

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

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

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

MEMBERS PRESENT: Joseph Tuozzola (Ch), Howard Haberman (Sec), Richard Carey, John Vaccino

ALTERNATES PRESENT: Gary Dubois, William Soda, Robert Thomas

MEMBERS/ALTERNATES ABSENT: John Collins

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

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

Mr. Tuozzola asked for known conflict of interests for board members with any of the items on the agenda; none were raised. He announced that because Mr. Collins could not attend the meeting, **Mr. Thomas** would provide the fifth vote for the evening.

C. CONSIDERATION OF AGENDA ITEMS

1. **57 Pelham Street** (R-7.5) Peter Crabtree, agent, for Jeffrey Hatfield, owner; CAM RECEIVED, Vary 3.1.4.1 side-yd setback of 3.6' where 10' is req; side-yd to 4.9' where 5' is req.; 4.1.4 eave proj. of 3.9' where 4' perm. and 2.6 where 8' is perm.; stair proj. of 2.9 where 8' perm. Vary 6.3.2 to expand non-conforming structure by 18 sq'. for a 2-story addition Map 29, Block 548, Parcel 8

Peter Crabtree, 63 Stanley Street, New Haven, addressed the board. Mr. Crabtree stated that a short-form CAM had been submitted as well as notification materials. He shared some photographs of the current structure as seen from the street. He pointed out that a neighboring garage is very close to the street. He said there are no flood issues. He noted the eave and stair encroachments. He noted the small size of the setback variance request.

DISCUSSION

Mr. Haberman said the front looked better squared off to create a 2-car garage. **Mr. Tuozzola** confirmed that a portion of the garage will be demolished. **Mr. Carey** noted that major renovations are being done to the interior. **Mr. Vaccino** confirmed that the total area would be 2604 sq ft' and that the hardship was that the lot pre-dates zoning and that even though the size is conforming, the lot tapers toward the front.

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 the application. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of hardship of the narrow lot, restricting approval to the exact plan submitted. He said the hardship was clear since without the lot's tapering shape, no variance would be needed. He liked the fact that the garage takes another parked car off the road. The motion carried with **Messrs. Carey, Haberman, Vaccino, Thomas, and Tuozzola** voting **with the motion**.

2. **70 Stowe Avenue** (CDD-2) Dean Fisher, owner; Vary 3.17.4.2 to allow a 6' front-yd setback where 10' is required for a 3-story structure with walkway connecting to main bldg. Map 16, Block 107, Parcel 79C

Dean Fisher, 70 Stowe Avenue, Milford, addressed the board. Mr. Fisher stated that he had previously received a variance to build the tower to the height of the existing structure, but mistakenly left out verbiage asking for a 3rd floor, causing a lack of storage space. He noted a 20' ceiling height on the 2nd floor that could be converted to another floor.

DISCUSSION

Mr. Tuozzola confirmed that the change in stories would not change the height of the structure.

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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. Soda** seconded. **Mr. Vaccino** supported his motion by reason of the request being consistent with the original variance granted, restricting approval to the exact plan submitted. The motion carried with **Messrs. Carey, Haberman, Vaccino, Thomas, and Tuozzola** voting **with the motion**.

3. **147-149 Hillside Avenue** (R-5) Gernot Bruckner, agent, for Elizabeth Anderson, owner; Vary Sec. 3.1.4.1 side-ym setback to 3.8' where 10' req to construct new house; bottom of supporting joist 19.06'; vary sec. 4.1.4 eave proj. of 2.8' where 4' is permitted; Map 49, Block 795, Parcel 81

Gernot Bruckner, 162 Hillside Avenue, Milford, addressed the board. Mr. Bruckner said the hardship was that the structure occupies a very small, narrow, non-conforming lot. He described the existing structure, noting that the proposed structure is smaller than the existing duplex.

DISCUSSION

Mr. Tuozzola confirmed that only one variance was needed and the duplex would be converted to a single family home.

FAVOR

Mr. Tuozzola noted a letter in support of the project.

OPPOSITION

Valerie Jones, 143-145 Hillside, said she lives next door and opposes the project. She asked that no variance be provided. She expressed concern about fire spreading in the event that one started.

REBUTTAL

Mr. Bruckner said the variance request reduced nonconformities.

BOARD DISCUSSION

Mr. Tuozzola closed the hearing. He noted that the variance was only on one side. **Mr. Carey** felt the duplex conversion reduced the nonconformity more than the variance request increased it.

Mr. Carey motioned in favor of the application. **Mr. Haberman** seconded. **Mr. Carey** supported his motion by reason of hardship of the small, narrow lot, restricting approval to the exact plan submitted. The motion carried with **Messrs. Carey, Haberman, Vaccino, Thomas, and Tuozzola** voting **with the motion**.

4. **27 Whalley Avenue** (R-5) Scott Farquharson, agent, for Jose Cardoso and Tracy Cardoso, owners; Vary Sec. 3.1.4.1 front-ym setback to 13.1' where 20' req; rear-ym setback to 21.4' where 25' req for 2nd fl addition. Map 48, Block 729, Parcel 14

Mr. Farquharson was unable to attend, so **Kevin Cornell** of **Baybrook Remodelers**, 824 Boston Post Road, West Haven, addressed the board. Mr. Cornell stated that the addition would be built directly over an existing nonconformity. He noted that the two lots had been merged for zoning purposes, **Mr. Harris** adding that the merger formalized an existing reality. **Mr. Cornell** said the hardship was that the consolidated parcel is still smaller than a 7500 sq-ft conforming lot. He said the Cardosos want a 2nd-fl addition to create 2 more bedrooms and that the existing structure was constructed in the 1920s. He noted that expanding the house is impossible without a variance and that similar front-yard encroachments are present on surrounding houses. He added that the visual presentation of the house's new design will make it appear to be further back.

DISCUSSION

Mr. Tuozzola confirmed that the front-yard setback encroachment is an existing condition. There was discussion about an existing shed concluding with **Mr. Harris** explaining that lot 7 is still technically a separate parcel and that issues on this lot were being dealt with separately. **Mr. Vaccino** confirmed that setbacks for the existing porch and front of the house.

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FAVOR

Tracy Cardoso, 27 Whalley Avenue, said the shed is a Rubbermaid portable one. She expressed hope that the house could be enlarged to accommodate their family and suggested that this represented a hardship.

OPPOSITION

Eric Pierson, 31 Whalley Avenue, confirmed that no structure is planned to go in front of existing porch and dropped any potential objections.

BOARD DISCUSSION

Mr. Tuozzola closed the hearing. After a short discussion, no issues were in dispute, so he asked for a motion. **Mr. Vaccino** agreed that there is a hardship due to the narrowness of the lot, but clarified that the hardship suggested by Ms. Cardoso is not consistent with the definition that must be used by a Zoning Board of Appeals where hardship runs with the land.

Mr. Haberman motioned in favor of the application. **Mr. Carey** seconded. **Mr. Haberman** supported his motion by reason of hardship represented by the narrow lot, restricting approval to the exact plan submitted. The motion carried with **Messrs. Carey, Haberman, Vaccino, Thomas, and Tuozzola** voting with the motion.

5. **40 Field Court** (R-5) Thomas Lynch, attorney, for Donald Cozzolino, owner; Vary Sec. 4.1.4 side-yd setback (east) 3.3' and 3.5' where 4' proj. perm; (west) 6.1' and 7' where 8' proj. perm; Sec 5.8.14.2 (1) deck elevation below flood elev. of 13' to rebuild deck. Map 28, Block 573, Parcel 3

Attorney Thomas Lynch, of Lynch, Trembicki and Boynton, 63 Cherry Street, Milford, addressed the board. Attorney Lynch shared photographs of the site. He stated that Mr. Cozzolino's family owned the house since the 1950s and use it as a summer cottage. He said the owner wanted to legalize repairs made on a preexisting deck which was damaged in Storm Sandy. He said the house was raised in 1980, at which time the deck was expanded to wrap around the house. This deck was destroyed by Storm Sandy. He noted the better quality of the work and that the new deck exactly replaced what existed before, but that to legalize the deck, a variance was required. He said the other part of the variance request reduces the nonconformity, raising the elevation closer to the FEMA requirement. He and **Mr. Harris** discussed interpretation of Statute 8.13.a.

DISCUSSION

Mr. Tuozzola expressed concern that precedent could be set for homeowners assuming they could create nonconformities and then ask the ZBA to validate them. **Attorney Lynch** emphasized that the deck was preexisting. **Mr. Tuozzola** clarified with Mr. Harris that in the VE zone, the lowest supporting member must be above the Base Flood Elevation for that zone, in this case to VE13 level.

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** said that since it was the exact deck, he was willing to consider approval. **Mr. Vaccino** said that he accepted Attorney Lynch's explanation, but that he also doesn't want to set a precedent for legalizing work done improperly.

Mr. Haberman motioned in favor of the application. **Mr. Carey** seconded. **Mr. Haberman** supported his motion for reasons stated on the plans, restricting approval to the exact plan submitted. **Messrs. Carey, Haberman, Vaccino, Thomas, and Tuozzola** voting with the motion.

6. **25 James Street** (R-5) Ellen Buchanan, owner; Vary Sec. 4.1.4 east side-yd setback to 4.3' where 8' projection is allowed to elevate house. Map 27, Block 455 Parcel 30

Ellen Buchanan, 25 James Street, Milford, addressed the board. Ms. Buchanan stated that she was being compelled to elevate to 11'. She said her front yard is nonconforming, so she wants to move a stairway to create a kitchen entrance with a rear deck. She said her hardship was the narrow, nonconforming lot.

DISCUSSION

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Mr. Haberman clarified parking configurations. **Mr. Tuozzola** confirmed the configuration of the stairs and deck with respect to the kitchen.

FAVOR

Michael Halley, 21 James Street, said he is most affected by the project and that he and his family support it.

BOARD DISCUSSION

Mr. Tuozzola asked for opposition and heard none, so 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 hardship of the narrow lot, restricting approval to the exact plan submitted. The motion carried with **Messrs. Carey, Haberman, Vaccino, Thomas, and Tuozzola** voting **with the motion**.

7. **313 Naugatuck Avenue** (CDD-2) John Knuff, attorney for Wiehl Estate, LLC, owner; Vary Sec. 5.4.2.1 min lot area to 20,362 sq' 22,000 sq' is req; Sec 5.4.3.1 to 20' where 300' req from res boundary; for gas/retail sales. Map 15, Block 244, Parcel 1

Attorney John Knuff, of Hurwitz, Sagarin, Slossberg & Knuff, 147 North Broad Street, Milford, addressed the board. Attorney Knuff stated that the site is an existing gas station in a zone that permits this use. He said a gas station has existed on the site since 1959. He noted that the 54-year-old building is in bad repair. He said the gasoline station restrictions were added to the regulations after the gas station was built. He referenced the aesthetics of the proposed renovation and increased environmental compliance. He pointed out that even with ZBA approval, his client needs to go to the Planning and Zoning Board for further approvals. He said his client typically buys dilapidated gas stations and renovates them. He provided photos of conversions in other towns featuring a cape/colonial design. He said his client (based in Trumbull) wants all their stores to reflect a colonial look, consistent with coastal Connecticut's style. He noted the success of these plans in other towns. He said the new building would be consistent with the photos provided, would contain no auto repair business, would have the same or fewer gasoline dispensers, and would maintain the size of a small, updated convenience store. He noted the small size of the property as a hardship and said he thought the neighbors would approve. He said it would be consist with Devon development and planning goals.

DISCUSSION

Mr. Tuozzola commended the quality of the presentation. **Mr. Haberman** confirmed that the building will be larger; **Attorney Knuff** said it would be most like the station in Fairfield.

FAVOR

Lily Rizzio, 333 Naugatuck Avenue, asked to see the photos. **Attorney Knuff** pointed out the 2-dormer Fairfield design for her. She expressed approval for the project.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to in opposition to the application; hearing none, he closed the meeting. **Mr. Haberman** noted that dispensers were his main concern as they can increase traffic; he was glad there would be no additional ones. **Mr. Tuozzola** said the project was the consistent with revitalization of Devon. **Mr. Carey** noted that the regulations changed after the gas station was there.

Mr. Haberman motioned in favor of the application. **Mr. Carey** seconded. **Mr. Haberman** supported his motion by reason of the plan submitted, restricting approval to the exact plan submitted. The motion carried with **Messrs. Carey, Haberman, Vaccino, Thomas, and Tuozzola** voting **with the motion**.

8. **1 Odell Avenue cor. Welchs Point Road** (R-7.5) Scott Mason, builder, for Tom Leone and Emily Leone, owners; Vary Sec. 3.1.4.1 (west) front-ym setback of 4.1' where 20' is req; (east) side-ym setback of 3.6' where 5' is req; Sec 4.1.4 (west) eave proj to 2.9' where 16' is allowed and (east) eave proj to 2.4' where 4' is allowed to add a second story on east/west sides of house; Map 28, Block 566 Parcel 9

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Scott Mason of Mason Bros. Construction, 211 Plains Rd, Milford, addressed the board. Mr. Mason stated that the new structure wouldn't project beyond existing setback encroachments. He said that the existing nonconformities were probably created 60 years ago.

DISCUSSION

Mr. Tuozzola confirmed that the house is placed very close to road. **Mr. Haberman** reviewed the size of addition.

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. Thomas** seconded. **Mr. Vaccino** supported his motion by reason of not increasing an existing nonconformity, restricting approval to the exact plan submitted. The motion carried with **Messrs. Carey, Haberman, Vaccino, Thomas, and Tuozzola** voting with the motion.

D. OLD BUSINESS

There was none.

E. NEW BUSINESS

There was none.

F. STAFF UPDATE

Mr. Harris noted Zoning Clerk Taft Clark's 1-year anniversary of hire.

G. ACCEPTANCE OF MINUTES FROM JUNE 9, 2013, HEARING

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

H. ACCEPTANCE OF APPLICATIONS FOR AUGUST 13, 2013, HEARING

Mr. Harris reported 1 application so far.

The meeting was adjourned at 7:40 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