

MEMBERS PRESENT: Richard Carey, Howard Haberman, Fred Katen, Edward Mead, Joseph Tuozzola, Sr.

ALTERNATES PRESENT:

STAFF PRESENT: Peter W. Crabtree, Assistant City Planner; Rose Elliott, Clerk

The meeting was called to order at 7:06 p.m.

A. CONSIDERATION OF AGENDA ITEMS

1. **30 Cleveland Avenue** (Zone R-5) Peter Tuccio, appellant, for Property Holdings Trust, owner - request to vary Sec. 3.1.4.1 side yard setback from 5' to 2' to allow dual air conditioner units to remain. CAM received. Map 19, Block 205, Parcel 19.

Peter Tuccio, 69 Benz Street, Ansonia, stated the variance is needed due to the location of the mechanicals in the basement of the house.

Chrmn. Katen said according to the drawing, it looks like there is only 2' from the neighbor's driveway, to which Mr. Tuccio answered in the affirmative.

Chrmn. Katen added the units could be damaged with an errant driver or skid.

Mr. Mead asked if building permits were pulled with blueprint plans showing the air conditioning units.

Mr. Tuccio said they were on the plans and no one from the Building Dept. said there was anything wrong with them.

Mr. Mead said he drove by the house and it appeared to him that the units could be moved over to within the setback line.

Mr. Crabtree said the units were not on the plans so there was no way to tell him to relocate them.

Mr. Carey asked Mr. Crabtree if the Board was granting a 2' variance for the whole side of the yard or just for the units to which Mr. Crabtree answered just for the units as shown on the plans.

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

DISCUSSION:

Chrmn. Katen reminded the Board and Mr. Crabtree that the Board feels they need an opinion from the City and the Building Dept. so that every air conditioning unit in the City of Milford does not come before the Zoning Board of Appeals. He added he did not feel there was a hardship for this particular item.

Mr. Mead agreed if the units were not on the plans, where they could have been seen and the applicant informed they needed to be relocated, they should be required to move them.

Mr. Mead made a motion to deny with Mr. Tuozzola seconding. The reasons for denial are the plans submitted for approval did not show the air conditioning units

and there is room to move the units within the setback lines. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

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2. **31 Maddox Avenue** (Zone R-5) P. Joseph Marsala, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 4' to construct 2 story addition with 18" overhang. CAM received. Map 27, Block 450, Parcel 14.

P. Joseph Marsala, 31 Maddox Avenue, stated he wishes to construct a 2 car garage with an accessory apartment above for his mother and this is the only place on the property he can put it.

Mr. Tuozzola asked if the variance was for a 4' variance or a 2.6' variance to which Mr. Marsala answered with the 18" overhang there will be a 4' setback to the foundation. The foundation will be 18" more than 4'. The 4' setback will only go to the overhang. It will be 5.6' to the foundation from the property line.

Mr. Tuozzola asked how the second floor living space of the garage would be accessed?

Mr. Marsala answered you would enter the apartment from his home and also from the garage. An outside entry could also be made.

Chrmn. Katen reiterated the 18" overhang will be within the setback.

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

DISCUSSION:

Mr. Carey put on the record that the foundation itself would be 5.6' from the line and the overhang will be 4' from the property line.

Chrmn. Katen agreed saying that anything else will be in violation of the variance, if granted.

Mr. Carey made a motion to approve with Mr. Mead seconding. The reason for approval is the placement of the house on the lot and the width of the lot. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

[7:21:59 PM](#)

3. **41 Opal Street (Parcel A)** (Zone R-12.5) George W. Adams, III, attorney, for BAMF Homes Limited, owner – request to vary Sec. 3.1.4.1 lot width to create a 60' wide lot where 80' width is required. Map 32, Block 350, Parcel 9.

Attorney Adams, 300 Bic Drive, stated he would address both Items #3 and #4 together. He added the owner of the corporation, Greg Field, who has been building in Milford for 30 years, was also present to answer any questions. The original parcel that would be divided (if this variance is granted) is 43,476 sq. ft., almost 3 ½ times what is required in that zone. The lot width, however, is only 120' of total frontage. This is part of their hardship. Parcel A would have 17,761 sq. ft. and Parcel B would have 25,476 sq. ft. Both parcels would be larger than the other parcels in the area. Parcel A would be 42% larger and Parcel B would be 106% larger than what is required in the zone. The hardships are the size and shape of the existing parcel. If this variance is granted, the existing eyesore of a house would

be removed and Mr. Field would build two beautiful new homes. He submitted pictures similar to what he would be building. Atty. Adams also submitted a petition of neighbors in favor of the application and a map showing the location of the neighbors signing the petition. He added these lots require only a variance for lot width and exceed all other setback requirements.

FAVOR:

Sandy (inaudible), Gresham Street, said she is in favor of the application as the builder will be tearing down a house that is ready to fall down and will increase the value of the neighborhood.

Susan Cyr, 32 Gresham Street, said she cannot wait to see the homes that will be built.

Carol Orechovesky, 28 Gresham Street, said the area will be upgraded and the property will be taken care of.

David Dixon, 54 Opal Street, said his house also has only 60' of frontage and fits into the neighborhood. The existing house has been a blighted piece of property in the neighborhood for a long time. He looks forward to having nice houses in the neighborhood. He also applauded the builder for building houses that will complement the neighborhood and not trying to shoehorn something in.

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

DISCUSSION:

Chrmn. Katen stated what is proposed seems to be keeping with the neighborhood. **Mr. Mead** agreed.

Mr. Carey made a motion to approve both Item #3 and Item #4 with Mr. Mead seconding. The hardship is the width of the lot and the fact that both lots are well over the minimum required lot size. By denying this variance, we would be denying him reasonable use of his property and it does fit in with the Plan of Conservation and Development. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

4. **41 Opal Street (Parcel B)** (Zone R-12.5) George W. Adams, III, attorney, for BAMF Homes Limited, owner – request to vary Sec. 3.1.4.1 lot width to create a 60' wide lot where 80' width is required. Map 32, Block 350, Parcel 9.

Incorporated into Item #3.

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5. **69 Beach Avenue** (Zone R-7.5) Stanley Einbinder, appellant, Henry B. & Amy B. Goldsteing, owners – appeal the decision of the Assistant City Planner to allow projection of stoop and stairs greater than 1'. Map 71, Block 755, Parcel 5.

Stanley Einbinder, 73 Beach Avenue, said he is appealing the decision of the Assistant City Planner to allow for a terraced stoop and stairs. The Zoning Board of Appeals had previously denied an application for similar stoop and stairs. He

submitted photos to the Board. He said this newly constructed stoop is even more massive with a shower on one end and a drainage pipe from the inside of the house built into the steps at both ends with a walkway. New lighting over the door suggests this is intended to be a primary entrance from both the street and the beach. There are already four entrances. There is no hardship so the addition of this door and entrance is not necessary or justified. This is the same structure that was previously denied except it is much larger with decorative masonry. The entrance is within six inches or less of the property and built up with gravel and dirt. The gravel is piled and seeping onto his property at 73 Beach Avenue, causing further damage to landscaping along with the damage done to his hedge. He has been forced to install a partial fence to prevent further damage. The gravel and dirt has been terraced around the new stoop and stairs to mask the structure. There is inadequate emergency access on the side yard.

OPPOSED:

Peter Crabtree, Assistant City Planner, 64 Stanley Street, New Haven, said he was not given a copy of the photos submitted so he is not sure of what some of the pictures represent so he would just call them pre-construction photos. He said he is aware that a variance was denied. He met with the architect and it was discussed that the property could be retained. It was his decision that a zoning permit was not required but he did, however, sign it to leave a paper trail. There is a 3' side yard. They brought the materials out 2.6' from the door with a 12" change of grade. He felt there was no issue with putting up a retaining wall and bringing the grade right up to the base of the house, running it the full length of the house. If someone wants to put a door on the side of his house, there is nothing in the Zoning Regulations that prevents him from doing it. There is no regulation that states you need to keep a minimum amount of feet from the door to the side yard. He said the stoop was a structure and this is not.

Chrmn. Katen said the pictures submitted by Mr. Einbinder, look like a new stoop was being built.

Mr. Crabtree said this is not in contravention of the variance.

Mr. Tuozzola asked what was originally there to which Mr. Crabtree said he was not aware of what was there before.

Chrmn. Katen said he believed the issue was not with the door but with the step. If you wanted to put in a door and step down onto the ground you can. The issue is with the step and the protrusion into the setback.

Mr. Crabtree said it is a terrace. They can put this right to the property line. They could re-grade the whole side of the house and bring it right up even with the door.

Chrmn. Katen said the Board denied the stoop. He said it appeared they put something there so they could step down, which is opposite of what the Board voted. But you are saying they don't have to put on a stoop, they could put a concrete block from the front to the back and re-grade it so they could step on it to which Mr. Crabtree said that was correct.

Chrmn. Katen said they would then be in compliance with the denial for the stoop.

Mr. Crabtree again said that was correct.

Mr. Mead asked if someone told them it was okay to put the stoop on after the Board denied it.

Mr. Crabtree answered he gave them permission to do the terrace.

Mr. Mead said a terrace is more like a patio. These are steps that were there before which are now concrete with a stone finish on top. If they want to re-grade and put a wall there, then they are changing the whole elevation of the yard, that is a different story. If these steps were denied and you gave them approval, why is the Board here at all?

Mr. Crabtree repeated he did not think there was anything wrong with the terrace but added it was up to the Board.

Attorney Thomas Lynch, 63 Cherry Street, said he is representing the owner of 69 Beach Avenue, Henry Goldstein. In April of 2007, this Board denied an application for a stoop. He agreed that what was there before was a stoop; it was a structure. The architect has the floor plans of the house and there has always been a doorframe there. He submitted pictures of the terrace, taken the day before, along with a copy of the Zoning Regulations where the word "structure" is defined. What is there now is a terrace and it was designed specifically after a discussion between the architect and Mr. Crabtree. They put in pavers and raised the elevation. The Zoning Regulations states that a terrace is a structure not more than 18" in height above average grade on any side and located on the ground. That is what is there and that is why Mr. Crabtree signed off on it. Mr. Einbinder does not want people coming across from the beach and coming into the back of the house where he can see them.

Mr. Mead asked how much of the side yard was re-graded to which Wayne Garrick, architect, 291 Whitney Avenue, New Haven, answered the grade was raised 12" and it ramps in each direction approximately 6'. The grade was raised and covered with pavers and is perfectly legal whether it is covered with stone, pavers or grass. One can create a retaining wall along any property line, up to 35" tall, without a permit.

Mr. Tuozzola asked if there was any possibility that of runoff into Mr. Einbinder's yard.

Mr. Garrick replied there is crushed stone with concrete block on the ground that is retaining the stone. He did not think there would be any runoff onto Mr. Einbinder's property. If the Board has concerns, a metal edging or something of that nature could be installed along the property line. The owners want to be as neighborly as they possible can.

REBUTTAL:

Mr. Einbinder said the pictures that he took and submitted to the Board were taken on Sunday. There was never a door there since he bought Mr. Goldstein bought the property. At some time there may have been a door there and the property lines may also have been different. The property is close to 100 years old. In his opinion, a stoop and steps have been put back to allow access to that door. It is a stoop and steps.

Chrmn. Katen stated Mr. Crabtree gave them approval for a terrace. It is not a stoop according to the Regulations. The owners will discuss some type of steel border to stop the seepage into the neighboring property. That is up to Mr. Einbinder and the Goldsteins.

The hearing was closed.

DISCUSSION:

Chrmn. Katen said the Board denied the stoop and the owners have circumvented the denial. It has become a terrace by virtue of definition and was permitted by the City.

Mr. Carey made a motion to deny the appeal and uphold the Assistant City Planner's decision with Mr. Mead seconding. Mr. Tuozzola added he is in favor of the denial of the appeal but wanted to note the neighbor's concerns as to the runoff of any of the material into his property. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

[8:06:02 PM](#)

6. **862 East Broadway** (Zone R-5) Ian Cole, attorney, for V & H Construction Co., Inc., owner – appeal the decision of the Assistant City Planner's refusal to issue permit for construction of new home. Map 27, Block 450, Parcel 6.

Chrmn. Katen asked if both Item #6 and Item #7 could be addressed as one to which Attorney Cole answered that would be fine.

Attorney Cole, Cohen and Thomas, 315 Main Street, Derby, said this is an appeal of the decision denying an application for a zoning permit. Mr. Crabtree based his denial on the Milford Zoning Regulations, which contain a provision that a variance once granted expires if construction hasn't commenced within one year. On September 13, 2005, a variance was granted on this property, which included a derelict building, on a pre-existing, non-conforming lot. The building encroached into the setback lines especially on one side, being only 2.6' from the property line. They are seeking to have what was approved in 2005, be re-approved tonight. The non-conformity is being reduced from the 2.6' to 5'. The proposed house will be centered on the lot. Elevations were not requested for the previous variance but they were asked to submit elevations this time and have complied. These elevations will show there will not be a problem with overhangs. He submitted both an application for an appeal and a variance application at the same time to have both issues resolved together. With regards to the appeal, his client did receive a zoning permit in July of 2006. Because construction did not commence, the zoning permit was not renewed. Their position is that provision of the Regulations is invalid. He asked that a court case by Judge Moran be made part of the record. In a similar case in Ansonia, Judge Moran determined that the same provision was invalid. You cannot put a time limit on a variance. With regards to the variance application (Item #7), he said he was very careful to submit the exact same request for the renewal of the variance. He said the Board found hardship 2 years ago and the same hardship exists today. He asked that the minutes of the July 2005 hearing and the September 13, 2005 hearing be made part of this record. The hardship is the existing lot is pre-existing, legally undersized, long and narrow. The City tore down the house and the lot is now vacant. Mr. Heslin had some personal issues in his life, a custody case and there were problems in getting his demolition permit.

Mr. Tuozzola asked how a case in Ansonia pertained to Milford to which Atty. Cole stated the City of Ansonia has the exact same regulations as the City of Milford. The trial court said once a hardship is found. The hardship doesn't disappear over time; it runs with the property. The hardship here remains the same. His client is entitled to a renewal. He understands how the appeal of Mr. Crabtree's decision could be denied but the variance should be approved. He said Mr. Crabtree is compelled to follow the Regulations whether he agrees with them or not or whether they are valid or not. He has to enforce them as they are written.

Mr. Carey stated that the Board has many cases just like this and the applicant either comes before the Board for an extension of time or they reapply. It is done on a case-by-case basis. If the hardships still remain the Board would consider that but Mr. Crabtree was right in denying the permit because the variance did run out and the applicant needs to reapply.

Mr. Mead asked if the property was for sale to which after checking with Mr. Heslin, Atty. Cole answered in the affirmative.

OPPOSED:

Lois Fagan, 856 East Broadway, said after years of neglect, Mr. Heslin applied and was approved for a variance in 2005, which he never fulfilled. She urged the Board to deny any courtesy to the applicant. In July, the City demolished the house. The neighbors were jubilant. The demolition company cleared the lot down to the last weed and even poured a new sidewalk. Mr. Heslin still owns the lot and it is for sale. He has not kept the lot clean. It is now overgrown with tall weeds and dumping is occurring. At her own expense, she has twice had a lawn maintenance company clean the lot and mow the lawn. Neither V&H, the owner, nor the listing agent, West Shore Realty, have bothered to clean the lot. Mr. Heslin never fulfilled his legal obligations to the City of Milford and Milford is obligated to protect the neighbors from further abuse.

Cynthia Jacobsen, 858 East Broadway, said she fought the variance before and she does not want Mr. Heslin to build a house closer to hers. He didn't take care of the first house so why would he take care of the second house. She bought her property 8 years ago and she helped him out by letting him use her water and her electricity, trying to encourage him to do something with the home. All he did was pull off the asbestos shingles without shielding anything. He was told numerous times that there were kids in the house drinking and smoking and he did nothing until the town had to step in. He never took care of it. He is 2 ½ years behind in his taxes in a year when her taxes are going up. He owes over \$37,000 to the City. He now wants a favor from the City. She does not think it is appropriate. If a variance is granted it should be contingent upon him paying the money he owes the City. Where is he going to get the money to build a house when he can't pay his taxes.

Peter Crabtree, Assistant City Planner, 64 Stanley Street, New Haven, said he works part-time as the Zoning Enforcement Officer in the City of Ansonia. He is familiar with the case Atty. Cole spoke of and told the Board the details. That case revolved around the lot size. He said he has always believed if you get a variance on a lot size, it is forever. You may have financial problems and not be able to build or the market might not be right and whether you sell it or you build on it, it doesn't

matter. If you get a variance on a sideline, that does run out. The difference is styles change, markets change and something you granted a side yard setback for might not be appropriate in this day and age and the further the time spread the more reason to review it. An applicant always has the option to request an extension of time before it runs out. This request for a re-approval of the variance has some major issues regarding it. While researching the property, he discovered that while a zoning permit and a demolition permit was issued, the City had to take the house down. There was never a building permit issued to construct a house. He told the Board he asked Mr. Heslin several times to give him elevation views which are very helpful in reviewing an application. He did submit an elevation view (only 1 view was supplied instead of the 4 sides that are normally supplied). While reviewing the plan it was clear that the footprint is the same but the porch has been recessed so the floor plan no longer matches the site plan. That is why elevation views are requested. There are also other problems with this application. He submitted a copy of the previously granted site plan to the Board. The plan shows a one bay garage along with a front yard setback of 10'. The requirement is for a 9'x18' parking space in the front for two cars. That means there are off-street parking problems that require additional variances. He repeated it is imperative that elevation views be submitted. The other problem is the zone is located in an AE-11 zone and without floor plans or elevation views he cannot tell if it is slab on grade, crawlspace or full basement. Therefore, he does not know if it is in conformance with the Flood Hazard elevations. Lastly, this property was at one time owned by Hilda Bencivenga and was then sold to Thomas Blake. For whatever reason, the City of Milford put a line in the agreement that says "if there are any existing structures or improvements, any subsequent structures or improvements shall not be enlarged or expanded". Obviously, the home is much larger than the original house was. This is a case where it has to go back to square one and get it straightened out by supplying him with the proper floor plans, elevations and Flood Hazard materials that are needed.

REBUTTAL:

Atty. Cole said the prior variance was granted without elevations in 2005. The Regulations do not require them. They are only asking the Board to grant the same variance that was granted. If there are any other variances needed, a permit will not be issued, and his client will come back before the Zoning Board of Appeals. He said nothing is new, just do what you did before and grant the renewal. He said if they can't build, they can't build and they will have to deal with it. They don't have to go back to square one. This agreement between Mr. Blake and the City doesn't appear to have ever been recorded on the Land Records. No indication that his client or any subsequent purchaser even knew about it. No indication that it binds the heirs or successors to Mr. Blake. He feels it is completely irrelevant. In response to Ms. Jacobsen's comments, they are not asking for the variance on her side. The house will not be any closer than the 5' permitted by the Regulations. If his client can't build what the elevation plan shows, then he will have to come before the Board again and the Board can do whatever it wants with it then. You are legally bound to approve what you did before.

The hearing was closed.

DISCUSSION:

Chrmn. Katen said he has a problem with a variance being asked for on a house that hasn't even been put on paper. He said there are issues involved that makes him think the City Attorney should be involved to give him guidance on what to do. He is not a judge so he can't make a decision like that.

Mr. Carey stated the Board did grant a variance but the time expired. The Board can re-approve this variance if they feel they should do so. Every case is its own case. This is a new case and agreed with Chrmn. Katen saying how could they grant a variance on a house that they have no idea what it is going to be and knowing that if it is granted they will be back before the Board for more variances in order to build the house. He would like to see everything that is going to be there and grant or deny all the variances at one time. He believed this item should be tabled until an opinion from the City Attorney is received.

Mr. Mead agreed with both Chrmn. Katen and Mr. Carey and wondered since the house is for sale, whether the new owner could build a house without a variance. He agreed the item should be tabled.

Mr. Carey made a motion to table the item to refer it back to the City Attorney with Mr. Mead seconding. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

7. **862 East Broadway** (Zone R-5) Ian Cole, attorney, for V & H Construction Co., Inc., owner – re-approval of variance request to vary Sec. 3.1.4.1 side yard setback from 10' to 5' to construct single family dwelling. CAM required. Map 27, Block 450, Parcel 6.

Incorporated into Item #6.

[8:35:52 PM](#)

8. **20 Falmouth Street** (Zone R-12.5) Thomas Lynch, attorney, for Warren Field, Jr., owner – request to vary Sec. 3.1.4.1 side yard setback to construct new single family home with a 5' side yard where 10' is required. Map 19, Block 249, Parcel 5.

Attorney Thomas Lynch, 63 Cherry Street, said his client purchased the property in June as a legal, non-conforming lot. He met with the Zoning Enforcement Officer in the spring and the lot was certified under Sec. 6.4.2 of the Zoning Regulations. The hardship is it is a narrow, deep lot with 5,400 sq. ft. where 12,500 sq. ft. is required. He stated they have an elevation view showing the house they could build by right. They don't feel it would conform to the area. Another elevation view shows what they would like to build which would conform more with the neighborhood. The houses are the same size. They would both consist of 2,000 sq. ft. of living space. Most of the neighbors are in favor. He submitted a petition. The neighbor's house is 25' off the property line. With the 5' they are proposing to keep on that side, there will be 30' between the houses.

Mr. Tuozzola asked if the existing houses on the street were built inline with each other to which Atty. Lynch answered there is a uniform front yard setback.

Mr. Mead wondered if Mr. Field was concerned about the neighbor next store, could they build the house with that side being the 10' side and go for a variance for the other side.

Warren Field, Jr., 957 West River Street, said when he explained the proposal to the neighbor at #45 Falmouth Street, she was in favor of it, but was concerned that if in the future she was to build a garage or put a driveway there it would be too close. She asked him to keep the 10' on her side and put the 5' on the other side and he said he would. He didn't want to say one thing and do another.

OPPOSED:

Diane Beauregard-Niarkis, 24 Falmouth Street, said she owns the house and her mother lives there. She doesn't oppose it and doesn't care if they build a house as long as they adhere to the setbacks. The 25' of property Atty. Lynch spoke of is their property. She doesn't think it is fair to have someone so close. Mr. Field is not going to live in the house, he is going to flip the house. A side yard of ten feet is not that much to keep. She added a lot of the neighbors are opposed to it but they figure it is the better of two evils.

The hearing was closed.

DISCUSSION:

Mr. Haberman said he doesn't see there is a hardship. He feels the fact that the lot is non-conforming doesn't establish a hardship for a variance. He said he wouldn't want a 19' wide house next to him. He understands wanting to have a house that is appropriate looking and fitting the neighborhood. It is a difficult decision for him personally.

Mr. Carey stated that is the reason why the Zoning Board of Appeals exists, to make logical decisions. Is it better to grant the variance to build a normal size house than not grant the variance?

Mr. Haberman said you have to have a hardship and he doesn't think one exists in this case and you always have to consider the neighbors. The Regulations should say what a normal sized house should be.

Mr. Carey said we grant variances on side yard setbacks all the time. The hardships are the size of the lot.

Mr. Mead said he lives in this neighborhood and he would rather see something that is conforming to the neighborhood. He would like to see something that is wider and shorter than something that is taller and narrower. He is asking for a 5' variance but still has 11' on the other side. He could move it over to have 10' on one side and 6' on the other.

Chrmn. Katen said they could do setbacks of 8' on one side and 8' on the other.

Mr. Crabtree said they could do a 10' and 6' tonight but if they want to go to 8' and 8', they will have to come back next month.

Chrmn. Katen said that the same size house could be built with two 8' setbacks and that would satisfy everyone and make it more palatable.

Mr. Mead said the Board could deny it without prejudice and have them come back next month.

Mr. Carey made a motion to deny without prejudice with Mr. Mead seconding. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

[8:57:24 PM](#)

9. **141 Joyce Court** (Zone R-10) Richard & Demaris Trenchard, owners – request to vary Sec. 3.1.4.1 front yard setback from 25' to 20' to erect addition (19' to gutter). Map 75, Block 931, Parcel 15.

Richard Trenchard, 141 Joyce Court, owner, said he was looking to extend the master bedroom and build a master bath. The house was built 60 years ago. They want to continue the same line of the house. It was Mr. Crabtree's idea to put the gutter distance down so the variance wouldn't be violated when they put on a gutter.

Mr. Mead asked if there was a gutter there now.

Mr. Tranchard answered yes, the house will look exactly the same just longer.

The hearing was closed.

DISCUSSION:

Mr. Tuozzola said this is just an extension of the living area and there is plenty of room there. It will still be 23' from the property line.

Mr. Tuozzola made a motion to approve with Mr. Carey seconding. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

[9:00:37 PM](#)

10. **11 Soundview Place** (Zone R-10) Kevin J. Curseaden, attorney, for Ann Moore & Hudson Connery, owners – request to vary Sec. 3.1.4.1 side yard setback to allow continued use of legal pre-existing structure at 7.89' at ground and to allow 6.72' for roof soffit and fascia projection to remain where 10' is required. CAM received. Map 39, Block 615, Parcel 2.

Attorney Kevin Curseaden, Steven, Carroll & Carveth, 26 Cherry Street, said the hardships are the size and shape of the lot and the pre-existing house and foundation. It is an 8,000 sq. ft. lot with 80' frontage in an R-10 zone, where 10,000 sq. ft. with 100' frontage is required. The owners received in August of 2006, a permit to do 47% renovations. Once construction began, it was discovered it would be necessary to do additional work. The owners went back to zoning and were told by Mr. Crabtree that the permit was overworked and because it was no longer a remodel they would need to apply for a variance. All the abutting property owners are in favor of the application. The letters of support were submitted to the office and are in the file. He passed out copies to the Board. The variance is to allow the pre-existing 7.89' setback to remain with an additional setback for the soffit and fascia.

Mr. Carey confirmed the house would be in the same footprint and they are only here because more than 47% reconstruction was done to which Atty. Curseaden agreed.

Mr. Crabtree said the house is okay; it is just the garage that requires the variance.

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

DISCUSSION:

Chrmn. Katen said the owners came back on their own, it is the same footprint and Staff doesn't have a problem with it.

Mr. Carey made a motion to approve with Mr. Haberman seconding. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

Point of Order

Atty. Lynch, 63 Cherry Street, representing Warren Field, Jr., for 20 Falmouth Street, came back before the Board saying the one opposing neighbor has reviewed the elevations and is now in favor of the application. The neighbor was more concerned about the type of house that would be built and not about the 3' here or there. He asked the Board to make a motion to reconsider Item #8, 20 Falmouth Street, denied without prejudice earlier this evening.

Mr. Crabtree said this is perfectly legitimate and has come up before. When the Board has a request for reconsideration, the person who brings up the motion is supposed to be someone who voted against it. Since no one voted against it, anyone could make a motion for reconsideration.

Diane Beauregard-Niarkis, 24 Falmouth Street, said she was originally opposed to the application, but 2' or 3' isn't going to make that much of a difference. She is familiar with the builder's work and the type of house he is proposing would be all right. She has always been a good neighbor and she will make the most of it. They will build a house anyway.

DISCUSSION:

Chrmn. Katen said there is no more opposition.

Mr. Haberman stated he still did not believe there was a hardship but understands the need for buildings that are in character with the neighborhood.

Mr. Carey said there is a hardship, which is the width of the lot. Yes, they could build a house without a variance but the house would be unsightly. It would be an injustice to the citizens of Milford.

Mr. Mead said he feels spitting the difference, (8' and 8') like we spoke about, would be better because it would center the house on the lot and would still be the better house, the shorter, wider house.

Mr. Tuozzola said the only objection we had was from the one neighbor who now approves it.

Chrmn. Katen confirmed the Board would rather see it centered.

Mr. Mead agreed that by waiting until next month, the other neighbor would have the opportunity to come before and speak.

Mr. Carey made a motion to reconsider the original decision, which Mr. Tuozzola seconded. The motion failed to carry 3 to 2 with Messrs. Mead, Tuozzola and Haberman voting against and Messrs. Carey and Katen voting in favor.

B. TABLED BUSINESS

C. OLD BUSINESS

D. NEW BUSINESS

1. **320 Calf Pen Lane** – request for a re-hearing prior to the six-month waiting period.

After discussion, Mr. Tuozzola made a motion to deny the request with Mr. Mead seconding. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

2. **6 Swift Street** – request for an extension of time.

After discussion, Mr. Carey made a motion to approve the extension for one year with Mr. Haberman seconding. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Carey and Katen voting.

E. STAFF UPDATE

F. ACCEPTANCE OF MINUTES FROM SEPTEMBER 11, 2007 MEETING.

The minutes were approved unanimously.

G. ACCEPTANCE OF APPLICATIONS FOR NOVEMBER 13, 2007.

The meeting was adjourned at 9:25 p.m.

Attest:

Rose M. Elliott
Clerk - ZBA