

Unapproved

Minutes of Public Hearings of Zoning Board of Appeals Meeting held September 8, 2009

MEMBERS PRESENT: Howard Haberman, Ed Mead, Nanci Seltzer

ALTERNATES PRESENT: David Hulme, Joseph Tuozzola

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

The meeting was called to order at 7:05 p.m.

A. CONSIDERATION OF AGENDA ITEMS

1. **66 Point Beach Drive** (Zone R-7.5) Thomas B. Lynch, attorney, for James R. Denno, appellant, for Bob & Charlene Benoit, owners – request to vary Sec. 3.1.4.1 rear yard setback from 25' to 10' to construct garage; vary Sec. 4.1.4 Projections from 4' to 14' to construct deck and stairs. CAM received. Map 30, Block 631, Parcel 21.

Attorney Tom Lynch, 63 Cherry Street, representing the owners, told the Board this is a reapplication originally heard in December 2008. The owners would like to construct an addition, deck and garage. The previous application was much larger and was voted 3-2 to approve but failed to carry. The project has now been reworked and scaled down. The existing non-conforming garage will be removed. Like the previous application, the owners are trying to avoid construction on the southerly side of the property to preserve the waterviews of the neighbors to the rear of the property. The hardship is the odd shaped lot. The proposed construction would be in harmony with the neighborhood.

Acting Chrmn. Haberman said the Board members who had concerns about the original application felt the addition should be built on the left side because it would require less of a variance.

Ms. Seltzer stated she was appreciative that the application had been scaled back but was concerned about the proposed asphalt driveway expansion and wondered if the driveway could be made an impervious driveway.

Acting Chrmn. Haberman noted the Board was only concerned with the two variance requests.

Atty. Lynch answered it was not part of the Zoning Board of Appeals review but yes, it could be made impervious.

Mr. Mead asked if there was ever any consideration given to placing the addition in the area to the left of the house to which Atty. Lynch answered yes, but stated the owners want to add a garage, which if placed on the left side of the property, means they would have to access the garage through the dining room and the living room. It would also require a variance.

James Denno, 93 Sunnyside Court, explained the floor plan to Mr. Mead.

Acting Chrmn. Haberman confirmed the layout of the house played a part in this design. The owners don't want to enter the dining room from the garage.

Atty. Lynch said that was correct.

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FAVOR:

Atty. Lynch submitted two letters in favor of the application; one from Arthur and Deborah Hiller, 63 Point Beach Drive and Lauren Shortt and Michael Pinto at 65 Point Beach Drive.

Jim Dorney, 55 Point Beach Drive, said he has lived there for 31 years, and likes the application and feels it would add to the neighborhood.

Mike Brown, 67 Point Beach Drive, had no problem with the plans and added it would improve the property.

Alan Cayden, 61 Point Beach Drive, said he has lived there since 2000 and the whole neighborhood has been upgrading. This proposal would be compatible with and enhance the neighborhood.

Robert Benoit, 66 Point Beach Drive, applicant, said they took note of the Board's comments at the December meeting and made a significant compromise from the initial request. They went from a two car garage down to a single car garage. The new application is now only non-conforming on one side rather than two sides.

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

DISCUSSION:

Acting Chrmn. Haberman said this is a scaled down version of the December application. The neighbors seem to be in favor of it. Ms. Seltzer said she appreciated the fact they listened to the comments of the Board and scaled the application back and made it a better, more acceptable plan. Mr. Mead added the decrease from a two car garage down to a single car garage makes the variance request less.

Mr. Mead made a motion to approve with Mr. Hulme seconding. The owners came back with a better design with less of a variance request for the garage reducing it from two cars to one car and cutting back on the stairs of the deck. The proposed design will fit into the neighborhood that is being upgraded as a whole. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Tuozzola voting.

2. **909 West River Street** (Zone RA) David & Megan Preneta, owners – request to vary Sec. 4.1.4 Projections from 4' allowed to 32.5' to construct front porch. Map 114, Block 907, Parcel 25.

Megan and David Preneta, 909 West River Street, passed out paperwork to the Board. Ms. Preneta said they have lived there since 2002. They are before the Board because they would like to reconstruct a front porch that was on the house at one time. The house is historic, built in 1795 and is part of the Milford Preservation Trust. Over the past six years, they have been making improvements to the property. She went over the paperwork that was passed out to the Board earlier. She felt this proposed front porch would increase the value of their home as well as the beauty of the neighborhood.

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Acting Chrmn. Haberman noted the home was built close to the front property line and $\frac{3}{4}$'s of the home is already outside the setback lines.

Mr. Tuozzola asked the size of the original front porch and if they were looking to build the porch across the whole width of the house.

Mr. Preneta answered they don't have any exact dimensions of the original front porch but it scales out to 5' and answered yes, they are looking to extend it across the whole width of the house.

Mr. Mead asked how wide the existing front porch is to which Mr. Preneta answered 5'.

Ms. Seltzer asked if this had been approved by the Historic District.

Ms. Preneta said they are not in the Historic District, but part of the Milford Preservation Trust.

FAVOR:

Warren Field, 957 West River Street, said the owners have done a wonderful job with the house and he can't imagine that anything they do would hurt the neighborhood.

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

DISCUSSION:

Acting Chrmn. Haberman noted there were existing hardships such as the placement of the house on the lot and added there was a porch there previously. Mr. Tuozzola said what is there now is an eyesore and the proposed will improve the whole look of the property. The house is located close to the street but it has always been that way. Ms. Seltzer noted the home predates zoning and already is located outside the setback requirements.

Mr. Tuozzola made a motion to approve with Mr. Mead seconding. The reason for approval is for an improvement on the property and it will also enhance the area. Acting Chrmn. Haberman added the hardship is the location of the house on the lot and predates zoning. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Tuozzola voting.

3. **61 Judith Drive cor. Cynthia Drive** (Zone R-18) Jack Soldi, appellant for Walter & Sherriann Hagedorn, owners – request to vary Sec. 3.1.4.1 front yard setback from 40' to 39' and 32' to construct garage and addition; vary Sec. 4.1.1.4 to allow addition 7' from pool where 8' is required; vary Sec. 3.1.4.1 to allow accessory structure 5' from rear property line where 10' is required. Map 88, Block 800, Parcel 4R.

Jack Soldi, 80 Sigwin Drive, Walter & Sherriann Hagedorn, 61 Judith Drive, owners, submitted paperwork to the Board. Mr. Soldi told the Board the hardship for this application is the oddly shaped lot with two front yards. The Hagedorns have owned the home for seven years and everything was there when they purchased it including the sheds. They are looking to construct a one car garage and an addition.

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Acting Chrmn. Haberman said he understands the hardship for the garage and the addition but asked if the applicant had considered moving the existing shed in 10' to which Mr. Hagedorn answered it would be so close to the pool that it would close that whole section in and would make it difficult to use the lawn tractor.

Mr. Tuozzola asked if the two car garage was staying.

Mr. Hagedorn said yes.

Ms. Seltzer asked what the hardship was for a three car garage?

Mr. Hagedorn said his parents are moving into the proposed addition and he would like them to have full access into the first bay so they could walk right into the house.

Mr. Mead asked if the garage would be one story to which Mr. Hagedorn answered in the affirmative. Mr. Mead then asked if the shed could be moved towards Cynthia Drive.

Mr. Hagedorn said they could probably do that, but for the neighbor's esthetics, he didn't want to move it closer to that side of the street. In addition, he would have to keep it back 40'.

Acting Chrmn. Haberman said it appeared that if the shed were moved in another 5', there would be 12'-15' between the fence and the corner of the shed.

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

DISCUSSION:

Acting Chrmn. Haberman noted there is a hardship for the garage and addition. The shed, however, can be brought into compliance. Mr. Tuozzola agreed. Mr. Mead added the shape of the lot and placement of the house on the lot makes it a difficult property.

Ms. Seltzer made a motion to split the vote with Mr. Tuozzola seconding. The reason for splitting the vote is because there is more significant discussion related to the shed and the regulations as opposed to the rest of the variances presented. The motion carried unanimously Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Tuozzola voting.

Mr. Mead made a motion to deny the shed with Mr. Tuozzola seconding. The reason is there is sufficient area for the shed to be brought into compliance. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Tuozzola voting.

Mr. Hulme made a motion to approve the garage and addition with Mr. Mead seconding. The hardship is the odd shaped lot and the two front yards. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Tuozzola voting.

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4. **34 Milford Point Road** (Zone R-7.5) Thomas B. Lynch, attorney, for Warren Field, appellant, for Patricia McAndrew, MaryJane Delio, Barbara D'Atri, owners – request to vary Sec. 3.1.4.1 front yard setback from 20' to 10'; rear yard from 25; to 16.9'; vary Sec. 4.1.4 Projections from 4' allowed to 14.1' to construct new single family dwelling with rear deck. CAM required. Map 6, Block 88, Parcel 11.

Attorney Tom Lynch, 63 Cherry Street, submitted and explained information to the Board. This lot has been certified as a legal non-conforming lot. The property is a 2,800 sq. ft., oddly shaped lot. The hardship is the shape of the lot. Eighty four percent of the houses within a quarter of a mile up and down Milford Point Road, in close proximity to the site, have setbacks that are less than 10' to the street. Eighty four percent of the residences are non-conforming while sixteen percent of the residences are conforming. The proposed construction would conform to the area. He added this Board granted a variance in June of this year for the adjacent property at 32 Milford Point Road, to construct a similar single family home.

Acting Chrmn. Haberman confirmed they were asking for a front yard setback variance that would not bring the home closer to the property line than any other house adjacent to it. It is an undersized lot and the rear yard abuts the Housatonic River.

Mr. Tuozzola noted the proposed deck would be a lot closer to the high water mark than any other house.

Atty. Lynch said the deck is elevated.

Mr. Tuozzola asked if the height of the house would be similar to the adjacent house to which Atty. Lynch said it would be identical.

OPPOSED:

Eric Buck, 37 Milford Point Road, said this is an older neighborhood and the houses have been there for many years and are ten feet from the road. There are no sidewalks, so when you are backing out, you would be backing right into the street and almost right into the driveway across the street. He has lived here since 1978, and he has seen high tides come about half way up the lot.

Anthony Cefalogli, 35 Milford Point Road, says the CAM report states this proposal will have no impact on the surrounding area. You just heard from Mr. Buck and know that it's going to have an impact. You can't build a structure that large and have a ten foot setback in this congested area. People are walking to the Audubon, there is traffic, bicyclists and no offstreet parking. The project is too large for that parcel of land, it will impact the watershed area. The wetlands do change. There was a prior decision of denial made by this Board in 2000. There has been nothing presented that would have you overturn that decision. There has been no change of conditions. The Board should be consistent in denying the application. This proposal will affect the public welfare of the neighborhood. This will add to an already congested area.

Ms. Stock stated if the Board should approve this application it would still need to go before the Planning and Zoning Board for a full blown Coastal Area Site Plan Review.

Ms. Seltzer mentioned when she reviewed the file she did not see an application from 2000 to which Ms. Stock said she would have to review the file but added this is a new application and each application is taken on its own merit.

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Dan Sullivan, 21 Derby Avenue, said he is opposed to the application because the house at 32 Milford Point Road uses this lot as a parking lot for at least two or three cars. There is no sidewalk on Milford Point Road. He walks to the Audubon with his grandchildren all the time. There is a tremendous amount of traffic. If this is built, he didn't know where the people from 32 Milford Point Road would park their cars. He didn't believe there is any other house located as close to the marsh as where this proposed house would be.

Randall Hensley, 28 Milford Point Road, has a copy of the proposed house from the meeting held in 2000. It was for a house that was 2/3rds the size of this proposal. This 2000 application was denied. The logic of saying that there was a variance granted for the lot next to us, so let's do a house exactly the same size, is faulty logic. He has lived there long enough to know that the proposed deck will have water underneath it. These wetlands do change and hopefully in the next review, the tidal wetland concerns will be addressed. He didn't understand the attorney's statement about the 84% of the houses in the area having less than 10' to the street. He wondered whether these were new houses? He disagreed if they were. There are a lot of old houses in the area that are close to the street.

Andrew Bowolick, 31 Milford Point Road, said there are no sidewalks on the street and there is a lot of traffic. Where the garage is proposed to be there is a slight curve in the street to the right, which will make it a blind driveway when you have to back out. There is probably going to be a car in the street and there will be problems. There are a lot of families with kids walking to the Audubon, which always has activities there. He is against the application.

REBUTTAL:

Atty. Lynch said the property is within the CAM purview, and will need to go before the Planning and Zoning Board if this approved. The property does conform with off street parking for 2 cars. Neighbors don't like to see change. This has been an open lot for years. The owners have the right to develop the lot.

Mr. Tuozzola asked if the people who live at 32 Milford Point Road are also the owners of this lot.

Atty. Lynch said the owners live at 38 Milford Point Road.

Mr. Mead noted the maps Atty. Lynch passed out and what was sent to the Board members as part of their packet, are different. The handout shows a two car garage while the map just passed out shows a one car garage.

Atty. Lynch said they had to submit a change of map due to the change in the high tide line in the rear.

The hearing was closed.

DISCUSSION:

Ms. Seltzer asked if this application could be split to which Acting Chrmn. Katen said she could do whatever she wanted to do. Ms. Seltzer continued she did not like the rear deck as it is excessive. Mr. Tuozzola added he was concerned with the rear deck because it is the closest to the rear property line of all the properties. He didn't know

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whether the size of the deck should be reduced or just denied completely. Acting Chrmn. Haberman told the Board that they are allowed to project 20% into the setback. It is providing off street parking and there is a hardship.

Ms. Seltzer made a motion to split the vote; there was no second.

Mr. Mead made a motion to approve with Mr. Hulme seconding. The reason for approval is the front yard setback is in line with the other homes in the area and the proposed rear deck will be elevated above the flood area. Also, there are no neighbors to the rear of the property. 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, Hulme and Tuozzola voting in favor and Ms. Seltzer voting against.

5. **783-785 Naugatuck Avenue cor. West Avenue** (Zone R-12.5) Roland Skinner, appellant, for Milton Investments, LLC, owner – vary Sec. 3.1.4.1 front yard setback from 30' to 22.7' and rear yard setback from 25' to 21.1' to allow over 50% reconstruction of existing two family dwelling. Map 31, Block 341, Parcel 7A & 8.

Roland Skinner, 459 Fairway Road, Orange, said he is the owner and developer of the existing home damaged by fire. The home, prior to his purchase, was being used as an illegal three family, which they will bring back to a legal two family use. He will also be reducing the rear yard setback encroachment a small amount and removing a small front porch that is also encroaching into the setbacks.

Mr. Hulme asked what the hardship was to which Mr. Skinner answered it is an existing dwelling built prior to zoning.

Mr. Tuozzola confirmed they are reducing the size of the home.

Mr. Skinner replied just moderately.

FAVOR:

Jason Hall, 26 Clayton Street, said he applauds Mr. Skinner for taking on this project. He has lived there for almost ten years and it has always been an eyesore in the neighborhood. He looks forward to having the property restored and kept as a two family dwelling.

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

DISCUSSION:

Acting Chrmn. Haberman said he has no problem with it. Ms. Seltzer concurred and added it will be an improvement that he will be eliminating the illegal three family and restoring it to the two family use.

Mr. Tuozzola made a motion to approve with Mr. Hulme seconding. The reason for approval is as stated. It was damaged by fire and is a reconstruction that will be a better part of the neighborhood. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Tuozzola voting.

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E. NEW BUSINESS

1. **175 Forest Road** letter from owner, Linda Leo, requesting an extension of time.

Ms. Stock read the letter into the record.

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

F. STAFF UPDATE

Mr. Tuozzola asked Ms. Stock about the status of a hair salon sign for Tanglez, which was denied a variance request. Ms. Stock said she would look into it.

G. ACCEPTANCE OF MINUTES FROM AUGUST 11, 2009 MEETING.

The minutes were approved unanimously.

H. ACCEPTANCE OF APPLICATIONS FOR OCTOBER 13, 2009 MEETING.

The meeting was adjourned at 8:43 p.m.

Attest:

Rose M. Elliott
Clerk - ZBA