

Minutes, Public Hearing of Zoning Board of Appeals Meeting held October 8, 2013

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, October 8, 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 Collins, John Vaccino

ALTERNATES PRESENT: Gary Dubois, William Soda, Robert Thomas

MEMBERS/ALTERNATES ABSENT: None

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.

C. CONSIDERATION OF AGENDA ITEMS

1. **41 Milford Point Road** (R-7.5) Scott Farquharson, agent, for Christina Hanley, owner; Vary Sec. 5.8.6.2 lowest fl lvl below Base Flood Elevation (reg flood protection elev); 3.1.4.1 side-yr setback to 4.3' where 10' req; 4.1.4 to 4.3' where 8' is perm for 6'x7' mudroom; Map 6, Block 84, Parcel 13

Scott Farquharson, 69 Central Avenue, Wolcott, (Baybrook Remodelers, 824 Boston Post Road, West Haven), addressed the board. He described the lot and variance request. He said the side-yard portion of the variance request would only encroach upon the setback by an inch to keep the addition square with the existing building. He described the mudroom and stairways needed to connect the rest of the house to it, if the requested flood zone relief was not provided. He said that two hardships exist: 1.) the existing home is on a narrow, nonconforming lot and 2.) the flood elevation requirement presents a challenge for any type of work on the home.

DISCUSSION

Mr. Collins asked about damage from previous storms and was told that the utilities were moved out of the crawl space.

Mr. Haberman questioned whether climbing steps to a mud room was a condition of hardship. **Mr. Tuozzola** noted that there were 11 reasons not to grant flood variances and that they had to be considered carefully.

BOARD DISCUSSION

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

Mr. Tuozzola expressed concern about overriding flood zone compliance. **Mr. Carey** confirmed that the planned mud room would be at the same level as the house. **Mr. Collins** suggested that the small size of the mud room mitigated the extent of the risk. **Mr. Vaccino** confirmed that the side-yard variance would be fine, but that a mud room in a flood zone doesn't seem to be a necessity.

Mr. Haberman motioned to deny the application, supporting his motion by reason of lack of hardship. **Mr. Vaccino** seconded. The motion carried with **Messrs. Carey, Collins, Haberman, Vaccino, and Tuozzola** voting **with the motion**.

2. **123 Edgefield Avenue** (R-5) Anne Gaetano, owner; Vary Sec. 3.1.4.1 side-yr setback to 1.39' where 5' req for 2nd story addition. Map 49, Block 721, Parcel 6

Anne Gaetano, 123 Edgefield Avenue, addressed the board. She noted the narrow, nonconforming legal lot. She described the increase requested for the 2nd floor as a bump-out that will simply make the 2nd floor as large as the 1st floor. She said she would not change existing foundation's footprint.

Minutes, Public Hearing of Zoning Board of Appeals Meeting held October 8, 2013

DISCUSSION

Mr. Tuozzola noted the home's proximity to neighbors and the small size of the lot.

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

3. **24 Seaview Avenue** (R-10) James Seaman and Penny Seaman, owners; Vary Sec. 3.1.4.1 bldg height to 4 stories where 3 are req to elev single family home. Map 9, Block 130, Parcel 4A

Jim Denno, 93 Sunnyside Court, and **James Seaman**, 24 Seaview Avenue, addressed the board. Mr. Denno reminded the board that a previous variance was approved in August, and said that upon further reflection the owners wished to increase the elevated height. Mr. Seaman reviewed the topography of the neighborhood and the damage from Storm Sandy. He referenced the FEMA pamphlet "Build Back" and its recommendations for building higher than the Base Flood Elevation. He reviewed 3 similar variance requests reviewed by the board in recent months.

FAVOR

Mr. Seaman presented 2 letters of support from neighbors at **26 Seaview Avenue** and **21 Seaview Avenue**.

Another neighbor, **Rich Smith**, 59 Sixth Avenue, whose property is across the street, spoke in support of the project stating that the home will be no higher than surrounding homes.

OPPOSED

George F. Marleton, Esq., 183 N. Broad St., submitted a letter on behalf of the Laurel Beach Association against the project. He argued that the hardship was self-created because the owner could comply with the FEMA elevation requirement without exceeding 3 stories.

REBUTTAL

Mr. Denno asserted that the crawl space is not 6'.

BOARD DISCUSSION

Mr. Tuozzola closed the hearing. **Mr. Collins** confirmed that the house is below the Base Flood Elevation and needs to be raised above AE-11. **Mr. Tuozzola** noted that the height still conforms despite the extra story. **Mr. Carey** noted that the house must be raised to get it above the flood zone. **Mr. Haberman** asked whether raising the house to 14' was an absolute requirement; **Mr. Harris** was asked to clarify the flood elevation regulations, which he did. **Mr. Vaccino** said he didn't see why the board should be asked to regulate where floors are assigned, just that they be within the elevation and height constraints of the regulations.

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

4. **150 Bittersweet Avenue [MBL=13/133/4]** (R-5) Christopher Saley, agent, for Mark Constantini, owner; Vary Sec. 3.1.4.1 rear-ym setback to 5' where 20' req; 4.1.4 balcony proj of 10' where 16' is perm for single fam home. Map 13, Block 133, Parcel 4

Christopher Saley, 19 Marsh Street, addressed the board. He described the site characteristics, including nonconformities, and said that off street parking is limited. He noted that 8 parking spaces would be created and that the nonconformity will be reduced by moving the structure away from the lot lines. He said the hardship is that the property is an interior lot, but

Minutes, Public Hearing of Zoning Board of Appeals Meeting held October 8, 2013

must meet 2 rear setbacks. He said the new house would be almost the same square footage as the old one. He said elevating the house would mitigate future flood risk.

DISCUSSION

Mr. Tuozzola confirmed that bldg in rear would be torn down and that parking would be underneath. Mr. Saley said 4 cars would fit under house and 4 more could fit to the rear of the house with most of the parking only used when entertaining.

Mr. Haberman confirmed that despite past designation as a 2-family home, the dwelling would now be a 1-family home and therefore more conforming as regards use. **Mr. Tuozzola** confirmed with Mr. Harris that a CAM would be required.

FAVOR

Bob Raggozine, 146 Bittersweet Avenue, **Barbara Raggozine**, 146 Bittersweet Avenue; and **Bruce Kay**, 152 Shorefront spoke in favor.

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. Haberman motioned in favor of the application. **Mr. Carey** seconded. **Mr. Haberman** supported his motion by reason of hardship of the nonconforming lot. The motion carried with **Messrs. Carey, Collins, Haberman, Vaccino, and Tuozzola** voting **with the motion**.

5. **55 Point Beach Drive** (R-7.5) Gerry Panico, agent, for James Dorney and Gretchen Dorney, owners; Vary Sec. 4.1.4 side-yd proj to 4.3' where 8' is perm for deck; Map 30, Block 632, Parcel 4

Gerry Panico, 62 Platt Lane, addressed the board. He said the hardship was the loss of the deck in Irene, plus a 2nd loss after Sandy. He said the house was moved per previous variance and elevated to mitigate flood risk. **Mr. Tuozzola** confirmed there was a preexisting deck on the ground during last variance request. **Mr. Vaccino** confirmed what the deck dimensions would be; **Mr. Tuozzola** confirmed that the association walkway was on the same side as the deck. **Mr. Vaccino** confirmed that the previous deck was larger. **Mr. Collins** confirmed that the side entrance is on the deck. **Mr. Panico** provided a rendering of deck.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or opposition to the application. Hearing none, he closed the hearing. **Mr. Vaccino** asked if city had documentation on what previously existed. **Ms. Greene** provided the zoning file.

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

6. **34 Elaine Road cor Morehouse Avenue** (R-5) Fabian Pena, agent, for Barbara Werner, owner; Vary Sec. 3.1.4.1 front-yd setback to 6.6' where 10' req; 4.1.4 porch proj to 6.6' where 8' is perm, to elev existing single fam home and add a 2nd fl. Map 30, Block 632, Parcel 2

Fabian Pena, 77 Mountain Road, New Haven, addressed the board. He noted that the house would be moved back 8' from the shore and that the back room would be removed. He described the open space on 1st floor and said that another floor would be added. He noted that the deck was preexisting, had been removed to slide the house back, and that the owner hoped to replace it, plus add decks of same size on the 2nd and 3rd floors.

OPPOSED/THEN DROPPED OPPOSITION

Mary Ann Davidson, 36 Elaine Rd, questioned what would happen to the front of the house, wanting to understand whether it might restrict her waterview. **Mr. Tuozzola** shared a drawing to show that front line would be the same and the resident dropped her opposition.

BOARD DISCUSSION

Minutes, Public Hearing of Zoning Board of Appeals Meeting held October 8, 2013

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. Carey** seconded. **Mr. Haberman** supported his motion by reason of hardship of the nonconforming lot, restricting approval to the exact plan submitted. The motion carried with **Messrs. Carey, Collins, Haberman, Vaccino, and Tuozzola** voting **with the motion**.

7. **691 East Broadway** (R-5) Fabian Pena, agent, for Victor Ng and Kim Ng, owners; Vary Sec. 3.1.4.1 side-yd setback to 8' where 10' req; front-yd to 0' where 10' req; 4.1.4 proj of 3.6' where 8' is perm to elev existing single fam home and add a 2nd fl. Map 22, Block 474, Parcel 7

Fabian Pena, 77 Mountain Road, New Haven, addressed the board. He described the decks and said the owners would like to keep the waterside deck. He described the entryway and said the plan would be to eventually add a 2nd floor. He said that the elevation would leave the ground floor open. **Mr. Tuozzola** confirmed that a requested 0'-setback area exists now. **Mr. Pena** said the house would have the same footprint except for reconfiguring the deck.

FAVOR

Kim Ng, 691 East Broadway, spoke in favor of the plan to renovate and elevate her home.

Susana Li, 716 East Broadway, said the plan would make the neighborhood more attractive.

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

8. **727 East Broadway** (R-5) Thomas Lynch, attorney, for TJ Theodorson and Dawn Theodorson, owners; Vary Sec. 3.1.4.1 side-yd (east) setback to 5' where 10' req for single fam home. Map 22, Block 474, Parcel 16

This item was WITHDRAWN pending resubmission for the November meeting.

9. **17 Ann Street** (R-5) Robert Tobin, architect, for Tina Laraia Lvg Trust, owner; Vary Sec. 3.1.4.1 front-yd setback to 9.9' where 10' req, rear-yd setback to 4.6' where 20' req; 4.1.4 rear deck corner projections of (SW) 4.6' where 16' perm, (SE) 5.5' where 8' perm; front stair projections of (NE) 3' where 8' perm, (N) 2.6' where 4' perm, for single family home. Map 13, Block 139, Parcel 5

Robert Tobin, 115 Wigwam Lane, Stratford, addressed the board. He provided a floor plan and additional elevation drawings to the board. He reviewed new preparations that were drawn up for the property's Coastal Area Management review. He clarified the elevation plan, noting that the existing house was partially destroyed in Storm Sandy. He said the idea is to lift a portion of the remaining house and remodel it, adding 4 parking spaces underneath. He said the plan was to elevate the house above VE-15 level to comply with FEMA requirements. He said the footprint would remain the same except for the stairs and upper deck.

DISCUSSION

Mr. Tuozzola confirmed that most of the variances requested were for preexisting nonconformities.

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. Carey** seconded. **Mr. Haberman** supported his motion by reason of hardship of the nonconforming lot and preexisting nonconformities, restricting approval to the exact plan submitted. The

Minutes, Public Hearing of Zoning Board of Appeals Meeting held October 8, 2013

motion carried with **Messrs. Carey, Collins, Haberman, Vaccino, and Tuozzola** voting **with the motion**.

D. OLD BUSINESS

There was none.

E. NEW BUSINESS

There was none.

F. STAFF UPDATE

G. There was none.

H. ACCEPTANCE OF MINUTES FROM SEPTEMBER 10, 2013, HEARING

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

H. ACCEPTANCE OF APPLICATIONS FOR NOVEMBER 12, 2013, HEARING

Mr. Harris reported receiving 4 applications so far, noting that 727 East Broadway was resubmitting their request in November.

The meeting was adjourned at 8:13 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