

## **Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 January 2017**

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Monday, 10 January 2017, 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 require Coastal Area Site Plan Reviews or exemptions.

**MEMBERS PRESENT:** Joseph Tuozzola (Ch), Sarah Ferrante, William Soda, John Vaccino

**ALTERNATES PRESENT:** Gary Dubois, Robert Thomas, Jeanne Huber-Happy

**MEMBERS/ALTERNATES ABSENT:**

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

### **ELECTION OF OFFICERS**

**Mr. Harris** called the meeting to order at 7:00 pm and announced the election of officers. **Mr. Vaccino** nominated **Mr. Tuozzola** for chairperson, **Mr. Soda** seconded, and the vote was unanimous. **Mr. Tuozzola** was seated as chair and thanked the board for their votes. **Mr. Soda** then nominated **Mr. Vaccino** for secretary, **Mr. Tuozzola** seconded, and that vote also was unanimous. After the election, **Mr. Tuozzola** expressed the board's gratitude for the long and faithful service of Mr. Howard Haberman, outgoing ZBA Secretary, who decided to serve on a different commission after the expiration of his ZBA term. **Mr. Tuozzola** stated that **Item 5 for 229 Bridgeport Avenue** had requested a postponement and would be heard in February. He asked for conflicts of interest for board members with any agenda items; none were raised.

### **A. PLEDGE OF ALLEGIANCE / ROLL CALL**

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

1. **622 Gulf Street (MBP: 81/706/3)** R-18. Kevin Curseaden, Esq., attorney for GH Ward and Successors, owner;  
Proposed Lot 1: Vary Section 2.5.4 to form new lot on lot already occupied by building.  
Vary Section 2.5.5: Lot Area to 20,110 SF where 43,560 SF required; Lot width to 64' where 150' required; Access width to 10' where 25' required; No frontage where frontage required; Lot that may not be considered generally rectangular in shape.  
Vary Section 3.1.4 side yard setback to 11' where 15' required.  
Proposed Lot 2: Vary Section 2.5.4 to form new lot on lot already occupied by building.  
Vary Section 2.5.5: Lot area to 27,090 SF where 43,560 SF required; Lot width to 92' where 150' required; Access width to 10' where 25' required; No frontage where frontage required; Lot that may not be considered generally rectangular in shape.  
Vary Section 3.1.4 side yard setback to 11' where 15' required;  
Proposed Lot 3: Vary Section 2.5.4 to form new lot on lot already occupied by building.  
Vary Section 2.5.5: Access width to 10' where 25' required; No frontage where frontage required; Lot that may not be considered generally rectangular in shape.

**Attorney Curseaden**, Carroll, Curseaden, and Moore, 26 Cherry Street, addressed the board. He noted that Mr. Ward was present as was Professional Engineer Mathew Ward. He also noted posting of placards and submission of notification materials. He said a number of variances were being requested; he distributed and reviewed a packet of deeds and other materials. He said the essential request dealt with the creation of rear lots, with some side yard variances. He said the requests derived from existing houses that had been on the property for a long time. He said the goal was to make the property more compliant, noting his disagreement with the ZEO in interpreting this issue. He presented a slide show, beginning with a survey dating to about 1918. He reviewed the details of a current survey, particularly noting a right of way. He said the variance was not for a subdivision; that a subdivision request would be presented to the Planning and Zoning Board, but that nonconformities had to be addressed by the ZBA. He then presented a Site Plan with 4 proposed lots. He said the property added one more lot and no other structures. He noted the approximate dates when the existing houses were built. He said if the lots had frontage on a city street, there would

## **Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 January 2017**

only be 2 variances needed. He noted that the lot has never been subdivided. He described this as a hardship. He presented a geographical overview of the property. He said he disagreed with the ZEO and City Planner regarding the access way and that he didn't think there needed to be individual access to single properties. He presented a slide with Section 2.5.5's language. He said that the language had evolved over time and was less restrictive than previous historical language about access. He said he tried to be conservative by asking for variance from more regulations than might be strictly required. He referred to Black's Law Dictionary's for the legal definition of private. He referred to Vine v. Branford ZBA which he said allows that reducing multiple nonconformities can fulfill the requirement for a hardship. He reviewed decisions related to Vine. He reviewed potential causes of hardship. He said the variance would not change the character of the neighborhood, except for the addition of another single family house. He reviewed a list of neighbors who were in support of the project. He addressed ZEO Harris' administrative summary, saying that the request was not unusual despite being about proposed lots. He noted that other boards and commissions would review the proposals. He noted the existence of separate addresses and zoning files, although the property has only one identifier each for map, block, and parcel.

### **DISCUSSION**

**Mr. Soda** asked if there had been thought given to creating conforming lots and moving the houses and using existing access from Gulf Street.

**Mathew Shay, PE, Mallone & McBroom**, 99 Realty Drive, Cheshire, said the plan attempted to keep lot shapes rectangular while minimizing side lot variances. He said the lots met the underlying requirements of the R-18 zone. He said the existing accesses were largely preserved.

**Mr. Vaccino** asked why Lots 1 and 2 couldn't be combined into 1 lot to create 3 parcels rather than 4.

**Attorney Curseaden** said he felt the access from Gulf Street would be similar to that from Old Field.

**Mr. Tuozzola** asked Mr. Harris how the board could give variances on lots that don't currently exist. **Mr. Harris** referred the board to the DPLU administrative summary. He said the application was unusual and represented a subdivision of a legal, non-conforming lot by variance. Mr. Harris said variances can only be granted for lots of record. He said he could not find any authority in local zoning regulations or state law to vary regulations on proposed lots and that the board doesn't have the authority to subdivide land.

**Attorney Curseaden** rebutted Mr. Harris' argument by referring to Section 2.5.4, saying the board can vary that regulation. **Mr. Harris** said this section pertains to re-subdivision of a lot that already has a house on it.

**Mr. Soda** asked how far the existing house on Lot 1 is from the rear setback, and if the houses had basement. He was told they do.

### **FAVOR**

**Ms. Greene** noted that an email of support had been received from a neighbor, a Mr. DeGrand.

**Len Wisnewski**, 596 Gulf Street, said he doesn't have a problem with the plan if the access road is not widened.

**George Ward**, 622 Gulf Street, said he's maintained the property since the 1950s. He described a fire. He described the access from Old Field Lane, saying it had been adequate for over 100 years.

**Tom Mealy**, 612 Gulf Street, said he and his wife are in favor of the plan. He agreed the Right of Way (ROW) should stay the same width.

## **Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 January 2017**

**Joe Blichfeldt**, 650 Gulf Street, said he thought the variance would be helpful to the future of the property.

**Ed Linke**, 36 Eveningside Drive, said he and his wife support the project.

**Jean Tupper**, 606 Gulf Street, said she and her husband support the proposal, with the ROW staying the same.

### **OPPOSED**

**Rich Winters**, 65 Ranch Road, said Mr. Ward showed him a different plan with 5 lots. He said Mr. Ward got very upset and threatened to build condos if he didn't get the variance. He felt there was no hardship.

**Attorney Curseaden** noted that there was a lot of information and the hearing might be extended to next month.

**Mr. Tuozzola** asked Mr. Harris for clarification of the access road width. **Mr. Harris** said the question was extensive and that in his role in providing staff support to the board, he could only address the powers of the ZBA and specific zoning requirements.

**Attorney Curseaden** said if the board didn't address the reduction of the access road width, the Planning and Zoning Board couldn't grant the subdivision.

**Mr. Vaccino** asked if economic gain might be a component of having 4 rather than 3 lots. He suggested reducing the number of lots.

**Attorney Curseaden** said the application is complex, but the reason for the additional lot is not an economic hardship, rather the development of the neighborhood surrounding the lot overtaking this property.

**Mr. Soda** said Lot 1 is very small, whereas Lot 3 is larger. He said he was looking for more regular lots and suggested relocating houses could help.

**Attorney Curseaden** said that moving the houses might make costs prohibitive.

**Ms. Ferrante** added support for the creation of fewer lots.

### **BOARD DISCUSSION**

**Mr. Tuozzola** closed the hearing. **Mr. Soda** said he would like to see fewer lots. **Ms. Ferrante** said she sensed the neighbors want to preserve the community and ward off denser development and that fewer lots would serve this.

**Mr. Soda** motioned to **deny without prejudice**. **Ms. Ferrante** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Soda, Vaccino, and Tuozzola** voting **with the motion**.

- **NON-AGENDA ITEM SPECIFIC TECHNICAL COMMENT FROM MR. HARRIS: Mr. Harris noted the availability of Administrative Summaries for all agenda items and that the summaries would also be available for future meetings.**
- 2. **119 Herbert Street (MBP: 118/910/2)** R-A. Gary Winalski, engineer, for Wilson Cordova, owner; Vary Sec. 4.1.4 front-yd proj. to 20' where 46' perm. for deck and stairs; rear-yd proj. to 7' where 46' perm. for a stairway.

**CLERK'S NOTE:** Since no one was in attendance to present the variance request when it was read, this item was

## Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 January 2017

postponed to the end of the meeting when the applicant arrived. This item is summarized in the minutes below to preserve the noticed agenda numbering, but please be advised that its description is out of real-time sequence.

### DISCUSSION

**Mr. Cordova**, 31-33 102st Street, East Elmhurst, NY, addressed the board. **Mr. Tuozzola** asked Mr. Harris to clarify the variance request. **Mr. Harris** reviewed the survey which showed that the entire house is beyond the rear lot line. **Mr. Vaccino** asked if the hardship was the shape of the lot, and **Mr. Cordova** agreed.

### 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. Vaccino** motioned to **approve**. **Ms. Soda** seconded. **Mr. Vaccino** supported his motion by reason of hardship of, exactly per the submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Soda, Vaccino**, and **Tuozzola** voting **with the motion**.

3. 20 Camden Street (MBP: 24/397/5) R-5. Irisel DeJesus, agent for Mony Tith, owner; Vary Sec. 3.1.4.1: north side-yd setback to 3' where 5' req.; vary Sec. 6.3.2 Expansion of Non-Conforming Structure, to construct a 2-story 10.5' x 24' addition.

**Ms. DeJesus**, 8 Huntington Turnpike, Bridgeport, addressed the board. She said the hardship was that the property was improved in 2001 without permits. **Mr. Tuozzola** asked how the lack of permits was discovered. **Mr. Harris** said an anonymous complaint was submitted, he inspected the site, and he discovered the need for a variance. **Mr. Soda** asked for additional detail on what had been submitted, specifically for elevation drawings. The board agreed that more detail was needed for a decision.

### DISCUSSION

**Mr. Tuozzola** allowed the hearing to be held open for more information.

### BOARD DISCUSSION

**Mr. Soda** motioned to **hold the hearing open**. **Ms. Ferrante** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Soda, Vaccino**, and **Tuozzola** voting **with the motion**.

4. 31 Eighth Avenue (MBP: 9/102/11A) R-12.5. Theo Borgemeester, agent for Martha Burwell Gaynor, owner; Vary Sec. 4.1.1.1 setback of 12' in front yd to allow accessory structure in front yard.

**Mr. Borgemeester**, 31 Eighth Avenue, addressed the board. He said the intent was to add a garage to an existing driveway. He said the hardship was that the lot is a through lot and that the shape of the property was triangular.

**Mr. Soda** suggested the garage be added to the house. A discussion ensued of an attached garage that did not require a variance.

### BOARD DISCUSSION

**Mr. Tuozzola** asked if anyone wished to speak in favor of or 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. Soda** motioned to **deny without prejudice**. **Ms. Ferrante** seconded. motion carried with **Ms. Ferrante** and **Messrs. Dubois, Soda, Vaccino**, and **Tuozzola** voting **with the motion**.

## Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 January 2017

### 5. POSTPONED

6. **19 Walker Street (MBP: 45/515/5)** R-5. Elaine Melillo, owner; Vary Sec. 3.1.4.1 setback to 8.25' where 10' req. to construct 11.67'x10.75' 2nd story addition.

**Ms. Mellilo**, 19 Walker Street, addressed the board. She described the project. **Mr. Vaccino** asked for a hardship based on the land rather than the specifics of her growing family. **Mr. Harris** noted that the lot conforms to zoning and the house is nonconforming on the north side.

### BOARD DISCUSSION

**Mr. Tuozzola** asked if anyone wished to speak in favor of or 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. Soda** motioned to **approve**. **Ms. Ferrante** seconded. **Mr. Soda** supported his motion by reason of the configuration of the house on the lot exactly per the submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Soda** and **Tuozzola** voting **with the motion**. **Mr. Vaccino** voted **against** the motion.

7. **33 West Orland Street (MBP: 38/561/28)** R-5. John Coughlin, Esq., for David Culhane, owner; Vary Sec. 3.1.4.1 rear-  
yd setback to 0.4' where 5' req., and side-  
yd setback to 1.8' where 4' req. to construct 2nd story loft addition; Vary  
Sec. 4.1.5 to 1.8' and to 0.4' where 4' perm for patio.

**Mr. Culhane**, 33 West Orland Street, addressed the board. He said the lot was narrow. He said the space over the garage was needed.

### DISCUSSION

**Mr. Tuozzola** said there was already a lot of nonconformity and that this request just increases the nonconformity. He said the lots were similar in the area. **Mr. Soda** agreed.

### FAVOR

Mr. Culhane submitted 6 letters of support.

### 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. Soda** motioned to **deny**. **Mr. Vaccino** seconded. **Mr. Soda** said the property had no hardship. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Soda, Vaccino**, and **Tuozzola** voting **with the motion**.

8. **485 Anderson Ave (MBP: 81/706/3)** R- 12.5. Thomas Lynch, Esq., attorney for Gold Investments, owner; Vary Sec. 3.1.4.1 front-  
yd setback to 24.7' from 30' req. to construct single family residence.

**Attorney Lynch**, Lynch, Trembicki and Boynton, 63 Cherry Street, provided handouts and addressed the board. He said his client purchased the lot in 2002 in an approved subdivision called Hunters Run. He said the hardship is due to the corner lot with two required front-yard setbacks. He said the variance would be needed to construct a house that matches the others in the subdivision and referenced photos in the handout of the other Hunters Run homes. He said the house faced away from Anderson Avenue to avoid putting the driveway on the busier street. He said the side yard

## Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 January 2017

would be more than double that required. He said the manager of Gold Investments was present. **Mr. Tuozzola** asked if a sidewalk was on Anderson; **Mr. Soda** and **Mr. Harris** noted one on the survey. **Mr. Vaccino** asked if the house could be made smaller. **Attorney Lynch** asked Mr. Harris if a motion could have a condition attached regarding the size. **Mr. Harris** said it wasn't a good idea to change the design on the fly because it would change the nature of the request and preclude public participation.

### BOARD DISCUSSION

**Mr. Tuozzola** asked if anyone wished to speak in favor of or in opposition to the application. Hearing none, he closed the hearing. **Mr. Soda** accepted the argument of the hardship of the corner lot. **Mr. Tuozzola** said that the driveway being on the side street was a safety concern. **Ms. Ferrante** said that if the plan was made to conform with the Anderson Avenue, the house could be smaller and not need a variance. **Mr. Vaccino** agreed. **Mr. Soda** saw a consistent thread with previous variances. He motioned to **approve**. **Ms. Ferrante** asked Mr. Soda about the variance required for a deck, then restated his motion. **Mr. Soda** supported his motion by reason of hardship of the corner lot, exactly per the submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Soda** and **Tuozzola** voting **with the motion**. **Mr. Vaccino** voted **against** the motion.

9. 264 High Street (MBP: 65/323/16) RMF-16. Christopher Cody, Esq., attorney for Milford Redevelopment & Housing Partnership, owner; Vary Sec. 5.3.4.1 to install a 24sf sign where 9sf are perm.

**Attorney Cody**, Cody and Gonillo, 185 Broad Street, addressed the board. He reminded the board of his application in September 2016. He asked to incorporate by reference all previous comments. He noted that if dead space between letters were eliminated, there was less even than the reduction since the September application. He said that the hardship is that 9 sf sign doesn't take into consideration a building of this scale. **Mr. Tuozzola** confirmed that the sign in the drawing would be the only sign on the building. **Attorney Cody** said it was indirectly lit with standoff letters and LED lighting from behind.

### OPPOSED

**Ellen Velasquez**, 265 High Street, said she still didn't understand why the sign needs lighting rather than being a freestanding sign. She said it reminds her of a hotel. **Mr. Soda** and **Ms. Velasquez** discussed the merits of the signs.

### REBUTTAL

**Attorney Cody** said he understood that Ms. Velasquez was concerned, but said the new sign would be almost 50' from her house and that the existing sign is much closer. **Mr. Vaccino** asked if the photo would reflect the actual scale of the sign. **Mr. Soda** confirmed that the individual letters are 12" high and asked if a dimming device might be considered if the light proved invasive.

### BOARD DISCUSSION

**Mr. Tuozzola** asked if anyone wished to speak in favor of 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. Soda** motioned to **approve**. **Ms. Vaccino** seconded. **Mr. Soda** supported his motion by reason of hardship of, exactly per the submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Soda, Vaccino**, and **Tuozzola** voting **with the motion**.

**Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 January 2017**

- B. OLD BUSINESS-None
- C. NEW BUSINESS-None
- D. STAFF UPDATE-Admin summary now
- F. ACCEPTANCE OF MINUTES FROM 13 December 2016 HEARING; Minutes were approved.
- G. ACCEPTANCE OF APPLICATIONS FOR 14 FEBRUARY 2017 HEARING; those postponed or continued from January were noted.

Adjournment was at 9:20

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