

## **Minutes, Public Hearing of Zoning Board of Appeals Meeting held October 14, 2014**

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, October 14, 2014, 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 / ROLL CALL**

**MEMBERS PRESENT:** Joseph Tuozzola (Ch), Howard Haberman (Sec,) Richard Carey, William Soda, John Vaccino

**ALTERNATES PRESENT:** Gary Dubois, Robert Thomas

**MEMBERS/ALTERNATES ABSENT:** Sarah Ferrante

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

**Mr. Tuozzola** called the meeting to order at 7:00 p.m. He asked for known conflicts of interest for board members with any of the items on the agenda; none were raised. He announced that 2nd agenda item **557 Plains Road** would be postponed. He said that last 2 items on **Tanglewood Circle** would also be tabled.

### **B. CONSIDERATION OF AGENDA ITEMS**

1. **81 Shell Avenue** (R-7.5) Dave Salerno, agent, for Rodney Allain, owner; 3.1.4.1 south side-yd setback to 5.8' where 10' req; 4.1.4 south eave to 4.8' where 8' perm to build new single family home. Map 27, Block 444, Parcel 3

Mr. Salerno, 77 Canoe Brook Road, Trumbull, CT, addressed the board. He said the hardship was that the lot is half the size of a conforming lot. He said the garage and existing house would be demolished and that the new plan makes the house more conforming. He said the owner did not want to bring the house closer to the water for safety reasons, but that a portion of the new house that would be in the VE zone and the plan was to engineer to that standard. He distributed elevations and floor plans of the proposed home.

#### **DISCUSSION**

**Mr. Haberman** confirmed that the plan reduced side-yard nonconformities and that parking under the house would be further from the road than the current garage. **Mr. Soda** confirmed that the attic had pull-up stairs.

#### **BOARD DISCUSSION**

**Mr. Tuozzola** 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 application. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of hardship of the narrow lot, exactly per the submitted materials. The motion carried with **Messrs. Carey, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion**.

2. **557 Plains Road** was postponed per request of Attorney Curseaden.

3. **205 Old Point Road**(R-7.5) Danielle Bercury, Esq., Attorney, for Mark Romano, owner; Vary Sec. 3.1.4.1 front-yd setback to 13.4' where 20' req; 4.1.4 front-yd proj to 13.1' where 16' perm; all to build a new single family dwelling. Map 15, Block 56, Parcel 8

**Mr. Haberman** recused himself from this item, so **Mr. Vaccino** read the application request. **Mr. Dubois** was seated to vote in place of Mr. Haberman.

**Attorney Bercury** addressed the board. She stated that Mr. Romano was present. She submitted the notification materials. She said the lot was affected by the widening of Old Point Road some years ago. She said the plan was to demolish the house because it was found to have structural damage. Then a new home would be constructed. She described the variances and said the hardship was that the lot has 2 front yards due to an abutting paper street. She said an additional hardship was that the lot lost 20' to road widening. She said a non-conforming shed would be demolished.

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### DISCUSSION

**Mr. Tuozzola** confirmed that the house would be completely demolished and a new structure built. **Mr. Soda** confirmed that the new house would be somewhat larger and have a 3' cantilever in front. **Mr. Vaccino** confirmed that a variance would still be needed even if the previous foundation were used.

### 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 application. **Mr. Vaccino** seconded. **Mr. Carey** supported his motion by reason of hardship of the shape of the lot and that the widened road had affected the lot size, exactly per the submitted materials. The motion carried with **Messrs. Carey, Haberman, Soda, Vaccino** and **Tuozzola** voting with the motion.

**Mr. Haberman** was reseated. He read the next request.

4. **41 Melba Street** (R-5) Thomas Lynch, Esq., Attorney, for Brian Lee, owner; Vary Sec. 3.1.4.1 east side-ym setback 1.35' where 5' req; 4.1.4 west deck to 1.51' where 8' perm; 4.1.4 east deck to 1.35' where 4' perm; 3.1.1.1 density to allow 2 dwellings in single family zone; all to construct 1 new dwelling. Map 29, Block 587, Parcel 15

**Attorney Lynch**, 63 Cherry Street, addressed the board. He stated that the application was similar to one heard earlier this year. He described 2 nonconforming houses on the property. He described the change from the last application where a larger side-yard setback had been used. He said he had researched the homes on Melba Street and found 13 addresses on the street where 2 houses sit on 1 lot. He said the hardship was the narrowness of the lot. He said the area was hard hit by Storms Irene and Sandy and that this address was in the VE9 zone. He stressed that the site is similar to others in the area. He reviewed discussion from the April meeting. He said the 500sf shorefront house was reversed from other 2-home lots in the area because the larger home is typically near one nearest the water. He said the total size of the proposed house was not excessive at 1600 sf. He shared his interpretation of Sec 6.2.1 regarding enlargement of non-conformities. He said the house was smaller in width and conformed to one side-yard setback. He asked the board to consider asking the City Attorney for clarification on the regulation.

### DISCUSSION

**Mr. Tuozzola** said he recalled the substance of the April meeting discussion as being a density variance. **Attorney Lynch** said that most reconstructed houses were larger than the originals. **Mr. Vaccino** confirmed that the Lees were living in the street-side residence now. **Attorney Lynch** disputed Mr. Harris' view that the regulations allow a structure to be rebuilt only if rebuilding what the owner previously had. **Mr. Haberman** and **Mr. Harris** discussed the density variance. **Attorney Lynch** read Section 6.2.1, arguing that the street-side cottage created a nonconforming use, not the Sound-side house.

### FAVOR

**Robert Stevens, 49 Melba Street**, said he supported the project due to the planned improvement of the house's appearance. He said that 2-family lots allowed people of more modest means to live in the neighborhood as one house could produce income. He said that rebuilding a 600sf house is unreasonable.

**Brian Lee, 41 Melba Street**, said the original small house was once adequate for him, but now that he was married, they needed more space. He said he wanted to stay in the community. He said he lived in the waterside house for 13 years. He said a guest was in the waterside house now and that he and his wife lived in the street-side house.

### BOARD DISCUSSION

**Mr. Tuozzola** stated that the plans hadn't changed that much. He said the size of the shore-side cottage would triple and that he considered it a density issue. **Mr. Haberman** agreed that the issue was density. He said if the application was denied, it wasn't denying user of the property, only the specific request of having it how the owner wanted it. **Mr. Vaccino** said it was a

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density issue for him as well. He said he didn't consider 6.2.1 confusing, that he felt the ZBA has jurisdiction, even given that this was one of the more difficult cases the board has seen. He said he hadn't heard a similar request for altering a house in this way and that it would set a questionable precedent.

**Mr. Vaccino** and **Mr. Harris** discussed the mechanism of delaying a vote for 65 days. **Mr. Carey** motioned to deny the application. **Mr. Vaccino** seconded. **Mr. Carey** supported his motion because denying the application did not deny the applicant use of the property. The motion carried with **Messrs. Carey, Haberman, Soda, Vaccino** and **Tuozzola** voting **with the motion to deny**.

5. **0 Tanglewood (across from 150 Tanglewood Circle)** (R-A/cluster to R-18; Map 122, Block 904, Parcel 5-N) was postponed per request of Attorney Lynch.

6. **0 Tanglewood (across from 150 Tanglewood Circle)** (R-A/cluster to R-18; Map 122, Block 904, Parcel 5-N) was postponed per request of Attorney Lynch.

### **C. OLD BUSINESS**

There was none.

### **D. NEW BUSINESS**

**Mr. Tuozzola** said he would be absent. **Mr. Haberman** said he would recuse himself from Tanglewood.

### **E. STAFF UPDATE**

There was none.

### **F. ACCEPTANCE OF MINUTES FROM SEPTEMBER 9, 2014, HEARING**

**Mr. Vaccino** moved they be accepted; the motion carried unanimously.

### **G. ACCEPTANCE OF APPLICATIONS FOR NOVEMBER 12, 2014, HEARING**

**Mr. Tuozzola** noted the Tanglewood applications would be heard then.

The meeting was adjourned at 7:58 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