

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 13 August 2019

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 13 August 2019, beginning at 7:01 p.m. in the Board of Education, 70 West River St, Milford, CT, to hear all parties concerning the following applications, some of which require Coastal Area Site Plan Reviews or exemptions.

A. PLEDGE OF ALLEGIANCE / ROLL CALL

Mr. Tuozzola asked for board member conflicts of interest with any agenda items; none were raised. He advised that Item 3 would not be heard and asked Mr. Harris to comment. **Mr. Harris** advised that the violation at the source of the appeal had been abated, making the item moot. **Mr. Tuozzola** asked **Mr. Hirsch** to act as Executive Secretary because Ms. Ferrante asked to be excused. He asked Mr. Dubois to serve in place of Ms. Valiquette, who was also absent.

MEMBERS PRESENT: William Soda, Chris Wolfe, Joseph Tuozzola (Ch)

ALTERNATES PRESENT: Michael Casey, Gary Dubois, Etan Hirsch

MEMBERS/ALTERNATES ABSENT: Sarah Ferrante, Christine Valiquette

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

B. CONSIDERATION OF AGENDA ITEMS

1. **771 East Broadway**, MBP 22/474/30, R-5; The Zoning Board of Appeals of the City of Milford hereby gives notice that at its meeting held on **Tuesday, August 13, 2019** at 7:30 P.M., City Hall Auditorium, 110 River Street, the following action was considered at which time the public had an opportunity to provide comment. A copy of this notice is on file in the City Clerk's office.

Action on proposed stipulated judgment sustaining the appeal of ROBERT MCEVOY & NANCY MCEVOY v. ZONING BOARD OF APPEALS FOR CITY OF MILFORD, TARA KOLAKOWSKI & CONSTANCE KOLAKOWSKI, Docket # HHD-CV18-6103560-S. If stipulation is approved there will be a C.G.S. Section 8-8(n) hearing for the court to decide on the proposed stipulation on Wednesday, August 28, 2019 at 9:30 AM, at the Superior Court for the Judicial District of Hartford, Land Use Litigation Docket, 95 Washington Street, Hartford, Connecticut.

Mr. Harris advised that the Superior Court ordered the item opened in a public hearing. **Mr. Tuozzola** invited comment. Hearing none, he closed the hearing and took up the next item, but before it was heard, the following occurred:

ORDER OF ITEMS ADDRESSED: *Mr. Hirsch announced Item 7 out of sequence as a courtesy to Attorney Curseaden. Item 7 was heard next but is documented in these minutes as it appeared in the agenda's original order. SEE ITEM 7 for 793 Milford Point Road.*

AD HOC QUESTION FROM THE FLOOR: *There was a question from the floor about 771 East Broadway about the outcome of ITEM 1; the questioner was advised that the item had been opened and closed without comment and that no vote was needed or taken.*

2. **17 Silver Street**, MBP 27/453/24, R-5, Boris Perini, owner; Vary sec. 4.1.4 west deck proj. of 4.5' where 8' perm.; west deck/stair proj. of 4.5' where 8' perm.; front proj. of 0.6' where 8' perm.

Mr. Perini addressed the board. He said he had elevated the house in 2018, but didn't have enough room to add stairs such that they reached the raised newly front door. He asked for variances for the stairs and to extend a rear deck.

DISCUSSION

Mr. Tuozzola said he understood the hardship of the stairs, but didn't see a hardship to expand the back deck. **Mr. Soda**

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said he thought the deck wasn't so much being extended as squared off. **Mr. Wolfe** received clarification on why the stairs were shortened, based on the house's original footprint.

BOARD DISCUSSION

Mr. Soda felt the request was reasonable. **Mr. Hirsch** felt a hardship was questionable for the back deck.

Mr. Tuozzola asked if anyone wished to speak in favor of or in 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. Soda motioned to **approve**. **Mr. Wolfe** seconded. **Mr. Soda** supported the motion based on the hardship of the narrow lot; in accordance with submitted materials. The motion carried with **Messrs. Dubois, Hirsch, Soda, Wolfe** and **Tuozzola** voting **with the motion**.

3. **20 Milesfield Avenue**, MBP 28/570/19, R-5, Nicholas Carozza, agent for Antonio Bozzuti Testamentary Trust, owner; Sec. 9.2.1 Appeal the Decision of the Zoning Enforcement Officer, dated 2 July 2019, regarding storing 3 trailers and using the parcel as a boatyard.

Item rendered moot due to abatement of violation at the source of the appeal.

4. **26 Atwater Street**, MBP 30/633/10, R-5, Jonathan Kaufman, owner; Vary sec. 4.1.4 proj. to 1.5' where 8' perm. to construct a carport.

Louis Asfour, 208 Merwin Avenue, contractor, addressed the board. He said his client was a state trooper and his state police car has been vandalized due to its visibility from the street. He said the carport was meant to protect the vehicle.

Mr. Kaufman addressed the board. He said that his girlfriend was a Milford police officer and that both of them were often called to work at odd hours and needed ready access to their vehicles. He reiterated concern about protecting his work police car as it is state property. **Mr. Wolfe** confirmed that the existing driveway runs along the side of the house.

FAVOR

Paige Bodner, 26 Atwater Street, said the carport would provide better coverage for the vehicle in a situation requiring quick response.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in 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. Soda motioned to **approve**. **Mr. Hirsch** seconded. **Mr. Soda** supported the motion based on the hardship of the narrow lot; in accordance with submitted materials. The motion carried with **Messrs. Dubois, Hirsch, Soda, Wolfe** and **Tuozzola** voting **with the motion**.

5. **242 Broadway**, MBP 13/131/7, R-5, James McElroy, architect, for Angelina DeFilippo, owner; Vary Sec. 3.1.4.1 side-
yd setback to 2.5' where 5' req.; 4.1.4 rear-yd proj. to 9.3' where 16' perm.; side-yd proj. to 2' where 4' perm.; to
construct a deck extension and foyer.

Mr. McElroy, 26 Hauser Street, addressed the board. He said the house had been lifted and an attached shed had been found to be structurally unsound and removed. He said the request was to extend the deck into its place. **Mr. Tuozzola**

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asked if the bump-out in the front of the house was an entrance. **Mr. McElroy** said the house entrance was formerly on Fairwood Avenue. **Mr. Hirsch** and **Mr. Tuozzola** discussed the new entrance. **Mr. McElroy** described the addition of parking under the house. **Mr. Tuozzola** questioned whether the size of the deck constituted a hardship. He confirmed the Broadway entrance and reviewed the floor plan. **Mr. Soda** confirmed that no mechanicals would be stored on the deck where the demolished bump-out had been. **Mr. McElroy** said the residents were making the home into a year-round residence as opposed to its former use as a summer home.

DISCUSSION

Mr. Soda wanted to grant the front foyer but not the rear deck extension. He discussed it with the other members.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or in 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. Soda motioned to **approve the variance for 3.1.4.1, but deny 4.1.4**. **Mr. Hirsch** seconded. The motion carried with **Messrs. Dubois, Hirsch, Soda, Wolfe and Tuozzola voting with the motion**.

6. **31 Wood Avenue**, MBP 13/117/16, R-5, James McElroy, architect, for Michael Tarantino, owner; Vary Sec. 3.1.4.1 side-yd setback to 5' where 10' req.; 4.1.4 eave proj. to 4' where 8' perm; all to construct new single family dwelling.

Mr. McElroy, 26 Hauser Street, addressed the board and delivered floor plans and elevations for the project. He said the existing house was in poor condition, but that his client wanted to replace it with an elevated structure featuring parking underneath. He said the parking design created 2 spaces under plus 2 more spaces for visitors. He described the overall design as a Nantucket colonial.

DISCUSSION

Mr. Soda confirmed 35' to the midpoint and that a sidewalk would be added. He and **Mr. McElroy** discussed whether the visitor parking would extend over the sidewalk. **Mr. Harris** stated for the record that the floor plans and elevations were submitted at the meeting. The board discussed whether they felt enough time was provided to review the application. **Mr. McElroy** said the request was adequately illustrated on the survey. **Mr. Harris** said other information can support the application.

BOARD DISCUSSION TABLED

Mr. Tuozzola and **Mr. Soda** discussed concerns as to whether staff and the board had been given adequate time to assess the information provided at the hearing. **Mr. Tuozzola** said he preferred to table to item to permit such review.

7. **793 Milford Point Road**, MBP 19/249/9, R-12.5, Kevin Curseaden, Esq. for Bella Properties Milford, LLC, Vary Sec. 3.1 to allow 3-family home where single family permitted.

Attorney Curseaden addressed the board. He said a violation notice had been issued for the property having 3 units rather than the 2 units that had been certified based on the zoning files. He said the initial application was an appeal of the decision of the Zoning Enforcement Officer having issued a notice of violation for the 3rd unit, but that the decision was taken to drop the appeal and apply for a variance instead. He reviewed the history of the property, including a 1970s era application to the ZBA to legalize the structure for 3 family use.

DISCUSSION

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Mr. Tuozzola confirmed that the denial of the ZBA application in 1970 did not result in removal of the third unit. **Mr. Soda** pointed out that the Certificate of Zoning Compliance written by Mr. Harris in 2012 suggested that the previous owner knew the property was only a 2-family but apparently sold it as a 3-family. **Mr. Harris** and **Attorney Curseaden** disagreed on a state statute that protects grandfathered uses, based on whether such uses were legally created or not. **Attorney Curseaden** asserted that uses must be explicitly abandoned. **Mr. Hirsch** asked if the owner could have known about the denial of the 3-family use, saying he felt that use was obscured by the 3-family description on the Assessor's card. **Mr. Casey** expressed support for the client's expectation that the 3-family use was permitted. **Mr. Soda** asked if the realtor was expected to research the legality of the property. **Attorney Curseaden** said not all realtors may be able to interpret the files. **Mr. Wolfe** asked about the number of electrical meters at the property.

BOARD DISCUSSION

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

Mr. Tuozzola and **Mr. Wolfe** felt due diligence hadn't been done by the current owner to establish the legal number of units. **Mr. Soda** said the previous owner clearly knew that the property was a 2-family, as established by the 2012 Certificate of Zoning Compliance.

Mr. Hirsch motioned to **deny** the variance. **Mr. Wolfe** seconded. **Mr. Hirsch** supported the motion based on the fact that the use was never legal; in accordance with submitted materials. The motion carried with **Messrs. Dubois, Hirsch, Soda, Wolfe** and **Tuozzola** voting **with the motion**.

C. OLD BUSINESS-None

D. NEW BUSINESS-None

E. STAFF UPDATE-**Ms. Greene** said newly published Regulations books would be provided to board members at the next meeting.

F. ACCEPTANCE OF MINUTES 9 July 2019: Approved.

G. ACCEPTANCE OF APPLICATIONS for 10 September 2019 hearing; none were discussed.

Adjournment was at 8:07 PM.

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