.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in 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. Carey** seconded. **Mr. Haberman** supported his motion by reason of hardship of the undersigned lot, exactly as stated in the record. The motion carried with **Messrs. Carey, Haberman, Soda, Vaccino,** and **Tuozzola** voting **with the motion**.

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2. **871 East Broadway** (R-7.5) Thomas Lynch, Esq, attorney for Sandra Cooper, owner; Vary Sec. 3.1.4.1 NE side-yd setback to 2' where 5' req to construct a 2-story addition and elevate existing house in place. Map 27, Block 475, Parcel 15

Attorney Lynch, 63 Cherry Street, Milford, addressed the board. He noted the presence of the owner and her architect Robert Tobin. He described the project—an addition, and reminded the board that he had appeared before them about the same address but at that time, the addition would have been constructed below the base flood elevation. He said Ms. Cooper had decided to proceed with raising the house 4' and putting the addition at the same level. He said all regulations would be met except for the setback on the northern side. He noted that the abutting property was also owned by Ms. Cooper. He described Ms. Cooper's desire to create a uniformity of space between the houses to permit more light and airflow. He pointed out that the other house blocks a street view from # 871's kitchen window, preventing Ms. Cooper from knowing who is approaching the house.

DISCUSSION

Mr. Vaccino said he visited the property and asked **Attorney Lynch** to review details of the addition. **Mr. Vaccino** confirmed that in the main part of house, only the kitchen looks toward the street and asked how this limitation would be improved by having 2' added to the width of the house, as did **Mr. Haberman**. **Attorney Lynch** said the extra 2' accommodates 2nd floor features and asked Mr. Tobin to elaborate. **Mr. Tobin** described aspects of his design in detail, with Mr. Tuozzola and Mr. Soda asking additional questions as he did.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or opposition to the application. Hearing none, he closed the hearing. Mr. Tuozzola stated that he could not see a clear hardship except for construction preferences. **Mr. Vaccino** said he appreciated that applicant will elevate and had redesigned, but that he also didn't see a hardship. **Mr. Haberman** agreed.

Mr. Haberman motioned to deny the application. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of no hardship shown. The motion carried with **Messrs. Carey, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

3. **30 Hoover Street cor. Lindy Street** (SFA-10) Michael Braccio, owner; Vary Sec. 6.3.2 to allow incr in non-conformity; Sec. 3.2.4.2 side-yd setback to 6.2' where 10' req for 2nd story addition. Map 57, Block 798, Parcel 95

Mr. Braccio, 72 Sunnyside Court, addressed the board. He stated that he wished to add a second story to the house and was not adding to the house's current footprint. **Mr. Tuozzola** noted the amount of work being done to rehabilitate the house.

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. Haberman** seconded. **Mr. Vaccino** supported his motion by reason of hardship of the undersigned lot, exactly as stated in the record. The motion carried with **Messrs. Carey, Haberman, Soda, Vaccino**, and **Tuozzola** voting **with the motion**.

4. **10 Maddox Avenue** (R-5) John Wicko, architect, for Mark Ammann, owner; Vary Sec. 4.1.4 proj to 13.5' where 16' perm; Sec. 3.1.4.1 to 4 stories where 3 are allowed to elevate existing house. Map 27, Block 451, Parcel 5

Mr. Wicko, 30 Broad Street, addressed the board. He described the house, noting that it was damaged in both Storms Sandy and Irene. He said its current flood elevation is close to the latest FEMA-prescribed level, but that the house's mechanicals and other wood elements are below it. He said the 35' height restriction would be observed, but raising the house changes the crawl space into another floor, necessitating the variance for number of stories. He then described the second variance request, saying it would allow stairs to an existing rear deck to be placed closer than 8' to another structure. He said the stairs placement was problematic given the extension needed to accommodate the house's new

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height. He reviewed prior renovations to the house and referred to engineering drawings for the elevation. He said the footprint of the house would stay the same. He said the new ground-level floor would accommodate a 2-car garage reducing on-street parking. He said the hardship is adhering to FEMA regulations, and the fact that the lot is undersized and nonconforming. He noted a letter of support from neighbors Patrick and Deborah Devine, and said Ms. Amman was given verbal support from other neighbors.

DISCUSSION

Mr. Tuozzola confirmed the house will be 32.5' high. He recognized homeowner Linda Amman so she could speak about the project.

Ms. Linda Amman, 10 Maddox Avenue, described extensive efforts to avoid flood and storm damage at the house. **Mr. Soda** confirmed that the current 3rd floor layout will not change. **Mr. Vaccino** confirmed that the rear deck is at ground level and will be raised with stairs relocated.

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 small lot and the appropriateness of the change in stairway, exactly as stated in the record. The motion carried with **Messrs. Carey, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

C. OLD BUSINESS

35 Thompson Street: Vote to deny in accordance with Superior Court decision: **Mr. Haberman** read the following: *Variances were granted July 10, 2012 to construct a new single-family dwelling. That approval was appealed to the Superior Court. The Court overturned the approval and remanded the matter back to the ZBA with an order to deny the request.*

To comply with the court's decision, **Mr. Haberman** motion as follows: *"In accordance with the Superior Court's order I move to deny this application."* **Mr. Vaccino** seconded and the motion carried unanimously.

Sidestep v. BZA: Vote on whether to revisit the issue. **Mr. Haberman** read the following:

A variance was granted May 11, 2010, to approve a distance requirement for a new restaurant seeking a waiver of the distance requirement between establishments holding a liquor license. It was claimed that proper personal notice had not been made and on the advice of the City Attorney, the ZBA rescinded the approval.

The rescission was then appealed to Superior Court. The Court ruled the rescission invalid, thus upholding the variance. In its decision, the court gave the ZBA the choice of hearing the matter again, or not hearing it again.

If the Board chooses not to hear the matter again the variance stands and the matter is closed. If the Board chooses to hear the matter again it must a) consider whether there was personal notice and if its failure to appear at the May 10, 2010, hearing constituted a waiver of municipal notice requirements; and b) whether there was such change of circumstances "as a result of that vote that the assembly cannot undo" that would preclude rescission. This would require a new public hearing.

Mr. Carey motioned not to hear the matter again. **Mr. Haberman** seconded the motion, and it carried unanimously.

D. NEW BUSINESS

Mr. Harris handed out draft ZBA bylaws and asked for board to review them. **Mr. Tuozzola** said he appreciated Mr. Harris' efforts. **Mr. Tuozzola** referred board-members to an insert in their materials—an invitation to attend the 66th Annual Conference of the CT Federation of Planning and Zoning Agencies on 13 March. He said anyone wishing to attend should contact Ms. Greene.

E. STAFF UPDATE: There was none.

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F. **ACCEPTANCE OF JANUARY 14, 2014, MINUTES:** Mr. Haberman moved they be accepted; the motion carried unanimously.

G. **ACCEPTANCE OF APPLICATIONS FOR MARCH 11, 2014:** Ms. Greene reported that 1 application had been received.

The meeting was adjourned at 7:58 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, ZBA Clerk