

MEMBERS PRESENT: Rich Carey, Howard Haberman, Ed Mead, Nanci Seltzer

ALTERNATES PRESENT: David Hulme

STAFF PRESENT: Linda Stock, Zoning Enforcement Officer; Rose Elliott, Clerk

The meeting was called to order at 7:22 p.m.

A. CONSIDERATION OF AGENDA ITEMS

1. **146 North Street** (Zone R-12.5) Christopher Bishop, owner – request to vary Sec. 4.1.4 Projections from 4' allowed to 10.5' to construct front porch and stairs. Map 76, Block 824, Parcel 4.

Acting Chrmn. Haberman informed the Board the applicant did not pick up his information packet and recommended the item be denied without prejudice to allow the applicant to return at a later date.

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

2. **44 Bristol Terrace** (Zone R-12.5) Vince Scarpetti, owner – request to vary Sec. 3.1.4.1 front yard setback from 30' to 28.3' to construct 2nd story addition. Map 65, Block 314, Parcel 34.

Vince Scarpetti, 44 Bristol Terrace, stated his property is located on a cul de sac and his front property line is not a straight line. His hardship is the curve of the cul de sac. If he did not live at the end of a cul de sac, he would not require a variance.

Acting Chrmn. Haberman noted the variance request is small at 1.7' and the front property line does have a curve in it.

Mr. Mead agreed the curvature of the street creates the hardship.

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

DISCUSSION:

Acting Chrmn. Haberman said there is a definite hardship with the curvature of the cul de sac with Mr. Mead agreeing.

Mr. Mead made a motion to approve with Mr. Carey seconding. The hardship is the house being located on a cul de sac and the curvature of the road. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

3. **247 Third Avenue cor. Court Street** (Zone R-10) John Wicko, owner – request to vary Sec. 3.1.4.1 front yard setback from 25' to 1' to reconstruct existing one car garage and 3.49' for addition to garage and rear yard setback from 25' to 14.35'. CAM received. Map 9, Block 73, Parcel 5.

John Wicko, 247 Third Avenue, told the Board he would like to reconstruct his existing garage and add an addition for a second car. The construction would include a new apron and the relocation of the sewer line. His hardship is the house was built in 1915, on an undersized corner lot, prior to the Zoning Regulations. The existing garage is non-conforming so anything they did would require a variance. They will also be increasing off-street parking. He passed out photos of the property to the Board. He added he spoke to his neighbors and they are in favor of the application.

Acting Chrmn. Haberman noted the lots are tight in the area and this lot has a number of hardships.

Ms. Seltzer asked what the hardship was in changing from a one car garage to a two car garage to which Mr. Wicko answered the hardship is the lot size. The garage would be compatible with the other homes in the neighborhood. He would like to be able to park both of his cars in the garage along with some storage items for security reasons.

Ms. Seltzer asked if the garage could be tandem rather than side by side.

Mr. Wicko said their backyard is located there along with several windows and egress from the home, making it impractical to do that.

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

DISCUSSION:

Ms. Seltzer wondered if the application could be divided. Acting Chrmn. Haberman said the application didn't seem to lend itself to being divided. Mr. Mead said one of the hardships is that it is a corner lot. Acting Chrmn. Haberman added the lot is also undersized.

Mr. Carey made a motion to approve with Mr. Hulme seconding. The hardship is the garage predates zoning and a variance would be required for anything they wanted to do. The motion carried 4-1 with Messrs. Mead, Haberman, Hulme and Carey voting in favor and Ms. Seltzer voting against.

Acting Chrmn. Haberman informed the audience the next six items, all located on Way Street, would be presented as one. Mr. Hulme read all the items into the record.

Atty. Thomas Lynch, 63 Cherry Street, said he is representing Buddy and Greg Field, who purchased these six lots, four to six weeks ago from Michael Stella and his sister Jeanne Silvestri, for the development of six residential dwellings on Way Street which is an unimproved City street. He submitted information to the Board members. These lots are shown on a 1925 map for a subdivision known as Prospect Lawn filed on the land records in the City Clerk's office. These 2,000 sq. ft. lots were combined under Sec. 6.4.3. and certified as legal non-conforming building lots on February 12, 2009. He stated they are not here to ask for a subdivision. These lots are already certified and can and will be built upon. He referred to pictures he submitted stating the granting of the variances would allow them to build wider, smaller homes rather than the taller, skinnier homes that have been built in the City along the shoreline. These

properties consist of 4,000 sq. ft. lots located in an R-12.5 zone, where 12,500 sq. ft. is required. The properties have been surveyed and flagged by Codespoti and Assoc. and there are no wetlands on the properties. The neighbors speaking in opposition may speak of drainage issues, which do not fall under the purview of this Board. The matter of drainage will be addressed by the City Engineer and the Public Works Director when his clients put in the road. Any water problems that may exist on the property now will be alleviated by this development.

Acting Chrmn. Haberman asked the hardship to be restated to which Atty. Lynch said this subdivision was created prior to the institution of the Zoning Regulations, in 1925.

Acting Chrmn. Haberman stated that whether these variances are approved or not does not change the fact that homes will be built on these lots. This Board cannot change that.

Warren Field, Jr., 957 West River Street, Milford, told the Board the houses they would like to build would be around 1,800 sq. ft. to 2,000 sq. ft. with four bedrooms and one car garage. They would also be around 24' in height rather than 35'.

Mr. Mead asked if the homes would be built on slabs to which Mr. Field answered in the affirmative. Mr. Field added there would be drainage in the streets to alleviate the water problems. They have never had one subdivision or one house that has come back to them with problems. They have hired Codespoti to handle the drainage issues and they will be taken care of.

Atty. Lynch stated Codespoti, as part of their site assessment, did flag for wetlands but did not find any existence of wetlands on the property.

Ms. Seltzer asked if there could be fewer homes to which Atty. Lynch answered that they have legal Certificates of Zoning Compliance for each of the six lots and they will be built on.

Mr. Mead asked if there was a possibility of buying more land and creating bigger lots.

Greg Field, 180 Wolf Harbor Road, stated there are lots the City owns in between these lots, so there will be additional land separating the houses.

Atty. Lynch stated the City isn't selling those lots, so it is like having open space.

Mr. Mead asked if the neighbors had seen the pictures showing how the houses would look with and without the variances.

Atty. Lynch said he tried to address any concerns of the neighbors during the delay at the beginning of the meeting, but no one wanted to speak with him.

OPPOSED:

Karl Lepeska, 447 Meadowside Road, said he has lived on Meadowside Road since 1937 when his family moved here. These variances will destroy the character of the neighborhood and he asked the Board to reject the applications.

Nancy Szygiel, 441 Meadowside Road, submitted a map to the Board. She told the Board members that while these properties have certificates making them legal, the members of the Board would not be living in their neighborhood. The applicant is proposing 2,000 sq. ft. homes while the neighborhood homes are over 4,000 sq. ft. She asked the Board to deny the variances as the houses are very close and do not conform to the neighborhood.

Acting Chrmn. Haberman explained the certificates have been issued and there is nothing the Board could do about it.

Mary Hoyt, 100 Marion Avenue, said she and her husband bought their house in 1967 and they have always had water problems and submitted photos to the Board.

Linda Berger, 95 Marion Avenue, said she and her husband bought a home there four years ago and was attracted to the area because of the distance between the homes. These homes will not conform with the neighborhood. The applicant said there were City owned lots between these lots but that is only true with two of the lots.

Thomas DePollo, 439 Meadowside Road, said this proposal would create 2 1/3 houses behind one existing home. He asked the Board to think about that density and stated these homes would not conform to the neighborhood.

Michael Sliva, 29 Greenwood Drive, Monroe, said he owns the property next to lot #4, 22 Way Street, and wanted to confirm that the developers would bear the entire cost of the construction of the road to which Acting Chrmn. Haberman told Mr. Sliva he would need to ask that of the developer as it doesn't have anything to do with whether the variances are granted or not.

Jeff Proud, 92 Marion Avenue, said he has lived there for almost twenty years and he understands that if you own land, you have the right to build on it. He felt however, if they don't get these variances, they won't be able to squeeze in as much as they want to squeeze in.

Acting Chrmn. Haberman again told the audience that these properties can and will be built on. There is nothing this Board can do about that. The only question is if the houses would be built taller and skinnier or shorter and wider. If the variances are denied, these lots will still be built on. The applicant would not have received Certificates of Zoning Compliance if houses couldn't be built on the lots.

The hearing was closed.

DISCUSSION:

Mr. Hulme stated the applicants have the right to build and the pictures showing the wider, two story houses look more appropriate than the narrower, three story houses. Mr. Mead agreed and added he would rather have a two story home in his backyard than a three story home with people looking into his backyard. The two story homes would be more conforming to the neighborhood. He added the Board's hands are tied. If the variances are not granted, three story homes will be built. If approval is given, two story homes will be built. Ms. Seltzer asked if a brief recess could be taken to allow the neighbors to review the photos. She made a motion for a brief recess with Mr. Mead seconding. The motion carried unanimously. There was a five minute recess.

Acting Chrmn. Haberman said he doesn't like giving variances for legal, non-conforming lots but added he wouldn't want to see three story homes towering over every one in that neighborhood. Granting the variances is the better of two evils. Ms. Seltzer agreed and stated she hated the whole project but the fact is they will either build tall, skinny houses or smaller, wider houses. They are certified as legal, non-conforming building lots. She felt she would not want someone next to her towering over and looking into her backyard. She said it breaks her heart that this Board can't

stop the construction but that is the way it is. Mr. Mead added this could be a positive note for the other people who own property on this paper street whose land is locked. This will allow them the opportunity to build in the future.

Each item was then voted on individually.

4. **11 Way Street** (Zone R-12.5) Thomas B. Lynch, attorney, for Warren Field, Jr., appellant, for Woodstock Development, LLC, owner – request to vary Sec. 3.1.4.1 front yard setback from 30' to 24'; side yard setbacks from 10' to 7' and 4' to construct new single family dwelling with overhangs. Map 25, Block 218, Parcel 16.

Mr. Carey made a motion to approve with Mr. Hulme seconding. The reason for approval is the lot is a legal, non-conforming building lot. Approval of the application would allow for lesser obstruction than if they were to build within the existing setback requirements. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

5. **13 Way Street** (Zone R-12.5) Thomas B. Lynch, attorney, for Greg Field, appellant, for BAMF Homes, owner – request to vary Sec. 3.1.4.1 front yard setback from 30' to 24' and side yard setback from 10' to 4' to construct new single family dwelling with overhang. Map 25, Block 218, Parcel 15.

Mr. Carey made a motion to approve with Mr. Mead seconding. The reason for approval is the lot is a legal, non-conforming building lot. Approval of the application would allow for lesser obstruction than if they were to build within the existing setback requirements. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

6. **17 Way Street** (Zone R-12.5) Thomas B. Lynch, attorney, for Warren Field, Jr., appellant, for Woodstock Development, LLC, owner – request to vary Sec. 3.1.4.1 front yard setback from 30' to 24' and side yard setback from 10' to 4' to construct new single family dwelling with overhang. Map 25, Block 218, Parcel 14.

Mr. Carey made a motion to approve with Mr. Hulme seconding. The reason for approval is the lot is a legal, non-conforming building lot. Approval of the application would allow for lesser obstruction than if they were to build within the existing setback requirements. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

7. **22 Way Street** (Zone R-12.5) Thomas B. Lynch, attorney, for Greg Field, appellant, for BAMF Homes, owner – request to vary Sec. 3.1.4.1 front yard setback from 30' to 24' and side yard setback from 10' to 4' to construct new single family dwelling with overhang. Map 25, Block 217, Parcel 5.

Mr. Carey made a motion to approve with Mr. Hulme seconding. The reason for approval is the lot is a legal, non-conforming building lot. Approval of the application would allow for lesser obstruction than if they were to build within the existing setback

requirements. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

8. **24 Way Street** (Zone R-12.5) Thomas B. Lynch, attorney, for Warren Field, Jr., appellant, for Woodstock Development, LLC, owner – request to vary Sec. 3.1.4.1 front yard setback from 30' to 24' and side yard setback from 10' to 4' to construct new single family dwelling with overhang. Map 25, Block 217, Parcel 6.

Mr. Carey made a motion to approve with Mr. Hulme seconding. The reason for approval is the lot is a legal, non-conforming building lot. Approval of the application would allow for lesser obstruction than if they were to build within the existing setback requirements. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

9. **27 Way Street** (Zone R-12.5) Thomas B. Lynch, attorney, for Greg Field, appellant, for BAMF Homes, owner – request to vary Sec. 3.1.4.1 front yard setback from 30' to 24' and side yard setback from 10' to 4' to construct new single family dwelling with overhang. Map 25, Block 218, Parcel 9.

Mr. Carey made a motion to approve with Mr. Hulme seconding. The reason for approval is the lot is a legal, non-conforming building lot. Approval of the application would allow for lesser obstruction than if they were to build within the existing setback requirements. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

10. **115 Melba Street thru Beachland Avenue** (Zone R-5) Anthony P. Vitelli, Jr., appellant, for Mary Louise Vitelli, owner – request to vary Sec. 11.2 to allow 528 sq. ft. Accessory Structure where 464 sq. ft. is permitted. CAM required. Map 29, Block 587, Parcel 42.

Anthony Vitelli, 115 Melba Street, said his hardship is the existing garage was built prior to Zoning Regulations and is structurally a safety hazard. He has lived at the residence with his sister for seven years and while he realizes that living on the shoreline increases the chances of flooding from Long Island Sound; his flooding problems occur every time it rains. The driveway is several inches lower than the street and the garage itself, is lower than the driveway, creating a basin. During the winter months, any type of precipitation freezes and makes it hazardous for family, friends and mail delivery people. He submitted photos to the Board. The proposed garage will meet all setback requirements and provide them with a functional two car garage.

Acting Chrmn. Haberman confirmed the existing garage would be torn down and rebuilt to which Mr. Vitelli answered in the affirmative. Acting Chrmn. Haberman noted the variance is required because the lot and the house are small and the percentage is not being met.

Ms. Stock added the existing garage does not meet the current setback requirements and is larger than what is allowed.

Mr. Vitelli added the proposed garage would be more conforming and showed the site plan to the Board.

Mr. Mead asked the height of the garage.

Michael Donegan, 123 Beachland Avenue, said the garage would be built to the building height requirement of 15' to the midline of the gable.

Ms. Seltzer asked if it could be built smaller. She stated the existing garage is 511 sq. ft. and now you want 528 sq. ft.

Mr. Vitelli said parking two cars in the current garage doesn't allow much room to move around.

Ms. Seltzer asked if he would consider going down to 464 sq. ft. and eliminating the storage.

Mr. Donegan answered that amount is smaller than what Mr. Vitelli has now. Mr. Donegan added the drawings were designed by a registered architect who said the minimal, functional size for a two car garage would be 22'x24'. The storage area would be only to store suitcases, skis, etc.

Ms. Stock clarified that the existing garage is 511.29 sq. ft. and they are asking for 528 sq. ft, which is 16.71 sq. ft. more. The existing garage and house predates zoning. They can't make the house bigger to have a bigger garage.

FAVOR:

Kathryn Lally, 51 Pelham Street, stated the existing garage would be replaced. The original one car garage was added onto to make a two car garage. What is proposed would be smaller than what exists now when viewed from Beachland Avenue. The proposed structure would be a benefit to the neighborhood. She felt the small square footage request was minimal and the application should be granted.

Tracey Donegan, 123 Beachland Avenue, said she is in favor of the application.

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

DISCUSSION:

Acting Chrmn. Haberman said the proposed garage would be less non-conforming than what exists now. The increase is minimal at 17 sq. ft. Mr. Hulme added the increased square footage would be going into the applicant's backyard, not visible from the street. Mr. Mead said there is structural damage to the garage and removing it and building a new one would be a plus.

Mr. Mead made a motion to approve with Mr. Carey seconding. The reason for approval is the proposed garage would be more conforming and the percentage is only going over by 16 sq. ft., which is a minimal amount. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

11. **76 Boylston Street** (Zone R-10) Brian Coddington, appellant, for Richard Smethurst, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 4' to construct open carport with storage above. Map 41, Block 303, Parcel 22AF.

Brian Coddington, 259 West Avenue, stated he would be constructing the carport if approved. The hardship is the house sits in the center of the property. They would like to build an open carport with an extended top half of the split level home to gain some storage above. The neighbor to the left has the exact type of carport they are proposing this evening. This carport would be on the same side as the neighbor's driveway.

Acting Chrmn. Haberman confirmed the storage would be above the carport attached to the house to which Mr. Coddington answered in the affirmative.

Mr. Mead confirmed it was open on all three sides and attached to the home.

Mr. Coddington answered yes.

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

DISCUSSION:

Mr. Mead recalled a similar application earlier this year from someone in Morningside and the Board approved it.

Mr. Mead made a motion to approve with Mr. Carey seconding. The hardship is the placement of the house on the lot. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

B. TABLED ITEMS

1. **Alpha Street** – appeal the decision of the Zoning Enforcement Officer regarding a request for a Certificate of Zoning Compliance dated May 22, 2009.

Mr. Carey made a motion to take the item off the table with Mr. Hulme seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

Acting Chrmn. Haberman reminded the Board that this item was tabled last month to allow for an opinion to be obtained from the City Attorney. The City Attorney has come back with a recommendation for the Board to deny the application without prejudice so the applicant could come back and revisit the appeal.

Ms. Seltzer asked to have the recommendation read into the record.

Ms. Stock reminded the Board that the applicant asked to withdraw the application after the Board had already heard it. That was the main issue. She read the City Attorney's response into the record.

Mr. Carey made a motion to deny without prejudice for the reason stated with Mr. Mead seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

C. OLD BUSINESS

D. NEW BUSINESS

1. **19 Hanover Street** – Gino and Marie Pelaccia, owners, request for an extension of time (3rd).

Ms. Stock read the letter of request into the record.

Acting Chrmn. Haberman asked if there was a reason in the letter for the extension to which Ms. Stock said there was no reason.

Mr. Mead asked if the extension was denied, would they have to come back before the Board all over again to which Ms. Stock said they would. She added they have until January 2010, to obtain a permit. They then have a year to begin construction after that.

Ms. Seltzer felt that two extensions were sufficient. The applicant has already had over two years so she would not be supporting the request.

Ms. Stock explained they have actually had three years. The first year when it was originally granted, a second year for the first extension of time, a third year for the second extension of time and this latest request would be the fourth year and they would then have a fifth year from when the permit was pulled.

Mr. Carey made a motion to deny with Ms. Seltzer seconding. The reason for denial is the Board doesn't usually grant third requests and no reason for the extension was given in the letter. They still have another year to begin construction as long as the permit is pulled prior to January 9, 2010. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Haberman, Hulme and Carey voting.

E. STAFF UPDATE

Ms. Stock said this is her last meeting and she will miss working with all the Board members. Assistant City Planner, Emmeline Harrigan will take over until a new Zoning Enforcement Officer is hired. She stated she has enjoyed being the Executive Secretary of the Board and while sometimes she and the Board have butted heads, they have always worked well together.

Acting Chrmn. Haberman thanked her personally for her guidance and support in navigating this process, which could be somewhat daunting. He also thanked Ed for being on the Board.

Ms. Seltzer asked if there were any decisions made as to whom would be appointed to the Board to which Ms. Stock said there has been no decision yet.

Ms. Stock informed the Board she would be back next month as a decision of hers has been appealed but added she would be sitting in the audience.

Acting Chrmn. Haberman wished both Linda and Ed the best.

F. ACCEPTANCE OF MINUTES FROM OCTOBER 13, 2009 MEETING.

The minutes were approved unanimously.

G. ACCEPTANCE OF APPLICATIONS FOR DECEMBER 8, 2009 MEETING.

Minutes of Public Hearings of Zoning Board of Appeals Meeting held November 10, 2009

The meeting was adjourned at 9:10 p.m.

Attest:

Rose M. Elliott
Clerk - ZBA