

MEMBERS PRESENT: Rich Carey, William Evasick (Acting Chrmn.)

ALTERNATES PRESENT: John Collins, Tom Nichol, John Vaccino, Gary Dubois

STAFF PRESENT: Kathy Kuchta, Zoning Enforcement Officer; Rose Elliott, Clerk

The meeting was called to order at 7:00 p.m. Acting Chrmn. Evasick welcomed the newly appointed alternates, John Vaccino and Gary Dubois.

A. CONSIDERATION OF AGENDA ITEMS

1. **30 Soundview Avenue** (Zone R-5) John Torres, appellant, for Leonard Wisniewski, owner – request to vary Sec. 3.1.4.1 side yard setback to 6.3' in lieu of 10' required to rebuild 70% of existing residence according to Sec. 6.2.6. Vary Sec. 5.1.4, two minimum space requirement for parking. CAM received. Map 49, Block 732, Parcel 6.

Peter Stark, attorney, 183 Broad Street, said the property is a non-conforming legal lot, in existence prior to the zoning regulations. The lot is small, approximately 2,260 sq. ft. where 5,000 sq. ft. is required. The house was built around 1928. They are trying to rebuild 70% of the existing home and the only way to do that is to stay with the existing footprint. All construction would be completely within the footprint of the existing home. There is no other viable option. If the variance is not granted for the sideyard setback, the house would only be 12'-15' wide. This lot is landlocked with the road ending 10'-20' before this house. A paper street was there originally but that paper street is gone. The City built a stairwell that goes down from Soundview Avenue to Edgefield Avenue for access. There is plenty of parking below on Edgefield Avenue and approximately three or four spaces on Soundview Avenue. Only two houses on the street do not have off-street parking - this one and the one next to it. Their hardship is created by the topography, the size of the lot and the lack of street access.

John Torres, 26 Woosley Avenue, Trumbull, said he takes care of Lenny Wisniewski's properties. Mr. Wisniewski had planned to rebuild this property when he purchased it. There are approximately ten houses on the street. He submitted photos (14) to the Board. All the houses on the street have parking spaces – except for #30 Soundview and the house to the right. They would be happy to put a driveway in but that is just not possible.

Acting Chrmn. Evasick asked for the hardship to be repeated to which Atty. Stark responded that what they are proposing to do is the only viable option for the property. Without the variance, it would essentially be a taking of the property.

FAVOR:

Mark Pucci, 42 Summit Avenue, said he lives in the neighborhood, has watched the house deteriorate and a new home would be a huge improvement to the neighborhood. All the other homes on the street have driveways.

OPPOSITION:

Glen McDermott, 40 Soundview Avenue, said he has no objection to the setback variance but felt the claim "there is plenty of parking" was quite a stretch of the

imagination. He submitted photos to the Board. The original house was built in 1925 and it wasn't always landlocked. There was street access which facilitated the construction of the house. The City of Milford paved Soundview Avenue but stopped the road in front of houses, #30 & #32 Soundview. Those two houses have absolutely no parking, no driveways and no access, except by foot. As a result, parking at the dead end is at a premium. There have been heated conversations regarding the parking. In the winter, cars must be removed from the entire street or it doesn't get plowed. If approved, he wondered how the construction of the house would be managed for the delivery of materials, contractor's vehicles, etc. A similar situation was resolved on Botsford Avenue. That resolution would solve the situation here.

George Whetstine, 33 Soundview Avenue, has lived there sixteen years. He agreed there have been many occasions where normally agreeable people have gotten into heated arguments over parking. The parking problem is what precipitated some homes adding parking themselves, at a considerable cost. He thought the City should look at the possibility of making this property open space. The original owners petitioned the City for parking but couldn't get it. They ended up petitioning for three handicapped spots and they were given one. This project would not benefit the neighborhood.

Donna Eldore, 32 Soundview Avenue, said she opposes the application because the house would be extended. She has a disabled daughter and they need one parking space. She is one of the supposedly, landlocked homes.

Pam Landry, 36 Soundview Avenue, said she has lived there for nine years and agrees with everything her neighbors have said. She has no parking. The previous owners of her property built a cement parking pad for their vehicles. All the public parking on the street goes away when it snows. She is concerned about the accessibility of getting emergency vehicles to the location of this house. They are in favor of making that parcel better but ideally that would be to make it open space. She spoke of what the Mayor's Open Space Advisory Board's opinion was.

Michael Shemaly, 35 Soundview Avenue, said he has lived there for seven months. The parking is terrible. He didn't know how he would get out of his driveway in the snow.

Jules Junget, 23 Soundview Avenue, said the parking is a nightmare. He is all for improving the property but not at their inconvenience. It would ruin the views.

Helene Jackson, 42 Soundview Avenue, agreed with the neighbors saying if someone doesn't move their cars, the plows don't come down and they can't get out. If someone needs emergency personnel, they wouldn't be able to get down the street.

Michelle Castelli, 35 Soundview Avenue, agreed with the statements of her neighbors and added there is a turn around at the end of the street and people park there also. That is not designated parking. While the applicant may look at it as being extra parking, it is meant to be the turn around as you come down the street and then go back up. Without that, the only way to get out is to back up the road. She is in favor of using that parcel as open space.

Joanne Whetstine, 33 Soundview Avenue, agreed with neighbors and added during September, they had to call the police several times and the police couldn't make it down the hill because there was no where to park.

REBUTTAL:

Atty. Stark said it appears the major concern is the parking. It is their concern also. However, there is already a house there and there were previous tenants there who had cars. This parcel is landlocked. You can't put a driveway or garage there. There is some parking below on Edgefield and some above on Soundview. They are public parking spots. The neighbors do not own them. They need the variance to eliminate the parking because there is no way to get to the house from the street. As far as safety concerns go, there are two flights of stairs that you have to go down to get to the house. If a person was in an apartment building, you would have to go up two or three flights of stairs to get to them. It has been done. The only way to rebuild this house and make it better for the neighborhood is to grant this variance. He asked the Board to grant it based on the unusual hardship.

Mr. Torres said when the house was first purchased, the neighbors complained it was a crack house and there were rodents. They boarded it and cleaned up the area. All they want to do is to rebuild it and make it look nice. It would increase the value of everyone's homes. They are not asking for extra parking. The people that used to live there had two cars and it worked then.

Mr. Nichol asked who maintained the stairs to which Mr. Torres said the City does.

Mr. Collins confirmed the proposed reconstruction would not be larger than the footprint of the existing house and asked what the height of the proposed house would be.

Mr. Torres said the house would be on the same footprint and the height would be about 31' or 32'.

The hearing was closed.

DISCUSSION:

Mr. Collins said he is familiar with the area and it is a tough road to live on. His home backs up to the parking lot on Botsford Avenue. What they did on Botsford Avenue would not be feasible here. There are public parking spaces on the street. The space in front of someone house is not their parking spot, it's public. The house existed before and that needs to be taken into consideration. Mr. Carey said parking is a consideration but he has a concern with the ability of emergency vehicles accessing the property. Acting Chrmn. Evasick said the majority of the houses are non-compliant on non-compliant lots. This is a unique situation where this property is landlocked. It was a home at one time. A hardship relates to the characteristics of the property. If any of the homeowners on the street wanted to rebuild or remodel their homes, they would probably be in the same situation and have to come before this Board. The Board has to be careful not to set a precedent that would affect the rest of the homeowners in the area. He understood all the concerns but repeated it is a unique situation.

Mr. Nichol made a motion to approve with Mr. Collins seconding. The motion carried 4-1 with Messrs. Vaccino, Collins, Nichol and Evasick voting in favor and Mr. Carey voting against.

2. **118 Smith Avenue**(Zone R-5) Mark Pucci, appellant, for Joe Kim & Renee Guhde Kim, owners – request to vary Sec. 3.1.4.1 rear yard setback to 12' in lieu of 20' required to construct single family home. Vary Sec. 3.1.4.1 lot coverage to 83% in lieu of 65% allowed. CAM required. Map 13, Block 135, Parcel 1.

Mark Pucci, 42 Summit Avenue, said the existing house has 100% lot coverage. They started remodeling the house a few months ago and then got hit with the storm. The house sustained major damage. By removing the asphalt and concrete surfaces, they would be making the house more conforming by reducing the lot coverage by 17%, down to 83%. The house would remain at the same width of 26'. Their plan would provide three off-street parking spaces. They would also remove the front porch, increasing the line of site of the water for the other neighbors.

OPPOSITION:

Dean Smith, 10 Smith Avenue, said his house is located directly behind this house. He submitted photos to the Board. His family has lived there for forty years. The area is getting really crowded. He reminded the Board about a fire on Laurel Avenue recently that destroyed three buildings. With the most recent storm, he wondered how much closer the houses had to be to each other before flying debris started damaging neighboring homes.

Dawn Carlson, 114 Shorefront, lives directly next door to this property and said it is an already congested area. The granting of this variance would only compound the congestion. Her measurements show the distance between her house and what is proposed, would only be 16'. She submitted pictures to the Board of work that was done prior to the storm and how the property exists now. There is no hardship. As anxious as she is for the property to be improved and things returned to normal, she hoped the Board would consider whether this variance would be in the best interest of the neighbors. She felt the neighborhood could not sustain more overcrowding. She also remembered the Laurel Avenue fire and hoped the Board would deny this application.

Paula Smith, 62 Hauser Street, said she was before the Board to speak for her mother, Irene Smith, who lives at 144 Broadway, cor. Broadway and Smith Avenue. She added she is the aldermanic representative for that district and was related to the other neighbors who spoke. There is no hardship for this property. The plans originally submitted in March were approved without any variances. She didn't understand how the plans were approved without a coastal area management study being required. The foundation, as shown in the pictures, has already been dug. The reason the house sustained major damage was because the house was gutted. The permit was completely overworked. There were no permits to gut the house. The Planning and Zoning Board recently passed a regulation to support the people who had a severe amount of damage from the tropical storm. It would allow them to be able to rebuild on the existing footprint, without going for variances. Their original plan didn't need a variance, so they could still rebuild the house where it is now.

Jim Hammil, 114 Shorefront, agreed there is no hardship. He said he watched the houses on Laurel Avenue burn. Overcrowding was a problem there. There is no reason to continue to allow overcrowding. If there were a fire, #10 Smith and #114 Shorefront, would be at great risk.

REBUTTAL:

Mr. Pucci said there will be five off-street parking spaces. The current house is 8' from the property line. The house would be going in the exact same place it was. All the proper permits were taken out prior to the storm. The hardship is it's a non-conforming lot. They would bring it up to the current flood regulations and raise it higher than the current flood elevation. They would make it more conforming. There would be no problem getting emergency vehicles to Smith Avenue. The lot coverage would be reduced from 100% to 83%, with grass and mulch.

Mr. Carey asked if permits were pulled before the storm to which Mr. Pucci said they were.

Mr. Carey asked why a variance was being requested.

Mr. Pucci said they are now exceeding the 50% improvement rule.

Acting Chrmn. Evasick asked Ms. Kuchta to explain the history. Ms. Kuchta explained the applicant originally came in to do less than 50% improvements to the existing house. A building official found they had exceeded their scope of work and put a stop work order on the construction. Tropical Storm Irene came and compromised the foundation. At that point they needed a variance to rebuild to what existed or to what they were asking for this evening. Either way, variances would be required.

The hearing was closed.

DISCUSSION:

Mr. Collins was concerned about the applicant not following the scope of the permits issued. Acting Chrmn. Evasick said the land owner would have reasonable use of the property based on the design of the original permit. In some instances, variances have been granted to reduce non-conformities, and the courts have agreed. Mr. Carey said only the lot coverage would be made more conforming. The house could be rebuilt to be compliant with the zoning regulations and not require a variance. Ms. Kuchta explained the application request and the setback requirements. Acting Chrmn. Evasick asked if the applicant needed to comply with the flood regulations to which Ms. Kuchta answered he did now that he is doing more than 50% improvement.

Mr. Carey made a motion to approve with Nichol seconding. The reason for the approval is the house would be on the same footprint and the lot coverage would be reduced. The motion carried 4-1 with Messrs. Vaccino, Collins, Nichol and Carey voting in favor and Acting Chrmn. Evasick voting against.

3. 20 Hillside Avenue cor. Farview Avenue (Zone R-5) Larrie Meyer, owner – request to vary Sec. 3.1.4.1 front yard setback to 6' in lieu of 10' required to replace existing dwelling. Map 49, Block 716, Parcel 1.

Larrie Meyer, 20 Hillside Avenue, submitted letters of support to the Board. He wants to construct a modest, two story, three bedroom home. The hardship is the pre-existing, non-conforming lot with two front yards. He would be moving the north side of the house line in 2 ½' to completely comply with the 5' side yard setback requirement.

He would like to leave the south side as it is currently laid out. This is the corner that faces the street and he has the support of the neighbor directly across the street. The proposed house would provide for off-street parking spaces along with the three car garage under, to alleviate some of the parking problem on both streets. This would be his primary residence for himself and his wife. He is making the property more conforming. He has hired the architect that has built three other homes on the street so his house would be in character with the neighborhood.

OPPOSITION:

James Murphy, 165 Edgefield Avenue, said he is pleased the house would be getting some attention but it would deprive him of his view if the variance were granted.

Susan Bettigole, 12 Fairview Avenue, was opposed because she bought her house for the view and doesn't want it disturbed by another house.

Ann Carter, 35 Burwell Avenue, said she is concerned about the City and its beauty and the proposed house and its compliance with the zoning laws. The zoning laws were instituted to ensure a certain degree of control and beauty on the street. This house as proposed would block Ms. Bettigole's view. It would set a precedent for building large houses on the block. The house across the street from this property is a perfect example of having a lovely home that conforms to the regulations. This proposed house would be inappropriate for the area.

Susan Collazo, lives at 5667 Main Street, Stratford, and owner of 163 Edgefield Avenue. This property is a rental property and has a spectacular view. She is concerned if the view is lost, it would lessen the value of her property.

Peter Rossitano, 165 Edgefield Avenue, said it is great the house is being rebuilt, however, he did not see the hardship. If it conformed to the zoning regulations, it would be a huge house. There is no reason for it to creep up to the sidewalk. If both cars are not pulled into the garage, people would have to walk around them. He would lose his views and that would decrease his property value.

REBUTTAL:

Mr. Meyer said the proposed house would be narrower than the current house. The closest neighbor behind him is 40'-50' from the back of his property. Their vistas down the street should remain unchanged. This is a modest, three bedroom home. The elevation change between his house and the houses on Edgefield would not affect their vistas. He would be providing parking spaces and would be moving the house back so it is more esthetically pleasing and in line with the other houses on Hillside Avenue. He is doing everything he can to make this house pleasing to both the neighbors and his wife and himself.

Mr. Collins confirmed the proposed house would not encroach any further onto Fairview Avenue than the existing house to which Mr. Meyer said that was correct.

Mr. Collins asked how much taller the new house would be.

Mr. Meyer answered 5' taller.

Acting Chrmn. Evasick asked Ms. Kuchta how the house would need to be reduced to be built without the need for a variance.

Ms. Kuchta said the real difficulty is he has two front yards. He brought in the side yard to be compliant. The rear yard is compliant as is the front yard on Hillside Avenue. To be totally compliant, the house would need to be 20' wide, rather than 24' wide.

Acting Chrmn. Evasick noted the neighbors need to understand the applicant can build the house up to 35' high.

The hearing was closed.

DISCUSSION:

Mr. Nichol made a motion to approve with Mr. Carey seconding. The hardship is the pre-existing, non-conforming lot. The applicant would be reducing the non-conformity of the current house. The motion carried unanimously with Messrs. Vaccino, Collins, Nichol, Carey and Evasick voting.

4. **229 West Main Street** (Zone SFA-10) George Adams, attorney, for Two Ninety-Six, LLC, appellant, for Estate of Milton Leach, Ronald Leach, Executor, owner – request to vary Sec. 3.2.4.1 lot width to 46.46' in lieu of 50' required (Lot #1) to create tow single lots from double lot. Map 54, Block 323, Parcel 29.

George Adams, attorney, Harlow Adams & Friedman PC, 300 Bic Drive, submitted pictures and paperwork to the Board. The property was acquired in 1953, prior to the creation of the SFA-10 zone. The estate has now placed the property on the market. The present use is a two family house, existing since 1962. There are numerous sheds and paved area on the parcel. They are proposing to remove the sheds and much of the paved area in the rear of the property, and then divide the property into two lots. They would convert the existing two family dwelling into a single family dwelling and construct a new single family house on the newly created lot. Planning and Zoning Board approval would still be required if approved tonight. The existing parcel is 16,039 sq. ft. in area, 6,039 sq. ft. larger than the 10,000 sq. ft. required for a double lot. Part of their hardship is they are oversized for the zone. They would only require 5,000 sq. ft. of area for each single family lot. There is enough area to support three houses with more area to spare. They also have 65' more depth than required, which is also part of their hardship. The difficulty is with the width. They only have 96.49' of width, making them 42" short; even though they are 65' over on depth and 6,000 sq. ft. over on area. The existing parcel does not meet the width requirement for a double lot in the SFA-10 zone. It is currently non-compliant. The removal of the seven sheds and a great deal of paving should be attractive to the abutters on Lamplight Lane. The imposing 113" circumference maple tree would remain. The hardship is the property is oversized as stated and the shape of the lot created prior to the creation of the SFA-10 zone.

FAVOR:

Rob Page, 232 West Main Street, directly across from the property, supports the application.

OPPOSITION:

Tim Swaller, 34 Lamplight Lane, said his backyard is aligned with the property in question. He said the area is already densely populated and adding two more houses would only add to the problem. The proposal doesn't meet the zoning requirements. There are other lots on the street that are the same or nearly the same size. His privacy would be compromised by the subdivision of the lot.

Elise Lee, 30 Lamplight Lane, said the majority of the people on her street are against this project. This same builder has built three other houses on the street and while they may be nicely built homes, they are too closely built.

REBUTTAL:

Atty. Adams said all the houses on Lamplight Lane are on 5,000 sq. ft. lots. The proposed lots are more than 50% larger than required. One lot is 8,500 sq. ft., 3,500 sq. ft. larger than the lots on Lamplight Lane and the other lot is 7,500 sq. ft. They can meet all the setback requirements. The lots could be as little as 100' deep and be compliant; they have 65' of extra depth. There should be no privacy issues. They are not proposing low income housing. It would be a nice, raised ranch house, similar in quality to the other houses the applicants have built on the street.

Mr. Vaccino asked what the sq. footage of the two family house is to which Atty. Adams said it is 44' long by 25' width, under 2,000 sq. ft.

Mr. Vaccino asked how big the proposed house would be.

Atty. Adams said they are proposing a 54'x28' raised ranch.

Mr. Collins confirmed the existing house would be renovated and made into a single family house.

Atty. Adams said that was correct, but noted this house could be taken down and something else built in the future. He had no control over that. However, his clients were proposing to renovate it from a two family to a one family.

Mr. Collins asked if the existing privacy hedging in the back would remain.

Atty. Adams said that while he didn't think the Board could make them keep the hedging, they did offer to plant a row of arborvitae across the back property line, to the neighbors.

The hearing was closed.

DISCUSSION:

Mr. Carey said they would be taking a two family house and making it a single family house. Both houses would be conforming and the only variance is for a slight width problem. He felt there was a hardship because the lot was large, but the width was narrower than required. Mr. Collins brought up an inconsistency with the lot measurement on the map and the lot measurement on the application. Ms. Kuchta said the measurement on the application was correct at 46.46'. Acting Chrmn. Evasick felt there would not be a density issue. They would be taking a two family house and creating two single family houses. It might also alleviate some congestion with parking.

He noted this Board does not have the authority to grant variances for financial gain. That is what this looked like to him. Mr. Carey said he didn't feel the Board would be granting it for financial gain. There is a hardship in the narrowness of the lot.

Mr. Carey made a motion to approve with Mr. Collins seconding. The reason for approval is the applicant would be reducing the two family house to a single family house. They would not be increasing the density and the hardship is the width of the second lot. There is more than enough square footage in area. The motion failed to carry 2-3 with Messrs. Carey and Collins voting in favor and Messrs. Vaccino, Nichol and Evasick voting against.

B. TABLED ITEMS

30 Wildwood Avenue (Zone R-5) Thomas B. Lynch, attorney, for Kenneth & Lisa Lesinsky, owners – appeal the decision of the Zoning Enforcement Officer in her denial of request for lot certification per Sec. 6.4.2 of the Zoning Regulations. Map 12, Block 123, Parcel 10.

WITHDRAWN.

C. OLD BUSINESS

D. NEW BUSINESS

Ms. Kuchta said the consensus from the Board is that they would be willing to attend the training classes in May at Central Connecticut State College. It would be held on a Saturday and is an all day seminar with breakfast and lunch. She and Rose would drive the members in the city cars. Acting Chrmn. Evasick asked if the members could drive themselves to which Ms. Kuchta said that would be fine. Mr. Carey noted he has attended a similar seminar in the past and it is a very informative session.

Acting Chrmn. Evasick once again welcomed the new members to the Board.

E. STAFF UPDATE

F. ACCEPTANCE OF MINUTES FROM SEPTEMBER 13, 2011 HEARING

The minutes were accepted unanimously.

G. ACCEPTANCE OF APPLICATIONS FOR NOVEMBER 9, 2011 HEARING

The meeting was adjourned at 8:54 p.m.

Attest:

Rose M. Elliott
Clerk ZBA