

Minutes of Public Hearings of Zoning Board of Appeals Meeting held August 10, 2010

**MEMBERS PRESENT:** Howard Haberman, Fred Katen, Nanci Seltzer, Joseph Tuozzola

**ALTERNATES PRESENT:** Bill Evasick

**STAFF PRESENT:** Emmeline Harrigan, Assistant City Planner; Kathy Kuchta, Zoning Enforcement Officer, Rose Elliott, Clerk

The meeting was called to order at 7:01 p.m.

Chairman Katen informed the applicants that since there were only four Board members in attendance, a unanimous vote would be required for approval. The applicants were given the option to choose whether to be heard tonight or at the September 14<sup>th</sup> meeting.

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

1. **Alpha Street/Eels Hill Road** (Zone R-18) Stephen W. Studer, attorney, for Milford Heights, LLC, appellant, for United States of America, U.S. Coast Guard Finance, CTR, owner – appeal the decision of the City Planner in correspondence dated June 4, 2010 from City Planner denying a Certificate of Zoning Compliance. Map 69, Block 711, Parcel 17A.

**Postponed to September 14, 2010 meeting.**

2. **12 Parkland Place** (Zone R-10) George W. Adams, III, attorney, for Two Ninety-Six, LLC, owner – request to vary Sec. 3.1.4.1 to allow 5' (4' to overhang) side yard setbacks in lieu of 10' on both sides; vary front yard setback to 20' (19' to overhang) from 25' required, to construct new single family residence. CAM received. Map 39, Block 606, Parcel 6.

**George Adams**, attorney, 300 Bic Drive, said the new owners are looking to replace the existing house built in 1918, with a new 50'x20', two story home. As a result of extensive meetings with the neighbors, the applicants are no longer seeking the front yard variance. The proposed house was moved back to the required 25' setback, and no longer requires a variance. The only variance being requested is for the side yards. He passed out paperwork to the Board. The current parcel was created more than a decade before the Zoning Regulations were adopted and is 3,000 sq. ft. where 10,000 sq. ft. is required. The lot is 30'x100' and would allow for only a 10' wide house. The existing house is more non-conforming than what they are proposing to do. It currently is only 1.9' from the property line on the right side. They would be increasing that setback to 4' with the overhang. The existing front yard setback is at 12.1'; while the proposed house will have a 25' front yard setback, allowing more off-street parking. They are no longer proposing a second floor deck but will have a patio in the rear of the house instead. It will be keeping with the neighborhood, as it would be only two stories in height. The hardship is the parcel was created prior to the adoption of the Milford Zoning Regulations in 1929. The proposed home would decrease the non-conformity of the existing home.

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**Mr. Evasick** asked if there was parking on the street to which Atty. Adams said there was but the street is narrow. The proposed house would have a one car garage and room for at least two cars in the driveway.

**Atty. Adams** submitted a petition of people in favor of the application.

#### OPPOSITION:

**Tom Williams**, 4 Beacher Road, asked Atty. Adams, to repeat what he said the hardships were.

**Anne Moore**, 18 Parkland Place, the neighbor to the right, asked if the 4' side yard request includes the gutters?

**Ms. Harrigan** answered it did and added once a variance is granted, projections are not allowed afterwards. The notice is always to the overhang because that is all that would be allowed. The request is inclusive of everything.

**Ms. Moore** asked if the air conditioning units would be allowed in the side yard setback to which Ms. Kuchta noted according to the plans, the air conditioning unit would be located in the rear of the house towards the deck. A unit would not be allowed on the side if it encroached any further.

**Mark Ryba**, 3 Parkland Place, asked if the application needed to be amended since it first had a 20' front yard setback and now it has 25'.

**Chrmn. Katen** said when the motion is made it will be split; one for the front yard and one for the side yard.

The hearing was closed.

#### DISCUSSION:

**Chrmn. Katen** noted the elimination of the front yard setback variance makes the application more palatable to the neighborhood. The hardship is the size and width of the lot.

**Mr. Haberman** made a motion to split the application. Mr. Evasick seconded the motion and it carried unanimously.

**Mr. Haberman** made a motion to deny the front yard variance request with Mr. Evasick seconding. The motion carried unanimously with Messrs. Haberman, Tuozzola, Evasick and Katen voting.

**Mr. Haberman** then made a motion to approve the variance request for the side yards with Mr. Evasick seconding. The hardship is the undersized lot. The proposed house would be less non-conforming than the existing house and would be only be two stories high. The motion carried unanimously with Messrs. Haberman, Tuozzola, Evasick and Katen voting.

3. **79 Melba Street** (Zone R-5) David Salerno, appellant, for Alyssa Blume, owner – request to vary Sec. 3.1.4.1 to allow 4.42' (3.42' to overhang) side yard setback in lieu of 5' required and 14.29' rear yard setback in lieu of 20' required with rear porch projection to 6' from property line in lieu of 16' required for over 50% substantial

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improvements and additions to single family residence. Vary Sec. 3.1.4.1 for 3.82' side yard setback in lieu of 4' required and 4.62' in lieu of 10' required in front yard to allow reconstructed garage to remain. CAM received. Map 29, Block 587, Parcel 27.

**David Salerno**, general contractor, told the Board he just found out yesterday that the placard had blown down on Sunday afternoon. He assured the Board that prior to Sunday, the placard was always up. Notice was sent out early so people did have substantial time to see it. He apologized to the Board. He told the Board members the house is existing and they only want to add a second and third story to it. He passed out paperwork to the Board. The hardship is the lot is 40' wide where 50' is required. He explained the variance request for the garage is because the previous builder built it in the wrong spot and never got a Certificate of Occupancy for it. A surveyor was hired and the location of the garage was staked out. After construction was completed, the builder informed the owners that a Certificate of Occupancy had been issued, which was not the case. When a second survey was done for this variance application, it was discovered that the garage was not built in the correct location. Building Inspection did inspect the garage and it did meet all building code requirements. The garage is inline with other garages on the street. They are asking for a variance to allow the garage to remain where it is.

**Mr. Haberman** confirmed that they want to add a second and third story onto the existing house and keep the garage exactly the same and in exactly the same place to which Mr. Salerno said that was correct.

**Chrmn. Katen** asked Ms. Harrigan to clarify what happened with the garage.

**Ms. Harrigan** explained that with something as simple as an accessory structure, a survey is not required; a plot plan is all that is necessary. The builder constructed the garage in the wrong location and it did not come to light until the second survey was done.

**Mr. Evasick** asked if there was a room above the garage or just storage to which Mr. Salerno answered there is just storage. Mr. Evasick asked if there was plumbing or just electrical.

**Mr. Salerno** said there was no plumbing, just electric.

**Mr. Tuozzola** asked if the garage was rebuilt on the same footprint as the previous garage because it appeared to be a carbon copy of the neighbor's garage.

**Mr. Salerno** said the neighbor gave the applicants the plans because they liked the style.

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

DISCUSSION:

**Mr. Tuozzola** said he didn't have a problem with it. Chrmn. Katen said they are adding two stories and will be keeping with the character of the neighborhood.

**Mr. Touzzola** made a motion to approve with Mr. Evasick seconding. The addition will be on the same footprint of the house and the garage issue has been explained. It is similar to the other garages on the road. The motion carried unanimously with Messrs. Tuozzola, Haberman, Evasick and Katen voting.

**B. TABLED ITEMS**

1. **35 Ward Street cor. Rogers Avenue** (Zone R-5) Lorri DiBattisto, appellant, for Donald James, Jr., owner – request to vary Sec. 3.1.4.1 to allow 5.0' front yard in lieu of 10' required for 2 story addition and .87' in lieu of 10' front yard and 12.3' in lieu of 20' rear yard to convert barn and connect to single family residence. CAM received. Map 36, Block 415, Parcel 6.

**Rachel Caswell**, 29 Hartford Avenue, Granby, said they are looking for a variance to create one continuous residential structure. They are requesting a 5' variance for the front yard setback to construct a building that connects the existing house and barn. The .87' and the 12.3' variances are for the existing barn structure, being converted to living space. The current house is only 950 sq. ft. The hardships are it's a corner lot with two front yards, the triangular shape of the lot and the fact that the two structures already exist.

**Mr. Haberman** asked if the existing barn was already two stories to which Ms. Caswell said that was correct. The only changes to that structure would be some interior remodeling, new windows and siding.

**Mr. Haberman** noted the house is closer to the street than the proposed addition would be, minus the porch.

**Mr. Evasick** asked if access to the garage would be from Rogers Avenue.

**Ms. Caswell** said access would be from Ward Street.

**Mr. Haberman** confirmed that part of the barn would be for a garage.

**Ms. Caswell** explained the garage currently exists within the barn and will remain.

**Mr. Tuozzola** asked if the barn/garage would also be used for living quarters.

**Ms. Caswell** said the second floor would have two bedrooms.

**Mr. Tuozzola** asked if there were bedrooms there now.

**Ms. Caswell** said there is just storage there now.

FAVOR:

**Brigitte ?**, 13 Ward Street, said she wants the feel of the area to remain the same. She asked if the only change would be to connect the existing house to the barn.

**Chrmn. Katen** said that was correct.

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

DISCUSSION:

**Chrmn. Katen** said the lot is triangular with two front yards and didn't have a problem with it. Mr. Haberman agreed. Mr. Tuozzola added the plan looked fine to him.

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

**C. OLD BUSINESS**

1. **34 Milford Point Road** – settlement.

**Ms. Harrigan** reminded the Board that this was the Executive Session item from last month and explained the Board just needed to vote on it.

**Mr. Haberman** made a motion to accept the settlement as drawn up by the City Attorney with Mr. Tuozzola seconding. The motion carried unanimously with Messrs. Tuozzoa, Haberman, Evasick and Katen voting.

**D. NEW BUSINESS**

1. **7 Waterbury Avenue** – request from John Wicko, appellant, for William Sembiante, owner, for a re-hearing, prior to the six month waiting period.

**William Sembiante**, owner, 7 Waterbury Avenue, said the variance request last month was for a 1.9' rear setback for a hot tub and a 3.2' rear setback for a balcony. They have altered the plans substantially, moving the house forward while still keeping the front setback lines and off-street parking intact. They are proposing a smaller hot tub, which will no longer require a variance. The only variance being asked for now, would be for 2.3', for a small balcony in the rear.

**Mr. Haberman** made a motion to approve the request to be heard at next month's meeting with Mr. Tuozzola seconding. The motion carried unanimously with Messrs. Touzzola, Haberman, Evasick and Katen voting.

**E. STAFF UPDATE**

**Ms. Kuchta** noted she had provided the Board with an overview of her three weeks as Zoning Enforcement Officer. She added she inspected 523 Orange Avenue, at the Board's request, and found the fence had been cut back to the required height.

**F. ACCEPTANCE OF MINUTES FROM JULY 13, 2010 HEARING**

The minutes were accepted unanimously.

**G. ACCEPTANCE OF APPLICATIONS FOR SEPTEMBER 14, 2010 HEARING**

The meeting was adjourned at 7:55 p.m.                      Attest:

Rose M. Elliott,  
Clerk ZBA