The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, May 14, 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: Joseph Tuozzola (Ch), Howard Haberman (Sec), John Collins, John Vaccino

ALTERNATES PRESENT: William Soda, Robert Thomas

MEMBERS/ALTERNATES ABSENT: Gary Dubois, Richard Carey

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

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

Ms. Greene noted that **Mr. Dubois** has previously advised that he would be unable to attend. **Mr. Tuozzola** announced that **Mr. Carey** was not present and asked **Mr. Soda** to vote in his absence.

Mr. Tuozzola 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. <u>15 Maddox Avenue</u> (R-5) Joseph Rousseau, agent, for Monica Clark, owner; Vary 3.1.4.1 west side-yd 3.8' where 10' is required; west side-yd to 5' where 10' is required; front-yd 8.5' where 10' is required; rear-yd 16' where 20' is required; vary Sec. 4.1.4 front porch 3.4' where 8' is permitted; east side stairs 2.2' where 4' is permitted. Map 27, Block 450, Parcel 1

Joseph M. Rousseau, JMR Architectural Design Consultants, 106 Beachland Avenue, Milford, CT, addressed the board. Mr. Rousseau he noted that he and his client, Ms. Clark, had appeared before the board the previous month. He described the project as a full knockdown and replacement of the existing house. He said the hardship is the narrow lot. Mr. Rousseau reviewed the drawings in detail for the board. He said they wanted to rebuild the front profile of the house in its existing spot, which would still require variances. He said the ground-level front porch would be removed and an elevated, smaller porch would replace it. He pointed out a side stair access as well as access through the garage stairs. He noted that at the last meeting he had proposed a rear deck with the house placed further back. He said the new plan eliminated the proposed deck and shortened house by more than 2 feet, leaving a usable yard of 16' where 20' is allowed.

DISCUSSION

Mr. Collins confirmed the reduced size of the house in the back. **Mr. Vaccino** confirmed that the garage is under the house, and that the deck is now 11' above the ground, 11' high. **Mr. Tuozzola** noted that front variances already exist.

FAVOR

Mr. Rousseau submitted a letter expressing Patrick and Deborah Devine's support for the project.

OPPOSITION

None.

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

BOARD DISCUSSION

Mr. Vaccino noted the reduction in variances required for the back of the house and said it was an improved plan. 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** said his motion was to approve the exact dimensions and layout on the lot as described by the testimony received, the hardship being the dimensions of the lot. The motion carried with **Messrs. Collins, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

2. <u>50 Daniel Street</u> (MCDD) Thomas Lynch, Esq., attorney, for Stonebridge Restaurant, LLC/Conine Associate, LLC, owner; Vary Sec. 5.5.4.2 to allow café permit (per State Liquor Regulations) within 1,500' of existing restaurant permit location. Map 54, Block 399, Parcel 6

Attorney Thomas Lynch, 63 Cherry Street, Milford, CT, addressed the board. Attorney Lynch handed out copies of the relevant statutes. He introduced Mr. Conine, owner of 50 Daniel Street. He stated that the variance involved a technicality because instead of asking for a variance to establish a location, the request was for an existing site with a permit issued by the Liquor Control Commission (LCC) in 1989. Attorney Lynch said recent talks with the LCC convinced Mr. Conine of the need to change the Stonebridge Restaurant's current restaurant permit to a café permit. Attorney Lynch indicated that he, Mr. Harris and City Planner David Sulkis disagreed about interpretation of the regulations pertaining to these types of permits. Attorney Lynch said that conflict between local zoning regulations and state liquor permitting regulations creates a hardship. He said he is not asking to reverse a decision of the ZEO, but rather to identify nuances between the 2 sets of regulations that create a hardship.

He referred to the state statutes handout with relevant sections highlighted. He said a restaurant permit pertains to a location that serves full course meals for the entire time the establishment is open, whereas a café permit lets an owner choose to serve full course meals and/or casual food during a variety of business hours. He said that under the current restaurant permit, the LCC considers the entire property to be a bar. This implies that from 11am to 1am on weekdays and from 11am to 2am Fridays and Saturdays, the Stonebridge must have a fully staffed kitchen, whereas café permittees can let kitchen staff go home at 9pm. He said a café permit also allows the owner to prohibit access to certain areas of the restaurant, such as the back deck patio, to patrons under 21 year of age. He said Mr. Conine has been enforcing such limits on his own, but the LCC said that without the correct type of permit for the site, Mr. Conine doesn't really have the authority to do so. Attorney Lynch said Mr. Conine wants an arrangement similar to that at Bistro Basque and perhaps also at Citrus Restaurant, noting that he (Attorney Lynch) was not sure of the status of the latter permit. Attorney Lynch noted the number of departments involved when a permit is issued and said that all must sign off. Among these sign-offs is the Zoning Enforcement Officer's, confirming that the use of a location is permitted under our zoning regulations. However he said that Mr. Harris' reading of 5.5.4.2 is that a new café permit location must adhere to local zoning regulations. Therefore, because the SBC Restaurant is within 1500' of the Stonebridge, a variance is required. Attorney Lynch noted that he disagrees with Mr. Harris' interpretation, but nonetheless filed the application. Attorney Lynch stated that nothing will change operationally at Stonebridge, but due to the recommendations of the LCC inspectors about limiting access for under-21-year-olds to only certain parts of the property and restrictions on food service, a café permit is required.

DISCUSSION

Prior to questions, Mr. Harris clarified that zoning approval for the Citrus café permit was rescinded.

Mr. Haberman asked about other café permits in effect downtown. Mr. Harris said that Bistro Basque has a café permit. Mr. Haberman asked Attorney Lynch to review differences between café permits and restaurant permits. Mr. Haberman confirmed with Attorney Lynch that in order for Mr. Conine to continue operation as it runs now, he (Mr. Conine) needs a café permit. Mr. Collins reviewed the specifics of what the differences would be between the two types of operations. Mr. Tuozzola asked if other commissions would have to review the permit; Attorney Lynch said no, because a café permit is a permitted use. He noted that Mr. Harris wouldn't sign it due to the local regulation. Mr. Haberman discussed SBC's permit with Mr. Harris. Mr. Harris noted that the Milford zoning regulations were written in this instance to provide a way to regulate usage through types of permits rather than zoning for different types of restaurant or bars only being allowed in certain areas. Messrs Lynch and Harris discussed different aspects of this point. Mr. Vaccino confirmed that minors could still eat in the dining area. Attorney Lynch noted the presence of Vicki Wayne, Stonebridge's security manager, and said this is already her goal, but that the type of permit now in effect is restrictive. Mr. Collins asked Mr. Harris whether what Mr. Conine is trying to do is it at odds with Milford zoning regulations. Mr. Harris said his understanding was that the Stonebridge wishes to restrict certain areas to people under the age of 21, whereas zoning just says one permit has to be 1500' away from any other permit type.

Mr. Tuozzola asked if anyone wished to speak in favor of or opposition to the application. Hearing none, he closed the hearing. Three board members expressed approval of restricting access to bar areas. **Mr. Vaccino** noted that the restaurant might gain financially from not having to retain kitchen staff longer, but felt that the bar access issue was paramount. After a short discussion, there were no major issues in dispute, so Mr. Tuozzola asked for a motion.

Mr. Haberman motioned in favor of application. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of better controlling access by people under the age of 21 to the bar area. The motion carried with **Messrs. Collins, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

3. <u>42 Deerfield Avenue</u> (R-5)Paula Posser, owner; Vary Sec. 3.1.4.1 lot coverage to 68.9% where 65% allowed; vary Sec 4.1.4 north deck projection of 3.3' where 4' allowed; south stair projection of 3' where 8' is allowed to build a 14'x 16' open deck; Map 28, Block 575, Parcel 33

Ms. Paula Posser, 42 Deerfield Avenue, Milford, addressed the board. Ms. Posser noted that her hardship is her narrow nonconforming lot. **Mr. Tuozzola** confirmed that this variance would extend an existing one oon the house to encompass the deck.

DISCUSSION

Mr. Vaccino confirmed that the project involved squaring off a concrete pad that serves as a driveway and that the deck would be off the back of the house. He and Ms. Posser reviewed details on the lot coverage and that the stairs will stay the same. **Mr. Harris** advised that the house is elevated and the deck would be as well.

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 the shape of lot, with its narrowness in the back. The motion carried with **Messrs. Collins, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

4. <u>181 Hillside Avenue</u> (R-5)James Denno, architect, for Lawrence Rappaport and Beverly Rappaport, owners; Vary Sec. 3.1.4.1 building height to 4 stories where 3 stories are permitted to elevate an existing home. Map 59, Block 795, Parcel 71

Mr. James Denno, architect, 93 Sunnyside Ct, Milford, addressed the board. Mr. Denno noted that the owners and builder, Jeff Halquist, were present. He handed out information and indicated highlighted areas on the 3rd floor where living space currently exists. He said that to comply with the new FEMA flood zone designation, the owners must raise the house 8', which creates a new ground floor and makes the existing 3rd floor into a 4th floor. He noted that the height of the elevated structure will be well within the city's 35' limit. He said the existing structure had been demolished and that the hardship arises from having to raise the house to comply with FEMA flood zone mitigation requirements.

DISCUSSION

Mr. Tuozzola and **Mr. Denno** briefly discussed the height of the house; **Mr. Harris** explained details of the height regulation. **Mr. Denno** emphasized that the attic space is already finished and that nothing additional would be done to it.

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

FAVOR

Mrs. Beverly Rappaport said that raising the house was a great hardship and that the loss of living space due to complying with the flood regulations made the hardship more difficult. She said compliance was their greatest concerns as owners.

OPPOSITION

Mr. Jeff Teplitzky, Apt C3, 1 Merwin Avenue, Milford, asked for clarification of the eventual height of the raised house. **Mr. Harris** explained that during the elevation process, the house is raised several feet higher than what will become the final elevation to allow construction workers extra room; when the construction is complete, the house is then set down again. **Mr. Denno** confirmed this was the case on this site.

Mr. Collins confirmed that the ridge line would be 8' higher at peak when the project is completed. **Mr. Haberman** emphasized that houses can be 35' high by right. It was noted that due to the lifters' schedule, the house had already been partially demolished and raised.

Mr. Teplitzky continued his assertion that raising the house 8' will obstruct views. **Mr. Tuozzola** noted that the apartment building where Mr. Teplitzky resides is over 35' high and further noted that the applicants are within their rights to build to 35' per city regulations, regardless if a view is obstructed.

REBUTTAL

There was none.

BOARD DISCUSSION

Mr. Haberman said that since the real point of consideration was the number of floors, not the height, and since the owners already had use of the existing floor, he didn't see the sense in taking that space away when the home elevation was a requirement being imposed on the owners. **Mr. Vaccino** said he felt it met the definition of a hardship.

Mr. Haberman motioned in favor of application. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of the project observing the height regulation, the need to raise the house and because the floor was pre-existing. The motion carried with **Messrs. Collins, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

5. <u>55 Point Beach Drive</u> (R-7.5) Gerry Panico, agent, for James Dorney and Gretchen Dorney, owners; Vary Sec. 3.1.4.1. front-yd setback to 12.4' where 20' required to elevate and relocate an existing home; Map 30, Block 632, Parcel 4

Mr. Gerry Panico, GP Architectural Construction, 62 Platt Lane, Milford, addressed the board. Mr. Panico noted that it's a waterfront property with a current first floor elevation of 10'. He said the house is located in VE20 flood zone, but that at the suggestion of zoning officials, the house is being moved out of that zone such that it only must be elevated 12'. He said his client is removing an existing 2nd floor deck and bringing one side into compliance.

DISCUSSION

Mr. Tuozzola confirmed that the only variance is in front so the house can be moved away from water.

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 the need to raise house and move it forward to meet FEMA requirements, creating a hardship. The motion carried with **Messrs. Collins, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

6. **783 East Broadway** (R-5) Julie Porzio, Esq., owner; Vary Sec. 4.1.4 east side-yd projection to 1.8' where 4' is allowed; west side-yd projection to 5.9' where 8' is allowed to reconstruct a 16' x 7.9' rear deck; Map 22, Block 474, Parcel 35

Attorney Julie Porzio, 25 State Street, Waterbury, CT, addressed the board. Attorney Porzio noted that she is looking to reconstruct the pre-existing deck destroyed in the storm; the hardship being a narrow lot.

DISCUSSION

Mr. Tuozzola confirmed that the placard was posted and that the plan was to replace exactly what she had before the storm.

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 the narrow lot, and that the owner was asking for nothing more than the original structure. The motion carried with **Messrs. Collins, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

7. <u>1 Waterbury Avenue cor. Broadway</u> (R-5) John Wagner, owner; Vary Sec. 3.1.4.1 building area of 52% where 45% is allowed; front-yd setback of 5.7' and 5.9' where 10' is required; rear-yd setback of 9.1'

where 20' is required; side-yd setback of 3' where 5' is required to construct a 2-car garage with space above; Map 13, Block 135, Parcel 9

Mr. John Wagner, 1 Waterbury Avenue, Milford, CT, addressed the board. Mr. Wagner noted that the house and garage sustained severe damage in the last storm and that he wants to renovate when he repairs. He said he wished to remove the detached garage and replace it with a larger attached garage with a second floor above. He said his hardship was due to his property being a preexisting small corner lot, very narrow. He said that because the home was built before zoning regulations, it is impossible to create an addition without a variance. He felt the changes would enhance the neighborhood.

DISCUSSION

Mr. Vaccino asked for clarification on the size of a standard 2-car garage. Mr. Harris said 22x24 is standard. Mr. Haberman and Mr. Collins discussed aspects of the placement of the garage; Mr. Wagner and Mr. Harris provided additional clarification.

FAVOR

Mr. James Williams, 5 Waterbury Avenue, Milford, said he shares the property line most affected by the changes and that he favors the plan, stating that it will improve the neighborhood.

Mr. Anthony Cruz, chairman of the Trustee Board at the Wildemere Beach UCC Church, an abutter, agreed that the changes would benefit the neighborhood.

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

Mr. Vaccino reopened discussion on the garage and concrete driveway; **Mr. Collins** said if the garage is moved toward street, a sightline problem would be created. **Mr. Vaccino** was persuaded by Mr. Collins' ideas. **Mr. Tuozzola** said taking down the old garage was a desirable step. He asked for a motion.

Mr. Collins motioned in favor of application. **Mr. Haberman** seconded. **Mr. Collins** supported his motion by reason of removal of an old garage that heavily encroaches on the setback, creates off-street parking, and the small, narrow size of the lot. The motion carried with **Messrs. Collins, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

8. <u>141 Hillside Avenue</u> (R-5) Jasmina Koban and Stephen Koban, owners; Vary Sec. 3.1. 4.1 north side-yd setback to 0' where 5' is required to replace shed. Map 49, Block 795, Parcel 83

Ms. Jasmina Koban, 141 Hillside Avenue, Milford, CT, addressed the board. Ms. Koban noted that they'd bought their home 2 years ago, just before the two major storms, during which their shed was destroyed. She directed the board to submitted paperwork from their structural engineer and CT DEEP. She noted that their seawall had been repaired, and that the shed would be replaced with better construction. She stated that there was no other place for storage. She asked to replace only what they lost.

DISCUSSION

Mr. Tuozzola confirmed that the shed is attached to the house and that access to the rear yard goes via the other side of the house. He was concerned about emergency access to get to the back of the house, but confirmed that there was a public walkway alongside the house.

FAVOR

Ms. Koban drew attention to letters of support submitted to the board.

Mr. Joe Honcz, 141 Hillside, said the project was appropriate because space is scarce near the shore.

OPPOSITION

Mr. Chris Jones, attorney for **Mr. Edward Jones, 143 Hillside**, said that 143 Hillside was destroyed by Storm Sandy. He said the slab for shed was poured before a permit was taken out and was concerned about construction techniques that might cause it to harm neighboring property in a subsequent storm, although he had no objection to the shed *per se*.

REBUTTAL

Ms. Koban reiterated that she had submitted structural and construction reports that comply with code and that she wouldn't jeopardize herself or her neighbors. **Ms. Koban** clarified with **Mssrs. Tuozzola** and **Harris** details about the slab construction and information on the impact of the seawall repair on this project.

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

BOARD DISCUSSION

After a short discussion, there were no issues in dispute, so **Mr. Tuozzola** asked for a motion. **Mr. Vaccino** motioned in favor of application. **Mr. Haberman** seconded. **Mr. Vaccino** supported his motion by reason of the narrowness of lot, restricting his approval to the exact specifications laid out in the testimony given. The motion carried with **Messrs. Collins, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

9. **56 Ocean Avenue** (R-7.5) Daniel Trapp and Cynthia Trapp, owners; Vary Sec. 3.1.4.1 front-yd setback to 15.7' where 20' is required; west side-yd setback to 4.6' where **14.8'** is required; east side-yd setback to 7.1' and 7'4' where 10' is required for 2nd floor addition; Map 9, Block 126, Parcel 13

Mr. Daniel Trapp, 56 Ocean Avenue, addressed the board and handed out elevation drawings. Mr. Trapp said he wants to add a second story to a 1-story bungalow built circa 1920 on a nonconforming lot. He noted a scrivener's error [in bold above] where 14.8' should read of 5'. He also wants to add storage on the 3rd floor.

DISCUSSION

Mr. Haberman and Mr. Tuozzola verified that the overhangs would be reduced during the renovation process and that the planned 2nd floor is in the same footprint.

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 the application. **Mr. Haberman** seconded. **Mr. Vaccino** supported his motion by reason of narrowness of the lot including the reduced size of the overhangs. The motion carried with **Messrs. Collins, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

10. <u>15 Hawley Avenue</u> (R-5) Bernard Gruskiewicz , agent, for Catherine Hogan, owner; Vary Sec. 3.1.4.1 rear-yd setback to 13.4' where 20' is required; Vary Sec. 4.1.4 side-yd projection of 15.7' where 16' is allowed for sunroom addition; Map 82, Block 785, Parcel 8

Mr. Bernard Gruskiewicz, agent, 1345 Paradise Avenue, Hamden, CT, addressed the board. Mr. Gruskiewicz handed out photos of the yard and noted the pres of Ms. Hogan. He said the existing deck would be removed. He said the irregular shape of the lot created a hardship. He reviewed details of the request, pointing out that the sunroom is all glass, matches the existing roofline and the window placement on the 2nd floor, and doesn't obstruct sightlines.

DISCUSSION

Mr. Vaccino confirmed that the new sunroom deck would be 4' larger than the existing deck. **Mr. Harris** remarked that the referenced deck is more of a stoop.

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. Soda** seconded. **Mr. Haberman** supported his motion by reason of the irregular shape of the lot. The motion carried with **Messrs. Collins, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

11. <u>6 Orland Street cor. Warren Street</u> (R-5) Steven Keedle, architect, for Ronald Hamel, owner; Vary Sec. 4.1.4 north projection of 1.75' and 4.5' and 2.7 where 8' is allowed; Vary Sec. 3.1.4.1 building area of 50% where 45% is allowed for deck and stairs; Map 29, Block 565, Parcel 5

Mr. Steven Keedle, 49 Beardsley Parkway, addressed the board. **Mr. Tuozzola** asked about the location of the placard because he hadn't seen it. **Mr. Keedle** said it had been hard to display the placard due to bushes in the front of the property, but that it was posted. Mr. Keedle noted that the property is an undersized lot and corner lot, creating a hardship. To comply with FEMA standards, it must be elevated. Mr. Keedle discussed details of the elevation plans and placement of decks. He noted that parking would be provided under the house and that the scale of the project is appropriate to the neighborhood.

DISCUSSION

Mr. Tuozzola asked for details on the various decks and the noted that the lot coverage was being pushed. **Mr. Keedle** said the front deck goes to the entry door and is conforming. He noted that the back deck for outdoor cooking is only 6' out from back of house. Mr. Vaccino confirmed that the parking is in addition to the existing garage. **Mr. Collins** reviewed the decking in more detail, including egress methods.

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 about lot coverage and required egress, there were no issues in dispute, so he asked for a motion.

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

There was none.
E. NEW BUSINESS There was none.
F. STAFF UPDATE There was none.
G. ACCEPTANCE OF MINUTES FROM APRIL 9, 2013, HEARINGMr. Vaccino moved they be accepted; the motion carried unanimously.
H. ACCEPTANCE OF APPLICATIONS FOR JUNE 11, 2013, HEARINGMr. Harris reported that one application had been received so far.
The meeting was adjourned at 8:58 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 Clerk, ZBA