

## Minutes, Public Hearing of Zoning Board of Appeals Meeting held April 9, 2013

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, April 9, 2013, 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 required Coastal Area Site Plan Reviews or exemptions.

### A. PLEDGE OF ALLEGIANCE

### B. ROLL CALL

**MEMBERS PRESENT:** Howard Haberman (Acting Ch), John Vaccino (Acting Sec) Richard Carey, John Collins

**ALTERNATES PRESENT:** Gary Dubois, William Soda, Robert Thomas

**MEMBERS/ALTERNATES ABSENT:** Joseph Tuozzola

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

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

**Mr. Haberman** announced that **Mr. Tuozzola** was unable to attend the meeting. Mr. Haberman said he would act as chairman in Mr. Tuozzola's absence, and **Mr. Vaccino** would act as Executive Secretary for the meeting. Mr. Haberman said **Mr. Dubois** would vote for Mr. Vaccino for the evening.

**Mr. Haberman** asked for known conflict of interests for board members with any of the items on the agenda; none were raised.

### C. CONSIDERATION OF AGENDA ITEMS

1. **804 East Broadway cor. Silver Street** (R-5) Cynthia Petrie and Euel Sims, owners; Vary Sec. 3.1.4.1 Four (4)-story house where 3 stories are permitted to elevate a house in place. Map 27, Block 453, Parcel 1

**Mr. Euel Sims**, owner, 804 East Broadway, Milford, addressed the board. Mr. Sims explained that they want to raise their house to protect it and for safety. He explained that their house now has 2.5 stories and that elevating it will create a 4<sup>th</sup> story, but that the home will still be under the city's height restriction of 35'.

#### DISCUSSION

**Mr. Haberman** confirmed that the 4<sup>th</sup> floor is currently a half-story with living space, that there would be no increase in said space, and that the home is being raised in the same footprint and with the same roofline. Mr. Haberman also confirmed that that parking would be added underneath the structure. **Mr. Collins** confirmed that the owners are raising the home voluntarily. **Mr. Vaccino** asked for a description of the rooms on each floor.

#### FAVOR

**Mr. William Ziebel**, 10 Silver Street, and **Ms. Marsha Ziebel**, 10 Silver Street, both spoke in favor of the application.

**Mr. Haberman** 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. Carey** motioned in favor of application. **Mr. Collins** seconded. **Mr. Carey** supported his motion by reason of the house being in a flood zone, that the existing footprint was being used, that the plan provides more off-street parking, and that the plan is in keeping with neighborhood. The motion carried with **Messrs. Carey, Collins, Dubois, Vaccino** and **Haberman** voting **with the motion**.

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2. **685 East Broadway** (R-5) Sandra Haley and Thomas Haley, owners; Vary Sec. 4.1.4 deck projections as follows: (west) 0.5' where 4' is permitted; (west) 1' where 4' is permitted, and (east) 2.5' where 8' is permitted. Map 22, Block 747, Parcel 5

**Ms. Sandra Haley**, 685 East Broadway, addressed the board. Ms. Haley opened by thanking staff for help provided. She said they wish to replace a preexisting deck and shed destroyed by Storm Sandy. The Haleys had a survey done which revealed a setback encroachment of 6" that they were unaware of. She said their neighbors applied for the same type of variance after Storm Irene last year. She said they only want to replace what was destroyed as noted in submitted photos.

### DISCUSSION

**Mr. Haberman** confirmed that the request was only to replace what was lost in the storm. **Ms. Haley** said they tried to change the deck layout to make the stairs fit, but it would have necessitated creating a 2<sup>nd</sup> set of stairs. She said the reason for wraparound decks had always been to provide egress to the house. **Mr. Carey** asked for clarification as to whether the Haley's home trespassed onto their neighbors' lot. **Ms. Haley** said, no, that the stairs encroached into the setback. She said the nonconformity of the lot has existed since 1905. The hardship is not being able to get out of the side of the house with the stairs.

**Mr. Haberman** 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. Carey** seconded. **Mr. Vaccino** supported his motion by reason of pre-existing condition of the lot. The motion carried with **Messrs. Carey, Collins, Dubois, Vaccino** and **Haberman** voting **with the motion**.

3. **14 Field Court** (R-5) Thomas Lynch, Esq., agent, for Maryann Pincheon and Bruce Pincheon, owners; Vary Sec. 4.1.4 & Sec. 3.1.4.1 as noted below for single family residence. Map 28, Block 579, Parcel 5:
- East deck projection of 0.3' where 4' permitted
  - West deck projection of 0.9' where 8' permitted
  - Lot coverage of 69.6% where 65% required
  - West house side setback of 1.8' where 10' required

**Attorney Thomas Lynch**, 63 Cherry Street, Milford, addressed the board. Attorney Lynch noted that Mr. Pincheon was present and had traveled from Florida to attend the hearing. Attorney Lynch said the Pincheon's request is comparable to the Haley's. He noted that the house is in Bayview where flooding is common, that his clients owned the home for about 10 years, that the structure was constructed in 1930s, and that the house had been battered by storms over the years since then. He reviewed its storm damage history since 1992, noting in particular that the existing rear deck was significantly damaged and then repaired after TS Irene, only to be destroyed again in Storm Sandy. He said that the variance request is to rebuild a smaller deck in conjunction with the raising and reconstruction of the house. He then reviewed plans by John Wicko. Attorney Lynch noted that the house will conform to new FEMA standards and that the deck will be more conforming due to its smaller size. He stressed that since the houses in the area are built directly on the sand, the deck is needed as substitute for lawn.

### DISCUSSION

**Mr. Vaccino** noted that former lot coverage was 80%, representing a reduction in nonconformity as well. **Mr. Collins** confirmed that an elevation was required in order for the Pincheons to rebuild.

### FAVOR

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**Mr. Hugh Keefe**, 1 Lawrence Court, submitted an email in favor of the project via Attorney Lynch.

**Mr. Haberman** asked if anyone wished to speak in opposition to the application. None did.

**Mr. Vaccino** asked that Mr. Haberman delay closing the hearing to allow for more discussion.

### FURTHER DISCUSSION

**Mr. Vaccino** asked about the garage conversion to a storage area, noting that it had been made possible because additional parking is being added under house. He said he understood that the lot coverage had been reduced by making the deck smaller, that nothing new was being requested, and that the garage was being repurposed, but said that if the garage was eliminated, lot coverage could be reduced to less than 65%. He asked if the owner had considered shrinking or eliminating the storage area. **Attorney Lynch** said that the first floor, front deck and doorway were tightly combined, leaving little storage space in the house. **Mr. Harris** said staff spoke with Architect John Wicko on this topic and that it seemed a good idea to reduce the size of house by incorporating part of the garage into the front steps. **Attorney Lynch** noted how small the requested variance in lot coverage is and how much smaller it was than the existing percentage.

**Mr. Haberman** closed the hearing. No issues were in dispute, so he asked for a motion. **Mr. Collins** motioned in favor of application. **Mr. Carey** seconded. **Mr. Collins** supported his motion by reason of the Pincheons having to raise the house, the reduced deck size, and the small size of the house. The motion carried with **Messrs. Carey, Collins, Dubois, Vaccino and Haberman** voting **with the motion**.

4. **110 Waterbury Avenue** (R-5) Walter William Ehri, owner, Vary Sec. 3.1.4.1 side-yd setback of 4.1' where 5' is required (east), side-yd setback of 4.1' where 10' is required (west); Sec. 4.1.4 rear-deck projection of 4.1' where 8' permitted (west), front-porch projection of 4.1' where 8' permitted (west); all to elevate and relocate dwelling. Map 13, Block 135, Parcel 4

**Mr. Walter William Ehri**, 110 Waterbury Avenue, Milford, addressed the board. Mr. Ehri reviewed plan specifications, saying that the house was deemed a repetitive loss by FEMA. He went over the variance requests in detail, saying he wished to move the house 5' back from the Sound and elevate it 9'. He noted that his plan will reduce the Sound-facing deck size, eliminate stairs to the deck, add a front porch, and center the house on the lot. He said the plan lessens the chance of future storm damage and reduces the nonconformity on the east side of the house. He would like to widen the deck and porch to match the house's width and relocate underground utilities and a storm discharge pipe. The pipe now encroaches on a neighbor's lot. He said the plan would also result in an increase the width of primary access path to beach.

### DISCUSSION

**Mr. Haberman** confirmed that parking would be added under the house and one space of current parking retained. **Mr. Ehri** reviewed lot details regarding the need for underground lines and how, as a result, the drainpipe came to be on the neighbor's property. He described the proposed correction. Photos of how Mr. Ehri positioned his 3 posted notification signs (3 due to his landlocked lot) were also shared.

**Mr. Haberman** 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. Carey** seconded. **Mr. Vaccino** supported his motion by reason of the narrowness of the lot and reducing the nonconformity. The motion carried with **Messrs. Carey, Collins, Dubois, Vaccino and Haberman** voting **with the motion**.

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5. **17 Sperry Street (R-5)** Leslie Myers, architect, for Tiffany Sprague, owner; CAM received; Vary Sec. 4.1.4 front steps to 1.4' where 8' permitted; front porch 4.5' where 8' permitted; shed 2.2' where 4' permitted (east side); rear-yd deck 7.6' where 8' permitted (west side); Vary Sec. 3.1.4.1 front-yd setback to 8.8' where 10' is required; side-yd setback to 3.5' where 5' is required (east side); side-yd setback to 9.9' where 10' is required (west side) to elevate and relocate home. Map 59, Block 735, Parcel 14

**Leslie Myers**, 36 Sheldon Street, Providence, RI, addressed the board. Ms. Myers said Ms. Sprague was out of state. She said the house sustained over 50% substantial damage due to storm damage. She reported that they originally wanted to elevate the structure in place, but discovered that it must be moved back 3' to provide access to the front door. She noted that all nonconformities were preexisting and that the plan reduces the nonconformity by demolishing 2 sheds and not increasing the footprint or size of the dwelling.

### DISCUSSION

**Mr. Vaccino** confirmed that a 3<sup>rd</sup> shed near 13 Sperry Street would stay, that it's an existing nonconformity and thus can do so. **Mr. Haberman** confirmed that no extra parking was planned for under the house. **Mr. Vaccino** confirmed with Mr. Harris that the shed predates current regulations.

**Mr. Haberman** 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. Carey** motioned in favor of application. **Mr. Collins** seconded. **Mr. Carey** supported his motion by reason of the hardship of needing stair access to the house after it's been raised, and because the project eliminates 2 nonconformities. The motion carried with **Messrs. Carey, Collins, Dubois, Vaccino** and **Haberman** voting **with the motion**.

6. **697 East Broadway (R-5)** Peter Jelley, architect, for John Lemarier, owner; CAM received; Vary Sec. 4.1.4 deck projection to 1.8' where 4' is permitted; Map 22, Block 474, Parcel 9

Peter Jelley, 95 Fair Street, Guilford, CT, addressed the board. Mr. Jelley passed out photos of prior structure. He noted that the house must be raised and the owner wants to rebuild the decks as they were prior to Storm Sandy. He noted that 4 new parking spaces would be created. He noted that a prior variance allows rebuilding the westside decks. He said this variance would cover a narrow strip of deck on the house's east side.

### DISCUSSION

**Mr. Haberman** confirmed that the deck would be replaced without creating additional nonconformities. **Mr. Vaccino** confirmed that decks were destroyed on the 1<sup>st</sup> and 2<sup>nd</sup> floors.

**Mr. Haberman** 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. Carey** seconded. **Mr. Vaccino** supported his motion by reason of the narrow lot, that the request is to replace a pre-existing portion of a structure, and that no nonconformities are increased. The motion carried with **Messrs. Carey, Collins, Dubois, Vaccino** and **Haberman** voting **with the motion**.

7. **15 Edgefield Avenue cor. Benjamin Street cor. Gillette Street (R-5)** Jay Alpert, architect, for Hebrew Congregation of Woodmont, owner; Vary Sec. 4.1.4 front stairs 4.5' where 8' is permitted; front wall 0' where 8' is permitted; front steps 0' where 8' is permitted; vary Sec. 5.1.4 (6) to 0 parking spaces where 18 are required to expand and renovate a religious gathering place; Map 59, Block 733, Parcel 8

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**Jay Alpert**, One Bradley Road, #306, Woodbridge, CT, addressed the board. Mr. Alpert noted the presence of Rabbi Schneur Wilhelm and several congregants. He reviewed the configuration of the lots and structures. He noted a series of existing nonconformities that will continue. He said the project will combine the current 2 buildings into 1, allowing for winterization and better accommodation of the congregation's programs. He said it was built in 1926 as a seasonal structure and that it has much historical significance. He said the lot has 3 front yards and a need for modernization. He said the nonconformities already exist but will not be increased with the plan. He called the proposed changes tasteful and modest and said the main change is creation of an entry hall with a coat room that provides access to either the social hall or the *shul* (synagogue). He said the plan was made to be as compliant as possible with an eye toward continuing to be good neighbors. He noted that the parking requirement is calculated based on additional square feet, but that the existing use has operated without parking since the synagogue's inception because virtually all members walk there. Those members who drive have used street parking successfully in the past because the timing of worship services doesn't conflict with neighborhood parking usage. He said the biggest driver of use is the social hall and in the plan, the kitchen and restrooms are being enlarged, reducing the overall square footage (and therefore occupancy) of the hall itself. He concluded by saying that the plan will enhance the structures, adding to the appeal of the neighborhood.

### DISCUSSION

**Mr. Carey** asked about the nature of the 2 separate lots referenced by Mr. Alpert in his opening remarks. **Mr. Alpert** said he had seen "15-17 Edgefield" used as an address, but the survey labeled the site "15 Edgefield." He said that at one time, there seemed to have been 2 tiny lots, but the site has functioned as one parcel since addition of the social hall. He added that the 2 buildings don't operate concurrently. **Mr. Carey** noted that a merger would exist per regulations, but **Mr. Harris** confirmed that the survey shows only 1 lot. **Mr. Vaccino** asked if the stairs would encroach further on the front of lot. **Mr. Alpert** showed survey details to clarify the position of the stairs. **Mr. Haberman** confirmed that the synagogue can seat 80 people, but that the building has a maximum capacity of 125. **Mr. Alpert** said that seating overflows to the social hall on high holidays, but that attendance is typically less than 50. **Mr. Vaccino** asked Mr. Harris about the current parking requirement. **Mr. Harris** said there is no parking requirement for the site because the building and use predate regulations, so the parking requirement is only relevant for the new addition. **Mr. Collins** asked to keep the hearing open to pose questions of the rabbi.

**Rabbi Schneur Wilhelm**, 24 Pearson Ave, Milford, introduced himself as the synagogue's first fulltime rabbi. He said the facility originally existed only for summer worship and had been in decline, but has experienced a turnaround. He referenced the 2012 fire that destroyed the sanctuary and precipitated the renovation, and said that the renovation also offers a chance to address the hardship of having 2 separate buildings now that the congregation is used year-round. He gave the example of a congregant having to put on a coat in the synagogue to cross to the social hall and use a restroom.

**Mr. Collins** said he knows the area and confirmed that while parking in the neighborhood is limited, he had seen many congregants walking to worship services. He asked if this is a tradition. **Rabbi Wilhelm** explained that the synagogue is orthodox, and the orthodox tradition encourages people to walk to services if they are able to do so. **Mr. Collins** asked for clarification of non-concurrent uses of the 2 structures. **Rabbi Wilhelm** gave as an example a wedding in the synagogue followed by a reception in the social hall.

**Mr. Haberman** asked if anyone wished to speak in favor of or opposition to the application. Hearing none, he closed the hearing. There were no issues in dispute, so he asked for a motion.

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**Mr. Carey** motioned in favor of application. **Mr. Collins** seconded. **Mr. Carey** supported his motion by reason of the preexisting nonconformity and the desirability of preserving a historic community structure. The motion carried with **Messrs. Carey, Collins, Dubois, Vaccino** and **Haberman** voting **with the motion**.

8. **15 Maddox Avenue** (R-5) Joseph Rousseau, agent, for Monica Clark, owner; Vary Sec. 4.1.4 south deck 6' where 8' is permitted; east steps 2.3' where 4' is permitted; north deck 6.4' where 16' is permitted; west deck 5' where 8' is permitted; vary Sec. 3.1.4.1 north rear-ym 11.5' where 20' is required; west side-ym to 3.9' where 10' is required. Map 27, Block 450, Parcel 1

**Joseph Rousseau**, JMR Architectural Design Consultants, 106 Beachland Avenue, Milford, addressed the board. Mr. Rousseau noted that the property sustained substantial damage over 50% in Storm Sandy, so the house will be elevated and rebuilt. He reviewed the proposed plans. He noted that lot coverage and height regulations were met. He said variances are in place for the front and rear decks. He said the new house would be pushed further away from road. He said an HVAC condenser pad must be installed but that it would be built into the roof deck to be less intrusive. He noted that flood-vent-enclosed parking would be added under the house flood. He said that an elevated back deck at the same 10' high level as the living space makes the house more usable. He said the house was planned to be 22'x 40' and that observing the setbacks would create a 15' wide house, which would be too narrow.

### DISCUSSION

**Mr. Haberman** commented that the existing house is small and close to the road, and that this width constraints made the request reasonable. He said parking underneath would be desirable. **Mr. Collins** confirmed with Mr. Harris that the number of stories was not an issue. **Mr. Vaccino** confirmed that the house was being centered and asked if the length could be made to conform. **Mr. Rousseau** said that the plan was being made as tight as possible, but wanted to provide adequate living space for the living room, kitchen and dining room. **Mr. Haberman** said another 14' would be needed to make it comply. **Mr. Carey** commented that other houses in the neighborhood were similar.

### FAVOR

**Mr. Rousseau** submitted a letter from **Mr. Patrick Devine** and **Ms. Deborah Devine**, 28 Maddox, in favor of the project.

**Mr. Haberman** asked if anyone wished to speak in opposition. Hearing none, he closed the hearing.

**Mr. Vaccino** noted that this project enlarges the existing footprint and that fewer variances of the rear setbacks might have been proposed. **Mr. Haberman** said he didn't have trouble with the width because it provides space for parking underneath, but that he was concerned with the length of the house, despite the fact that the lots are very tight and other houses in the area have similar proportions.

**Mr. Carey** motioned to deny the application without prejudice. **Mr. Haberman** clarified that denial without prejudice means that the applicant can apply again next month with a revised request. **Mr. Vaccino** seconded. **Mr. Carey** supported his motion by reason of wanting to allow for revision of the plan. **Mr. Harris** asked whether Mr. Carey found no hardship in the request. **Mr. Carey** said he found a hardship with the width constraints, but not for the length of the house. The motion carried with **Messrs. Carey, Dubois, Vaccino** and **Haberman** voting **with the motion**. **Collins** voted **against the motion**.

9. **2 Lawrence Court** (R-5) James McElroy, architect, for Allen Desrosiers and Terry Derosiers, owners; Vary Sec. 3.1.4.1 east side-ym setback to 2.3' where 5' is required; 8' where 10' is required for 2<sup>nd</sup> floor addition; Map 28, Block 579, Parcel 3

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**James McElroy**, architect, 26 Hauser Street, addressed the board. Mr. McElroy noted that the home was 54% damaged by Storm Sandy in addition to previous damage by TS Irene. He said the owners want to raise house and that the hardship is the size of lot. He noted that the width constraints of the lot were exacerbated by the existence of a side entrance with stairs. The survey indicated that there isn't enough room for the entrance to remain there after the house is raised, so he proposed a front entrance and relocated the stairs. He said the owners would like to build above the garage so he added a porch for the front entry. The variance is needed for the part built above. He added that the ground floor will be filled to create curb appeal. The combination of parking under the house and in the garage nets 5 spaces. He said the hardship is that the lot is only 30' wide and the house is 20' wide. His wanted to move the house forward and create a porch over the existing garage.

### DISCUSSION

**Mr. Haberman** confirmed that the house would not be enlarged, just connected to the garage with a corner of the structure squared off. **Mr. Vaccino** commented that the design was aesthetically pleasing.

**Mr. Haberman** 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. Carey** seconded. **Mr. Vaccino** supported his motion by reason of the narrow lot, and that the application did not increase existing nonconformities. The motion carried with **Messrs. Carey, Collins, Dubois, Vaccino and Haberman** voting **with the motion**.

### **D. OLD BUSINESS**

There was none.

### **E. NEW BUSINESS**

**Mr. Harris** advised the Planning and Zoning subcommittee work on regulation changes is ongoing.

### **F. STAFF UPDATE**

**Mr. Harris** reported that P&Z Clerk Taft Clark is making improvements to the permitting software functionality.

### **G. ACCEPTANCE OF MINUTES FROM MARCH 12, 2013, HEARING**

**Mr. Carey** moved they be accepted; the motion carried unanimously.

### **H. ACCEPTANCE OF APPLICATIONS FOR MAY 14, 2013, HEARING**

**Mr. Harris** reported several potential applications have been discussed. **Mr. Collins** asked for a "guestimate" of the number of houses that will require elevation. **Mr. Harris** said there were close to 300 with documented substantial damage. It's not known how many will actually elevate.

The meeting was adjourned at 8:42 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