

Minutes, Public Hearing of Zoning Board of Appeals Meeting held April 10, 2012

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, April 10, 2012, beginning at 7:00 p.m. in CONFERENCE ROOM C, 70 WEST 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.

Mr. Tuozzola called the meeting to order at 7:01 p.m. He asked for known board-member conflicts of interest with any item on the agenda; none were raised.

A. PLEDGE OF ALLEGIANCE (There was no flag in Conference Room C.)

B. ROLL CALL

MEMBERS PRESENT: Joseph Tuozzola (Chmn), Howard Haberman (Sec), Richard Carey, William Evasick

ALTERNATES PRESENT: John Collins, Gary Dubois, Robert Thomas

MEMBERS ABSENT: John Vaccino

STAFF PRESENT: Kathy Kuchta, Zoning Enforcement Officer; Meg Greene, Clerk

Mr. Tuozzola asked **Mr. Collins** to fill in for **Mr. Vaccino**.

C. CONSIDERATION OF AGENDA ITEMS

1. **141 Oxford Road** (R-12.5) Nancy Bogus, appellant for Nancy and John Bogus, owners - Vary section 3.1.4.1 side-yard setback from 10' to 8' to construct garage and second-floor addition. Map 92, Block 704, Parcel 3

Ms. Bogus stated that in 1995 she was awarded a variance to build the same garage that she is currently trying to build, but that she wants to change the old approved plan by moving the location of the garage 8 feet forward, which will preserve 2 bedroom windows that she would have lost with the previous plan. She stated that her hardship was the narrowness of the lot. **Ms. Bogus** provided a copy of the original variance. **Ms. Kuchta** confirmed that the original variance was in the file.

Mr. Tuozzola asked for comments in favor of or in opposition to the request. **Ms. Bogus** said the neighbor most affected by the variance had asked that a side window be removed to provide greater privacy in the neighbor's backyard. **Ms. Bogus** stated that her plan had no window on that neighbor's side of the house.

Ms. Kuchta stated that when variances are granted, they must be constructed based on the exact plan approved by the board. **Ms. Kuchta** stated that **Ms. Bogus** could build tomorrow based on the old variance.

No opposition was presented.

Mr. Tuozzola closed the hearing.

Mr. Haberman stated that the variance for the side yard was exactly the same and didn't affect front yard setback at all.

Mr. Carey made a motion to approve. **Mr. Haberman** seconded. The motion carried unanimously with Messrs. Carey, Collins, Evasick, Haberman, and Tuozzola voting.

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2. **681 East Broadway** (R-5) Catherine A. Cellini, appellant for Catherine A. Cellini, Trustee, owner - Vary Section 3.1.4.1 side-yard setbacks to 3' in lieu of 10' required and 2.5' in lieu of 5' required to replace existing deck. CAM received. Map 22, Block 474, Parcel 4.

Ms. Cellini stated that her deck was damaged by TS Irene. She said her home was built in 1910, then remodeled in 1974 and 1986, and that the existing deck was 20-25 years old. She said that because her lot is narrow, she lacks side-yard setback space. She stated that her house is only 1304 square feet and the 30 x 10-foot deck provides additional living space. She submitted photos of the deck, pre- and post-storm. She stated that she only wanted to replace what she had, not increase the deck's size.

Mr. Evasick asked if the house was storm-damaged. **Ms. Cellini** stated that the city had assessed the damage to the home as less than 50%, and that the front fascia of the deck was found to be rotted. **Mr. Evasick** asked if the house was sound enough to attach a deck to and **Ms. Cellini** said her contractor was repairing the whole front of the house before attaching the deck.

Mr. Tuozzola asked if the same pilings would be used; **Ms. Cellini** stated that everything would be new, but in the same footprint as the old deck.

Mr. Tuozzola asked if Ms. Cellini had built the deck; **Ms. Cellini** said no, it was part of the house when she bought it.

Mr. Tuozzola asked for comments in favor of or in opposition to the request. Hearing none, he closed the hearing.

Mr. Haberman said that the deck was preexisting, then storm damaged, so he saw no problem with the request.

Mr. Evasick made a motion to approve based on the non-conforming lot and the desire to replace an existing, storm-damaged deck. **Mr. Haberman** seconded. The motion carried unanimously with Messrs. Carey, Collins, Evasick, Haberman, and Tuozzola voting.

3. **227 Second Avenue** (R-10) Steven Keedle, appellant for Robert and Lisa Dowling, owners - Vary Section 3.1.4.1 side-yard setbacks to 4.4 and 3.3' in lieu of 10' required and rear-yard setback to 24.6' in lieu of 25' required and front-yard setback to 21.7' in lieu of 25' required to replace existing dwelling. Building coverage to 40.9% in lieu of 35% allowed and lot coverage to 56.7% in lieu of 50% allowed. Vary Section 4.1.4 to 3.3' in lieu of .7' allowed for front-yard projection and rear-yard projection to 2.6' in lieu of 1.4' projection allowed. Map 6, Block 82, Parcel 3.

Mr. Keedle addressed the board alongside the homeowner, **Mr. Dowling**. **Mr. Keedle** stated that given the non-conforming lot size, if the house were made to conform to regulations, it would be 7.5 feet wide and thus a hardship. He stated that there had been an attempt to make interior improvements without changing the exterior, but the structural elements of the house would not support the load of the planned improvements. Mr. Keedle said the house is a 100-year-old beach cottage and had come to the end of its service life. He provided additional structural detail to justify razing and replacing the house. He stated that the new house would be consistent with the neighborhood.

Mr. Collins asked **Mr. Keedle** to confirm that the house was to be razed, rebuilt on the original foundation and asked whether it would be expanded. Mr. Keedle confirmed the first 2 items, but stated that because

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the house would have a higher foundation and higher story heights, additional stairs would be needed for the front and back entrances, extending the setback incursion. He said the roof pitch would be the same.

Mr. Tuozzola asked for comments in favor of or in opposition to the request. The owner stated that he was in favor. There were no comments in opposition.

Mr. Tuozzola closed the hearing.

Mr. Tuozzola stated the plans were on the same footprint and that the new structure would enhance the neighborhood.

Mr. Evasick stated that the plan brought the house up to construction code.

Mr. Haberman made a motion to approve based on the fact that anything done to the house would require a variance. **Mr. Carey** seconded. The motion carried unanimously with Messrs. Carey, Collins, Evasick, Haberman, and Tuozzola voting.

4. **104 Broadway** (R-5) John DeRosa, appellant for Edward Granger – Vary Section 3.1.4.1 side-yard setback to 3.5' in lieu of 10' required and 2.3' in lieu of 5' required and rear-yard setback to 11.9' in lieu of 20' required and front-yard setback to 3.5' in lieu of 10' required to replace existing dwelling; and building coverage to 50.2% in lieu of 45% allowed. Vary Section 4.1.4 to 17.5' in lieu of 4' allowed for 2nd floor deck (2.5' to rear property line). CAM received. Map 13, Block 138, Parcel 8.

Mr. DeRosa stated that the Grangers' house was destroyed by TS Irene. Their hardship was that they had not been able to live in the home with their 2 young children for 7 months, and the lot is much smaller in square footage than the zoning standard. He stated that the goal of the project was to create a more conforming structure that is compliant with flood standards, has a reduced footprint and is centered more appropriately on the lot. He reviewed details of the survey and submitted photos showing that the house will be in line with neighboring houses. He provided a letter of support from a next-door neighbor.

Mr. Tuozzola noted that the house footprint was smaller and that a 2nd story had been added. He asked if the plan included a garage. **Mr. DeRosa** said there would be a garage under house for off-street parking.

Mr. Evasick asked about the 1st-floor deck and noted that with the garage story, the new deck would become a 2nd fl deck. **Mr. DeRosa** confirmed that there would be no deck off the new 1st floor, which would now be the garage.

Ms. Kuchta noted that regulations require that single family houses have at least 2 parking spaces, so the garage makes the house more conforming.

Mr. Collins asked about the height of the new house. **Mr. DeRosa** stated that the roof peak was 33.8 feet and would not exceed 35 feet.

Mr. Evasick said he saw 2nd and 3rd floor decks on the plan. **Mr. DeRosa** confirmed that both decks meet the requested variance setbacks.

Mr. Tuozzola asked for comments in favor of or in opposition to the request.

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Mr. Haberman read an email message in opposition received from a neighbor, **Ms. Linda Baumgarten**, citing loss of a shared driveway. **Ms. Kuchta** said she visited the addresses several times, that there were no easements, and that the space between the houses did not constitute a shared driveway. **Mr. Tuozzola** had the same thought, wondering how neighbors could possibly share a single-lane driveway. **Mr. Granger** said he had used the driveway during 23 years of residing in the house, but that in recent years a conflict arose over the side yard. He further stated that the neighbor who was opposed to his plan had previously received a variance with plans that were nearly identical to his own and a stated hardship of having no off-street parking. He pointed out that this contradicts the statement made in the email about a driveway which would, by definition, provide off-street parking. Further discussion clarified which portion of the side yard was owned by whom.

Mr. Tuozzola asked **Ms. Kuchta** to comment. She said she had verified the neighbor's variance and that **Mr. Granger's** statement was accurate.

Mr. Tuozzola asked for more comments in favor of or in opposition to the request. Hearing none, he closed the hearing.

Mr. Carey made a motion to approve based on a plan that is less non-conforming to replace the existing home, which will be made safer by being raised and featuring off-street parking. **Mr. Haberman** seconded. The motion carried unanimously with Messrs. Carey, Collins, Evasick, Haberman, and Tuozzola voting.

C. OLD BUSINESS

There was none.

D. NEW BUSINESS

Board members again thanked **Ms. Kuchta** for her service as Zoning Enforcement Officer.

E. STAFF UPDATE

Ms. Kuchta said interviews for the next Zoning Enforcement Officer were finished and she understood there were several good candidates.

F. ACCEPTANCE OF MINUTES FROM MARCH 13, 2012 HEARING

Mr. Carey moved they be accepted.

H. ACCEPTANCE OF APPLICATIONS FOR MAY 8, 2012 HEARING

None were presented.

The meeting was adjourned at 7:38 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