

**MEMBERS PRESENT:** Rich Carey, Howard Haberman, Fred Katen, Ed Mead, Nanci Seltzer

**ALTERNATES PRESENT:** David Hulme

**STAFF PRESENT:** Linda Stock, Zoning Enforcement Officer; Rose Elliott, Clerk

The meeting was called to order at 7:00 p.m.

#### **A. CONSIDERATION OF AGENDA ITEMS**

1. **159 Merwin Avenue** (Zone R-7.5) Perakos & Zitser, law firm, for Millwood Properties, LLC, owner – appeal the decision of the City Planner in his order of letter dated April 13, 2009. Map 59, Block 739, Parcel 2.

**Postponed to the July 14, 2009 meeting.**

2. **33 Woodside Terrace** (Zone R-10) James Olden, owner – request to vary Sec. 3.1.4.1 rear yard setback from 25' to 15' to construct two story addition. Map 25, Block 221, Parcel 34.

**Jim Olden**, 33 Woodside Terrace, said when the property was divided in the 1960's, it was not cut in a square. Had it been cut in a square, no variance would be required. That is his hardship.

**Mr. Haberman** confirmed they are adding an addition in the rear and are just extending it along the same line of the house. It is because of the shape of the lot, a variance is required to which Mr. Olden said that was correct.

**Ms. Seltzer** asked if any consideration was given to placing the addition on the other side of the house where a variance would not be needed?

**Mr. Olden** said there is a possibility but they would prefer to have access to that room from the front of the house because that is where the driveway lines up. If the addition were to be built on the other side, they would park in the driveway and have to go all the way across the front of the house to get to the addition. He then showed the plans to the Board.

There being no one to speak in favor or opposition the hearing was closed.

#### **DISCUSSION:**

**Chrmn. Katen** noted had the property been divided with a straight line rather than a slanted line 42 years ago, there would be no problem today. The addition will follow the existing lines of the house. Ms. Seltzer said this is a matter of convenience and not a true hardship as the addition could be built on the other side of the lot so she would not be supporting it.

**Mr. Carey** made a motion to approve with Mr. Mead seconding. The hardship is the shape of the lot and the placement of the house on the lot. The motion carried 4-1 with Messrs. Mead, Haberman, Carey and Katen voting in favor and Ms. Seltzer voting against.

3. **829 Naugatuck Avenue** (Zone R-18) Margaret A. Lennox, owner – request to vary Sec. 3.1.4.1 rear yard setback from 10' to 1' and 3' (including overhang); vary Sec. 4.1.1.4 to allow accessory structure 7' from dwelling where 8' is required, to construct detached garage. Map 31, Block 302, Parcel 43C.

**Margaret Lennox**, 829 Naugatuck Avenue, said her hardship is the size of the lot as it has only 10,000 sq. ft. where 18,000 sq. ft. is required. The house is placed approximately in the center of the lot, which doesn't allow them much room for the garage.

**Chrmn. Katen** confirmed the existing garage would be removed to which Ms. Lennox said that was correct. He added there didn't appear to be anywhere else the garage could be placed.

**Mr. Mead** noted when he drove by the property the lot was also on an angle to Naugatuck Avenue to which Ms. Lennox agreed and added her lot is also elevated from the road.

There being no one to speak in favor or opposition the hearing was closed.

#### DISCUSSION:

**Chrmn. Katen** said the lot is irregular in shape. Ms. Seltzer asked of Ms. Stock how this lot of only 10,000 sq. ft. came to be in an 18,000 sq. ft. zone and when the house was built. Ms. Stock answered that is what people used to do prior to the Zoning Regulations. What happened prior to zoning is out of the office's control, which is why people end up here before the Zoning Board of Appeals. The house was built in 1951. She added that while the house does not predate zoning, the division of the lot does.

**Mr. Haberman** made a motion to approve with Mr. Carey seconding. The hardship is the size and shape of the lot. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Carey and Katen voting.

4. **20 Brookdale Avenue** (Zone R-7.5) Ghislain Turcotte, appellant, for David Lane, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 7.1' to allow dwelling to remain. CAM required. Map 13, Block 107, Parcel 9.

**Ghislain Turcotte**, said his hardship is the house was built in 1947 prior to zoning. The existing house is setback 7.1' from the side property line where 10' is required. They are not changing the footprint but only fixing the fire damage.

**Chrmn. Katen** confirmed they are keeping the existing footprint of the house prior to the fire and are before the Board only because they are doing over 50% renovation to which Mr. Turcotte said that was correct.

OPPOSITION:

**Barbara Planker**, 28 Brookdale Avenue, adjacent to the property, said the garage is too close to the property line. She lived through that fire. Her bedrooms are on that side of the house and there could have been three deaths that night. It is a hardship to her. They store combustible materials in the garage along with gasoline outside of the garage. She lives in fear that if something were to go up in flames, she would go along with it. She added an addition that was to be used only as a family room has been used as an accessory apartment and she was unsure whether that illegal apartment has been removed.

**Chrmn. Katen** said he understood her concerns and her fears as the next door neighbor but explained this home was built 62 years ago and that was the footprint of the house then and if the applicant wasn't renovating the house more than 50%, they would not be before the Board. Her other concerns need to be addressed elsewhere within the City Departments.

**Mr. Carey** added that as a result of this renovation, the addition will be built to the present building codes and she would probably be safer now because of it.

**Mike Spiarolo**, 32 Brookdale Avenue, said he was concerned whether the home will be beautiful or a flop house. He agreed with Barbara Planker that the garage is close to her home. He added the backroom of this home does seem to be used as an in-law apartment.

**Ms. Stock** said the first time she heard about an apartment in that dwelling was when it burned. No one ever filed a complaint or called the office about it. If someone doesn't bring a violation to our attention, we don't know. Had the office been aware of its existence, something would have been done about the illegal apartment. While speaking with the applicant, Mr. Turcotte, he assured her there would be no apartment there and she believes him. She added she would be doing the final inspection when construction was complete.

REBUTTAL:

**Mr. Turcotte** said the renovations would be all to code and would be attractive.

**Chrmn. Katen** asked if this was going to be an accessory apartment to which Mr. Turcotte said there is no apartment there now. There is no kitchen in the family room.

The hearing was closed.

DISCUSSION:

**Chrmn. Katen** said he understands the concerns and the feelings of the people in opposition but the Board cannot address those issues. He suggested they contact the various City Departments who can address them. What the Board can address is the fact that the applicant is doing over 50% renovations and needs this variance to allow the dwelling to remain. He did not see a problem to which Messrs. Haberman and Mead agreed.

**Mr. Haberman** made a motion to approve with Mr. Carey seconding. The hardship is the structure is pre-existing, non-conforming and predates zoning. Due to the fire

damage, over 50% renovation is required. The footprint is not being increased at all. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Carey and Katen voting.

5. **50 Greer Circle** (Zone R-7.5) James Lancaster, appellant, for Christina E. Ruenhorst, owner – request to vary Sec. 3.1.4.1 front yard setback from 20' to 5.2' and rear yard setback from 25' to 20.2' to construct 2 story addition. Map 76, Block 918, Parcel B-6.

**Christina Ruenhorst**, 50 Greer Circle, said she was born in Milford, lives and works in Milford and is active in the community. The existing house is modest with 3 bedrooms and 1 bath. She is proposing a modest addition that would allow her to have a 2 car garage, two bathrooms and a master bedroom. Her property is unusual because it has 3 front yards, which is why she requires the variance. She and her architect explored a variety of options and found that it was impossible to build within the setback lines. It is important to her to keep the proposed addition within the scale of the neighborhood and she feels they have done just that.

**Jim Lancaster**, architect, said the plan is to convert the one car garage to a two car garage and add a 2<sup>nd</sup> bathroom, living room and master bedroom. They propose to remove the 1 car garage and replace it with the 20'x20' 2 car garage. Behind the garage, a 14'x24' living room will be constructed. They wanted to accomplish these items in the least obtrusive way, keep the smallest footprint on the land, and the least impact on the site. The hardship is there are three front yards. The first floor addition will include the garage and the living room; the second floor would include the master bedroom and a bathroom. To keep the addition small and the design in scale, the second floor's footprint was made smaller by tucking the addition into the roof. It looks like a 1½ story house, more like a cape. The building height is 21' where 35' is permitted to keep in character with the neighborhood. What they are proposing will give the owner what she needs in the house while at the same time, keeping it small in scale, keeping a small footprint and reflecting the character of the neighborhood.

**Ms. Stock** told the Board the deck shown on the plans would not be constructed; a patio would be constructed in its place.

**Mr. Haberman** said he drove by the property and there is not a lot of room on that side of the house. It is hard to imagine how all this is going to fit on the lot.

**Mr. Mead** asked if the garage would allow access into the house to which Mr. Turcotte said yes.

#### OPPOSITION:

**Kevin Conway**, 63 Greer Circle, directly across the street, said while the hardship stated is 3 front yards, they are still asking for a variance in the rear. He feels this is a large variance request. The proposed addition is not in line with the other houses on the street and out of character with the neighborhood. The proposed protrusion of the addition reduces the visibility of oncoming traffic. There is parking allowed on both sides of the street and is used regularly. This could lead to a very bad situation.

**Lisa Cerkez**, 57 Greer Circle, across the street, said the neighborhood is full of children. Cars park all the way around this property and she feels it will impact the safety and quality of life. She fears for the children.

**Frank Geer**, 62 Greer Circle, directly abuts the variance property. While he understands the reason for the variance request, he opposes it. All of the houses were built in line, so there is a clear line of site three quarters of the way around the circle. The addition will cut into that line of site. There is also a lot of pedestrian traffic within the neighborhood. The kids will not be safe.

**Mark Malone**, 53 Greer Circle, said his concern is the relocation of the driveway, as it will create a major blind spot when backing out. Cars utilize both sides of the street to park while kids all over the neighborhood are on bikes and skateboards.

**Pauline Musante**, 47 Greer Circle, across the street, said she hasn't seen all the plans but does feel it would be intrusive to Mr. Geer's property.

#### **REBUTTAL:**

**Ms. Ruenhorst**, said she is a quiet and respectful neighbor. She parks her one car in the garage and her friends park in her driveway. Most of the street parking is done by her neighbors, who park around her property.

**Mr. Lancaster** said 3 or 4 neighbors asked Christina if they should come and speak in favor of it to which she told them no, there would be no reason to do that. With 3 front yards, Christina's property is a very public property and her privacy is her backyard, which is why they want to put the living room there. They have made every effort to keep the design modest. What you have before you is a nice addition but requires these variances because of the shape of the lot.

**Mr. Haberman** asked how far back the living room would be to which Mr. Lancaster said 8'. Mr. Haberman asked if any consideration was given to making it a one car garage and keeping it in the same direction.

**Mr. Lancaster** said the intent of this design is for a 2 car garage; she has a one car garage. Her desire is to continue living in this house and wishes to have a two car garage and 2 bathrooms.

**Mr. Haberman** said the house is small and will become all house on that side with what is being proposed. He didn't see anything like it in the neighborhood.

**Mr. Lancaster** noted if this had been a side yard, they would be compliant. It is only because they have three front yards and no side yard.

**Ms. Stock** noted they are located in an R-7.5 zone, which requires 7,500 sq. ft. and they have over 8,000 sq. ft.

The hearing was then closed.

#### **DISCUSSION:**

**Ms. Seltzer** said she feels there are other options for the applicant like a 1 car garage instead of 2 car garage. She felt the application is more about choice than necessity and didn't feel this was a hardship she could go along with. Mr. Mead noted the adjacent neighbor's house is 45' away and will be 37.5' away if this is approved. He didn't think there would be any noise issues with that distance. Also, the line of site would not be obstructed by 1 car in the driveway. This is the first time in his 6 years of service on this Board that he has seen 3 front yards. Mr. Haberman said his concern is conformity with the neighborhood. Mr. Hulme added that the Board has approved variances that don't necessarily conform to the neighborhood. The architect has tried

to keep it as conforming as he can to the neighborhood. They are not building a mcmansion. This property has three front yards and that is why they are here. Mr. Haberman noted the Board has denied applications in the past because they didn't conform to the neighborhood whether a hardship existed or not. Chrmn. Katen said with three front yards it is a strange piece of property. He asked of Ms. Stock if there was anything in the Regulations regarding parking around a corner to which Ms. Stock answered it is a Police issue and has nothing to do with this Board. If the neighbors don't like the parking they can appeal to the Police Dept. to change the parking along the street. Mr. Mead said if the applicant eliminates the porch, instead of being at a 5.2' setback, it would be at a 10.7' setback; still maintaining access to the house through the garage. Ms. Stock reminded the Board the applicant would still have to come back to the Board for another variance and go through the whole process again.

**Mr. Mead** made a motion to approve with Mr. Carey seconding. The property is unique with three front yards. In addition, the placement of the house is not centered on the lot. No matter how they placed the addition on the right hand side, a variance would be required. The motion failed to carry 2-3 with Messrs. Mead and Carey voting in favor and Ms. Seltzer, Messrs. Haberman and Katen voting against.

**Ms. Seltzer** made a motion to deny with Mr. Haberman seconding. The reason for denial is she didn't feel that choices necessarily create a land use hardship or that should be our decision; there are other options. Mr. Mead asked how it could be changed? By taking off one garage and moving the back addition up 8' to which Ms. Seltzer said there are other options. She is not an architect, but said it was stated by the applicant and her architect, there were other options. Their choices were not sufficient enough of a land use hardship. Mr. Haberman agreed and added you have to consider whether it will conform to the neighborhood and could it be designed differently to adhere to that. When the voting was done, the motion failed to carry 3-2 with Ms. Seltzer, Messrs. Haberman and Katen voting in favor and Messrs. Mead and Carey voting against.

## **B. TABLED ITEMS**

1. **90 Heenan Drive** (Zone CBDD) Leo P. Carroll, attorney, for 90 Heenan Drive, LLC, owner – appeal the decision of the City Planner to rescind a Certificate of Zoning Compliance. Map 91, Block 807, Parcel 2.

**Ms. Stock** informed the Board she had received an email from the City Attorney stating their opinion was not ready yet. Hopefully, it will be ready next month. They did have to ask the applicant if they would grant us an extension of time for 30 days, which they did. The application will have to be heard at the July hearing. She reminded the Board she would not be at the July meeting. Assistant City Planner, Emmeline Harrigan, would be attending the meeting in her absence.

## **D. OLD BUSINESS**

## **E. NEW BUSINESS**

1. **62 Hauser Street**, letter from owner, Paula Smith, requesting an extension of time (2<sup>nd</sup>).

**Ms. Stock** read the letter into the record.

**Mr. Carey** made a motion to approve the extension of time for one year with Mr. Haberman seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Carey and Katen voting.

2. **10 Smith Avenue**, letter from owner, Dean Smith, requesting an extension of time (2<sup>nd</sup>).

**Ms. Stock** read the letter into the record.

**Mr. Carey** made a motion to approve the extension of time for one year with Mr. Haberman seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Carey and Katen voting.

3. **25 Deerwood Avenue**, letter from Attorney Mager, requesting an extension of time (2<sup>nd</sup>).

**Ms. Stock** read the letter into the record.

**Mr. Carey** made a motion to approve the extension of time for one year with Mr. Haberman seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Carey and Katen voting.

## **F. STAFF UPDATE**

**Ms. Stock** informed the Board that she was at 10 Silver Street on June 5, 2009 and noted the rear deck, gazebo and side addition are gone. The side deck, which they originally had, was allowed to remain. They received a permit to construct a new second floor deck and a three foot landing in the rear for ingress and egress.

She again reminded the Board that she would not be at the July 14, 2009 meeting; however, both the Assistant City Planner and the City Planner would be there.

David Hulme added he would not be at the July meeting and also the August meeting. His son's football season starts in August and he is the coach. He understands that the Board is short staffed but he just cannot be here. He said if the Board thought it would be better to have the Mayor find a replacement for him, he would not be offended. Ms. Seltzer said no with Ms. Stock agreeing and adding that as an alternate, when he is needed, he is here. Mr. Carey said the main thing is to tell us when you won't be here, which you are doing.

## **G. ACCEPTANCE OF MINUTES FROM MAY 12, 2009 MEETING.**

The minutes were approved unanimously.

**H. ACCEPTANCE OF APPLICATIONS FOR JULY 14, 2009 MEETING.**

The meeting was adjourned at 8:10 p.m.

Attest:

Rose M. Elliott  
Clerk - ZBA