

Minutes, Public Hearing of Zoning Board of Appeals Meeting held February 26, 2013

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, February 26, 2013, beginning at 7:00 p.m. in THE BOARD OF EDUCATION CONFERENCE ROOM, 70 RIVER STREET, Milford, CT, to hear all parties concerning the following applications, some of which required Coastal Area Site Plan Reviews or exemptions.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

MEMBERS PRESENT: Joseph Tuozzola (ch), Howard Haberman (s), John Collins, John Vaccino

ALTERNATES PRESENT: Gary Dubois, William Soda, Robert Thomas

MEMBERS/ALTERNATES ABSENT: Richard Carey

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

Mr. Tuozzola called the meeting to order at 7:00 p.m.

C. INTRODUCTION OF NEW MEMBERS

Mr. Tuozzola announced that **John Collins** had been appointed as a full member of the board by Mayor Ben Blake, who also appointed a new voting alternate, **William Soda**. **Mr. Tuozzola** congratulated Mr. Collins on his new role and welcomed Mr. Soda. **Mr. Tuozzola** noted that **Mr. Carey** was unable to attend the meeting and that **Mr. Dubois** would vote in his absence for the evening.

D. CONSIDERATION OF AGENDA ITEMS

1. 30 Bayshore Avenue

(R-5) James Denno, architect, for Ashley Timmer, owner; Vary Sec. 4.1.4 stair projection to within 7.2' where 8' is permitted. Map 29, Block 585, Parcel 5

Mr. James Denno, architect, 93 Sunnyside Court, Milford, addressed the board. **Mr. Denno** noted that **Ms. Timmer** was present. He stated that the request was for 10" for a set of 36" stairs on a very tight lot. **Mr. Tuozzola** asked for details on the staircase, which **Mr. Denno** provided.

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 the narrowness of the corner lot. The motion carried with **Messrs. Collins, Dubois, Haberman, Vaccino** and **Tuozzola** voting **with the motion**.

2. 15 Tremont Street (R-5) Heiko Bosler, owner; Vary Sec. 3.1.4.1 and Sec. 4.1.4 as noted below, to elevate and move a single family dwelling; CAM required; Map 27, Block 451, Parcel 13

- a. East side yard of 2.41 feet where 5 feet are required
- b. West side yard of 4.73 feet where 10 feet is required
- c. Front porch projection of 2.54 feet where 8 feet is permitted
- d. West side front porch projection of 4.52 feet where 8 feet is permitted
- e. West side stair projection of 2.52 feet where 4 feet is permitted
- f. Rear yard setback of 12.8 feet where 20 feet is required.

Mr. Heiko Bosler, 58 Hubble Place, Milford, addressed the board. Mr. Bosler noted that 15 Tremont was

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flooded in Storm Sandy and must be elevated. He said he wants to put parking underneath the house, and that the structure won't change except for being lifted and moved back. He said the side setbacks will remain the same and that the front of the house will be moved into better alignment with other structures on the street. He said the hardship is that the lot is less than half the size of what zoning requires. He wants to move the house back 6' to make room for a small balcony and side staircase. After brief discussion with board members, Mr. Bosler also confirmed that if he had decided to raise the house without moving it, he would not need a variance.

Mr. Tuozzola asked if anyone wished to speak in favor of the application; no one did. He asked if anyone wished to speak in opposition to the application.

OPPOSITION

Mr. Jack Cooper, 17 Tremont Street, Milford, stated that houses are already too close on the street and was concerned about people who "flip" houses. **Mr. Tuozzola** asked **Mr. Harris** to confirm that no change will be made to Mr. Cooper's side of house.

Mr. John Cooper, 15 Hanover Street, Milford, questioned the parameter of 2.31' where 5' are required. **Mr. Haberman** explained the need for variances for pre-existing nonconformities when the house is moved during elevation.

Mr. Tuozzola asked for further questions; none being posed, he closed the hearing.

DISCUSSION

Mr. Vaccino recapped the need for getting variance for pre-existing non-conformities. **Mr. Collins** noted that the house must be raised and that off-street parking is a consequence of the elevation.

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

3. **10 Glen Street** (R-12.5) Bill Casey, contractor, for Keith Woods and Jeannine Woods, owners; Vary Sec. 4.1.4 front-yard projection to within 20.5' where 24' is permitted to build a portico; Map 45, Block 509, Parcel 17

Mr. Bill Casey, 5 Covered Bridge Drive, Guilford, addressed the board. Mr. Casey noted that the request is as simple as asking to put a roof over existing steps.

Mr. Tuozzola asked the board for questions, and 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 a need to cover an existing nonconformity with a portico. The motion carried with **Messrs. Collins, Dubois, Haberman, Vaccino and Tuozzola** voting **with the motion**.

4. **7 Trumbull Avenue** (R-7.5) Wendy O'Brien and Marty O'Brien, owners; Vary Sec. 3.1.4.1 to construct a carport: rear-yard setback of 13' where 25' is required; side-yard setback of 4.4' where 5' is required; lot coverage of 62.5% where 60% is permitted. Map 35, Block 419, Parcel=portion of Lot 1

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Ms. Wendy O'Brien, 7 Trumbull Avenue, Milford, addressed the board. **Ms. O'Brien** noted that the carport was designed to cover a 3rd car on a small, irregularly-shaped lot. She said it wouldn't block any views and would be placed behind the existing home. **Mr. Haberman** confirmed that a 2-car garage was now on the lot. **Mr. Tuozzola** asked about usage and hardship. **Ms. O'Brien** said if a portico was placed at the end of the existing driveway, it would block traffic. **Mr. Collins** asked how the carport would affect the aesthetics of house. **Ms. O'Brien** said that the same builder, Patrick Devine, who built the house, would also do the carport and that it would be a 1-story structure.

Mr. Tuozzola asked if anyone wished to speak in favor of or opposition to the application. Hearing none, he closed the hearing.

DISCUSSION

Mr. Tuozzola asked if the board agreed that a genuine hardship existed. **Mr. Collins** and **Mr. Vaccino** expressed doubts. **Mr. Tuozzola** noted that the lot is small, but the house covers much of the lot. **Mr. Vaccino** was concerned about setting a precedent for granting variances for 3-car garages.

Mr. Collins motioned to deny the request. **Mr. Vaccino** seconded. **Mr. Collins** supported his motion by reason of lack of a true hardship. The motion carried with **Messrs. Collins, Dubois, Haberman, Vaccino** and **Tuozzola** voting **with the motion**.

5. **38 Field Court** (R-5) Thomas Torello and Elinor Torello, owners; Vary Sec. 4.1.4 east-side deck projection of 0.8' where 4' is permitted; west-side deck projection of 3.1' where 8' is permitted; Map 28, Block 573, Parcel 2

Mr. John Bennett, 99 Cherry St, Milford, builder, addressed the board on behalf of the Torellos who were unavailable due to the rescheduled meeting. Mr. Bennett noted that the house was damaged in the storm and is being elevated in the same footprint, but required variances for stairs to the deck on the east and west sides. **Mr. Collins** confirmed that the stairs were required due to raising the house and the deck was the same size as the ground-level deck washed away in the storm. **Mr. Tuozzola** confirmed that the Torellos felt they needed stairs on three sides of house. **Mr. Harris** and the board reviewed the existing condition map for the site to identify the locations of the stairs prior to the storm. **Mr. Tuozzola** confirmed that the deck will be shortened, but wanted to know if the width of the deck—35'—was due to the stairs and if it had to be that wide. **Mr. Bennett** said the deck would be the same width, but shorter in length. **Mr. Collins** confirmed that new deck is smaller. **Mr. Vaccino** confirmed that the deck had previously stretched beyond the width of the house before storm and now will do the same thing. **Mr. Bennett** noted that there are 3 entrances to the house and that each had a set of stairs. **Mr. Harris** clarified that variances are for the deck projection, not the stairs.

Mr. Tuozzola asked if anyone wished to speak in favor of or in opposition to the application. No one spoke.

Mr. Vaccino asked if the Torellos would consider shrinking the deck to make it more conforming. **Mr. Bennett** said that shrinking the deck would affect clearances for the east and west doors. **Mr. Tuozzola** confirmed that the stairs go to doors, then the deck, and asked if the stairs could stop at the doors without continuing on to the deck, allowing the deck to be narrower and more conforming. **Mr. Bennett** noted that the western door is used more than the others, but that all 3 doors previously had stairs. **Mr. Tuozzola** asked if Mr. Bennett wanted to postpone the variance request to March to let him consult with the owners about changing the plans. Mr. Tuozzola expressed concern that having the deck wider than the house would set a precedent. **Mr. Collins** noted that the planned house was 28.5' wide and the deck was 35', with the width of deck tying into 2 of the staircases. **Mr. Harris** was asked for advice. He suggested that the

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board ask the applicant to more fully describe the function of the stairs. **Mr. Bennett** and the board discussed various ways to narrow the deck. **Mr. Collins** said that having 3 ways in and out of the house was a good safety consideration, but that stairs and a landing were needed for all 3. He said the width seemed necessary to do this. **Mr. Haberman** clarified that there is no door to the deck directly from inside the house. **Mr. Vaccino** confirmed with Mr. Harris that lot coverage is not an issue.

Mr. Tuozzola closed the hearing.

Mr. Haberman motioned in favor of application. **Mr. Collin** seconded. **Mr. Haberman** supported his motion by reason of the hardship of the preex nonconf. The motion carried with **Messrs. Collins, Dubois, Haberman, Vaccino** voting **with the motion** and **Mr. Tuozzola** voting **against the motion**.

6. **44 Elgid Drive** (R-12.5) Jeffrey Parker and Karen Kohler, owners; Vary Sec. 3.1.4.1 rear-yard setback to 20.5' where 25' is required for addition; Map 34, Block 213, Parcel 2G

Mr. Jeffrey Parker, 44 Elgid Drive, Milford, addressed the board. Mr. Parker noted that the house is on a circle, it was set back farther from the front property line than usual. He said they want to square off the original family room for the proposed addition and that the hardship is presence of the circle. **Mr. Tuozzola** confirmed that the placard had been posted.

Mr. Tuozzola asked if anyone wished to speak in favor of the application.

IN FAVOR OF

Mr. Charles McQuade, 825 High St, Fairfield, expressed support.

Mr. Tuozzola asked if anyone wished to speak in opposition to the application. No one spoke.

Mr. Collins confirmed that plan was to enlarge an existing bedroom and bath. **Mr. Tuozzola** asked for further questions; none being posed, he closed the hearing.

DISCUSSION

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 the hardship of the irregular shape of the lot. The motion carried with **Messrs. Collins, Dubois, Haberman, Vaccino** and **Tuozzola** voting **with the motion**.

7. **133 Hillside Avenue** (R-5) Michael Greene and Melissa Greene, owners; Vary Sec. 3.1.4.1 rear-yard stair projection of 12' where 16' is permitted; rear-yard setback to 15.9' where 20' is required; side-yard setback to 5.1' where 10' is required; Vary Sec. 4.1.8 front-yard setback of 16' to achieve pronounced uniformity of front-yard setbacks for elevation and addition; Map 49, Block 795, Parcel 86

Mr. Michael Greene, 133 Hillside Avenue, Milford, addressed the board. Mr. Greene said that his goal was to achieve uniform pronounced setback on street side of house and that he wants to extend the house to be within 16' of the front setback. He said this improves the look of neighborhood, is consistent with a recent variance granted to his neighbor, and that 16' is enough to park a car. He said the preexisting structure will be elevated with parking underneath. **Mr. Haberman** confirmed that the house will be longer but no wider. **Mr. Greene** said his side-yard setbacks conform to zoning. He noted that his southeasterly nonconformity is preexisting. He said his hardship is the narrow lot. He noted the need for an east-side stair

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projection on as means of egress after elevating and that prior to Storms Sandy and Irene, there was a sliding glass door with a small walkout that he'd like to maintain.

Mr. Collins asked if Mr. Greene is being required to elevate. **Mr. Greene** said he wasn't being required to elevate now, but was considering an appeal of the current Substantial Damage Estimate on the house. **Mr. Vaccino** asked if the Hillside-facing part of the home will stay the same and asked Mr. Harris if it is in compliance. **Mr. Harris** said fine print in setback regulations calls for efforts to achieve pronounced uniformity. **Mr. Greene** said he is asking to add to front of house and to ok the preconditions on the east side of the house. **Mr. Harris** provided additional detail.

DISCUSSION

After a short discussion, there were no issues in dispute, **Mr. Tuozzola** asked for a motion..

Mr. Haberman motioned in favor of application. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of the hardship of raising the existing house, the narrowness of lot and the preexisting nonconformities. The motion carried with **Messrs. Collins, Dubois, Haberman, Vaccino** and **Tuozzola** voting **with the motion**.

8. **258-266 Boston Post Road** (CDD-1) Benjamin Proto, Attorney, for First Hartford Realty Corporation, applicant, for TVJL, LLC, c/o Robert Riskin, CPA, owner; Vary Sec. 5.4.3.1 to allow location of gas station within 300' of a residential zone; Map 53, Block 305, Parcels A1 & A3

Attorney Benjamin Proto, 2090 Cutspring Road, Stratford, CT, addressed the board. Attorney Proto stated that he represented First Hartford Realty, the preferred developer of Cumberland Farms. Attorney Proto provided an overview of the project, the goal of which is to build a Cumberland Farms store on the property. He noted that the two abutting properties belong to the same owners with a carved-out piece of land that he is already working with Planning and Zoning to merge into a single lot, which will expedite taxation and simplify issues for the leaseholder. He described the request to locate the gas station within 300' of a residential zone, noting that that although the zoning is 280' away from the site, the nearest residential structure is 350' away. He stated that the hardship is the triangular shape of the property as well as the presence of a CT Department of Transportation easement for drainage. He said he is working with the DOT to resolve the current drainage issues. He stated that the purpose of the 5.4.3.1 regulation is to protect residential areas from having gas station built next to them. In this case, though, there are buffers of commercial properties to provide protection to neighbors. He noted the presence of an operations officer from Cumberland Farms, a representative from First Hartford, and an engineer from the contractor to answer any questions.

Mr. Haberman asked Mr. Harris whether traffic patterns should be considered. **Mr. Harris** said these issues would be raised at the Site Plan Review, but the board is only to address the 5.4.3.1 variance. **Attorney Proto** said he is working closely with the DOT and that the plan has already incorporated suggestions from City Planner David Sulkis to improve traffic in and out of the site. He noted that several meetings have already occurred with Planning and Zoning, Traffic, Engineering and Sewer to take recommendations.

DISCUSSION

Mr. Collins noted that the property has been vacant for a while and isn't near a genuinely residential area. **Mr. Tuozzola** noted that the West Clark Street houses have been surrounded by a commercial area for a long time and that developing the parcel would improve aesthetics in the area.

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Mr. Collins motioned in favor of application. **Mr. Vaccino** seconded. **Mr. Collins** supported his motion by reason of the mixed commercial nature of the area. The motion carried with **Messrs. Collins, Dubois, Haberman, Vaccino** and **Tuozzola** voting **with the motion**.

9. **10 Scott Street** (R-5) Sean McGinley, owner; Vary Sec. 3.1.4.1 side-yard setback to 4' where 10' is required; front-yard setback to 7' where 10' is required; front stair projection of 5.5' where 8' is permitted; rear-yard setback to 16.25' where 20' is required, rear deck projection of 6.25' where 8' is permitted; building area of 48% where 45% is permitted; CAM required; Map 27, Block 450, Parcel 8

Mr. Sean McGinley, 106 Shell Avenue, Milford, addressed the board. **Mr. Tuozzola** asked about placement of the placard, which was displayed on the front door. **Mr. McGinley** noted that the hardship is the substantial damage sustained after the storm, resulting in a need to raise and rebuild to new requirements. This resulted in setback issues due to raising the house. Mr. McGinley said their intention is to have a livable home that is out of harm's way. He noted that there is no parking on the street and that the lot is very narrow. Aspects of the elevation plans caused lost sq footage on the north side of the house. He said the kitchen is on the back of the house and they wanted a deck for a grill so as not to have to climb down 14' to cook on a grill. They wanted a deck big enough to be safe from fire by avoiding proximity to the house. **Mr. Tuozzola** confirmed that the structure will move back on the lot. The board discussed details of the plan and their substantial damage estimate. **Mr. Vaccino** questioned Mr. McGinley on the rear setback change. **Mr. McGinley** noted that the house is 680 sq ft, and that they need a larger house and that if they simply doubled the sq footage on the small footprint, the house would resemble a tower. Mr. McGinley produced a letter of support from neighbor and local builder Patrick Devine; **Mr. Collins** noted that if the structure was obtrusive, Mr. Devine would be able to figure that out.

Mr. Tuozzola asked if anyone wished to speak in favor of the application.

IN FAVOR OF

Ms. Debra McGinley, 106 Shell Street, stated that she is in favor.

Mr. Tuozzola asked if anyone wished to speak against the application; none did. He closed the hearing.

DISCUSSION

Mr. Haberman noted that the increased length of house still conforms to the style of the neighborhood. **Mr. Collins** noted that the house must be raised, that the encroachment into the 20' setback comes from the deck, and that the neighbor behind, a contractor who can read plans, and supports the project.

Mr. Collins motioned in favor of the request based on the hardship of substantial damage and a need for adequate square footage for a useful home. **Mr. Haberman** seconded. The motion carried with **Messrs. Collins, Dubois, Haberman**, and **Tuozzola** voting **with the motion**, and **Mr. Vaccino** voting **against the motion**.

E. OLD BUSINESS

There was none.

F. NEW BUSINESS

Ms. Greene drew the board's attention to a slight correction to their March note-taking agendas. **Mr. Harris** advised the board that the city's zoning regulations are being updated.

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G. STAFF UPDATE

There was none.

H. ACCEPTANCE OF MINUTES FROM JANUARY 8, 2013 HEARING

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

H. ACCEPTANCE OF APPLICATIONS FOR MARCH 12, 2013 HEARING

Mr. Tuozzola referred the board to the March agenda with 4 variance applications. The agenda was already prepared due to the snowstorm-related delay in February's meeting.

The meeting was adjourned at 8:32 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