

## Minutes, Public Hearing of Zoning Board of Appeals Meeting held November 12, 2013

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, November 12, 2013, 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

### B. ROLL CALL

**MEMBERS PRESENT:** Joseph Tuozzola (Ch), Howard Haberman (Sec,) John Vaccino

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

**MEMBERS/ALTERNATES ABSENT:** Richard Carey, John Collins

**STAFF PRESENT:** Emmeline Harrigan, Assistant City Planner; Meg Greene, Clerk

**Mr. Tuozzola** called the meeting to order at 7:00 p.m. He announced that because Mr. Collins and Mr. Carey could not attend the meeting, **Mr. Thomas** and **Mr. Dubois** would provide the fourth and fifth votes for the evening. He also advised that Mr. Harris could not attend and that staff advisory support would be provided by Ms. Harrigan. He further advised that agenda items #2 (38-40 Bridgeport Avenue) and #3 (6 Bayshore Drive) from the published agenda were to be postponed until the December meeting. He asked for known conflicts of interest for board members with any of the items on the agenda; none were raised.

### C. CONSIDERATION OF AGENDA ITEMS

1. **727 East Broadway** (R-5) Thomas Lynch, attorney, for TJ Theodorson and Dawn Theodorson, owners; Vary Sec. 4.1.4 proj to 5' where 8' req for deck projection. Map 22, Block 474, Parcel 16

**Attorney Lynch** addressed the board. He stated that the submitted plans were the first phase in a process of demolishing and rebuilding the structure. He said the original cottage was built in the 1920s, had been damaged in Storm Sandy, and was irreparable. He noted that discussions on the project were already underway with Ms. Harrigan. He described the flood elevations and how the plans met flood mitigation requirements. He noted that the proposal reduced 2 current nonconformities. He also noted that the existing house was very close to East Broadway and said the new house would be moved back from the road. He said the side-yard setbacks were compromised in the old house and would be improved with the new plan. He noted that the original planned deck projected into the state jurisdictional line, but once that problem had had been identified, the deck area had been retracted. He shared floor plans and elevations, noting that the style of the home will be a contemporary colonial.

#### DISCUSSION

**Mr. Vaccino** asked about a stairway orientation on the plans; **Attorney Lynch** said they were being reworked and described how. **Mr. Vaccino** then asked for clarification about whether the plan should be approved conditionally. **Ms. Harrigan** reminded the board that certain aspects of the plan would be considered separately by the Planning and Zoning Board.

#### FAVOR

**Jacqueline Campbell**, 737 East Broadway; **Olive Harbor**, 9 Cooper Avenue; and **Ann Keane**, 743 East Broadway; each spoke in favor of the plan.

#### 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 in favor of the application. **Mr. Haberman** seconded. **Mr. Vaccino** supported his motion by reason of hardship of a narrow lot plus the improvement inherent in reduced nonconformities, restricting approval to

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the exact plan submitted. The motion carried with **Messrs. Dubois, Haberman, Thomas, Vaccino, and Tuozzola** voting with the motion.

4. **743 East Broadway** (R-5) Michael Barbaro, agent, for Ann Keane and Kenneth Keane, owners; Vary:
- (1) Sec 4.1.4 for side-yd proj of 0.0' where 4.0' is perm for the reconstr of a 1st fl deck (42.39SQ' beyond that which is now perm by right and/or prior variance)
  - (2) Sec 5.8.6.2 & 5.8.13.1 for deck elev of 11.0' where FEMA regs require 13' (42.39SQ' beyond that which is now perm by right and/or prior variance). Owner is applying for a grant to elev structure above the current BFE of 13.0'.
- Map 49, Block 721, Parcel 67

**Michael Barbaro**, Omni Construction, PO Box 8385, New Haven, addressed the board. **Mr. Barbaro** described the damage sustained by the decks during Storms Irene and Sandy and said the Keanes were seeking to reconstruct. He said the Keanes discovered that one of the old decks encroached on a neighbor's property and that the plan would resolve that problem. He noted the presence of a previous variance and provided details. **Mr. Barbaro** also noted the hardship of a VE zone on the lot and the need to move the structure out of the higher-risk zone.

### DISCUSSION

**Mr. Tuozzola** confirmed that the Keanes are seeking grant funds to raise the house above the Base Flood Elevation (BFE). **Mr. Haberman** asked about access in an emergency. **Mr. Tuozzola** remarked on possible impediments to first responders. **Mr. Vaccino** clarified the placement of the deck with regard to the VE zone and the elevation of the deck with regard to the house. **Ms. Harrigan** was asked to interpret the previous variance, which was granted in the 1970s. **Mr. Barbaro** asked Ms. Harrigan if there was a waiver for the elevation; she confirmed that there was.

### FAVOR

**Jacqueline Campbell**, 737 East Broadway, said that the Keanes had been out of their home since Storm Irene. She expressed sympathy for them and approval for their plan. **Dawn Theodorson**, 727 East Broadway, and **Olive Harbor**, 9 Cooper Avenue, also expressed support for the project.

### BOARD DISCUSSION

**Mr. Tuozzola** asked if anyone wished to speak in opposition to the application. Hearing none, he closed the hearing.

**Mr. Haberman** noted the correction of the encroachment onto another piece of property. He noted the difficulty of building a deck in the VE zone. **Mr. Tuozzola** was concerned about the house not getting elevated to the Base Flood Elevation. **Mr. Vaccino** concurred. **Mr. Haberman** noted that there is a plan to correct the BFE shortfall and that each request to vary height from the BFE was a separate case. **Mr. Vaccino** shared an observation that **Mr. Soda** made without his microphone on—that the Keanes' house was not at 50% substantial damage and therefore they were not required to elevate it yet.

**Mr. Haberman** made a motion to approve. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of the hardship of the non-conforming lot plus reductions in non-conformities, the need to replace what was lost and the lack of an imperative to elevate at present, restricting approval to the exact plan submitted. The motion carried with **Messrs. Dubois, Haberman, Thomas, Vaccino** voted with the motion. **Tuozzola** voted against the motion, but it passed.

5. **882 East Broadway** (R-5) Karl Lundin, owner; Vary Sec. 3.1.4.1. west-side-yd setback to 3.3' where 5' req, east side-yd to 5.7 where 10' req to elev existing house and add a 2<sup>nd</sup> floor. Map 27, Block 449, Parcel 3

**Karl Lundin**, 882 East Broadway, addressed the board. He said the hardship was that he had to raise his house and that the lot was small and nonconforming.

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### DISCUSSION

**Mr. Tuozzola** confirmed that all variances being requested corrected preexisting nonconformities. **Mr. Haberman** confirmed that the footprint would be almost the same, with another story added, and decks being eliminated. **Mr. Vaccino** confirmed that the stairs would be internal. **Mr. Haberman** confirmed that one parking space would be created under the house.

### 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. Haberman** motioned in favor of the application. **Mr. Thomas** seconded. The motion carried with **Messrs. Dubois, Haberman, Thomas, Vaccino, and Tuozzola** voting **with the motion**.

6. **189 Orange Avenue** (R-18) Eric Yatsinko, owner; Vary Sec. 4.1.4 proj to 12.8' where 32' perm to reconstr porch. Map 77, Block 831, Parcel 71

Eric Yatsinko, 189 Orange Avenue, addressed the board. He stated that his house was close to 100 years old and did not meet current setbacks. He said the front porch had become unsafe and beyond repair. He said the footprint would be exactly as before.

### DISCUSSION

**Mr. Tuozzola** confirmed that the board had no questions for the applicant.

### 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. Haberman** motioned in favor of the application. **Mr. Vaccino** seconded. **Mr. Haberman** supported his motion by reason of hardship represented by the proximity of the existing structure to the lot line, restricting approval to the exact plan submitted. The motion carried with **Messrs. Dubois, Haberman, Thomas, Vaccino, and Tuozzola** voting **with the motion**.

7. **8 Tremont Street** (R-5) Terrance McConville, owner; Vary Sec. 3.1.4.1 front-ym setback to 1.6' where 10' req, east side-ym setback to 2.4' where 5' re, west side-ym setback to 3' where 10' req; 4.1.4 front-porch proj to 1.6' where 8' is perm, front-porch (east) side proj to 3.5' where 4' is perm for deck; Map 27, Block 452, Parcel 5A

Terrance McConville, 25 Old Musket Road, Glastonbury, CT, addressed the board. He described the damage in the previous storm. He said that parts of the house would be "casualties" of being lifted. He described the changes to the house that would be done prior to the elevation.

### DISCUSSION

**Mr. Tuozzola** confirmed that the front of the house would be in the same footprint and that most of the variances requested were to legalize preexisting features of the house. **Mr. Vaccino** confirmed the new square footage measurement.

### 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. Vaccino** motioned in favor of the application. **Mr. Thomas** seconded. **Mr. Vaccino** supported his motion based on the narrowness of the lot and not increasing preexisting nonconformities, restricting approval to the exact plan

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submitted. The motion carried with **Messrs. Dubois, Haberman, Thomas, Vaccino, and Tuozzola** voting **with the motion**.

8. **131 Fourth Avenue** (R-10) Rebecca Ellsley, agent, for BE Architectural Classics LP, owner (under contract); Vary Sec. 3.1.4.1 side-yd setback to 9' where 10' req to constr approx 200 sf 2-story addition. Map 9, Block 78, Parcel 18

**Rebecca Ellsley**, agent, 87 Redcoat Road, Westport, CT, addressed the board. Ms. Ellsley stated that she was asking to encroach a foot into the setback to make the house more flood compliant as the new space can hold mechanicals moved from the lower level.

DISCUSSION

**Mr. Vaccino** confirmed that the plan was to square off the house.

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. Vaccino** motioned in favor of application. **Mr. Haberman** seconded. **Mr. Vaccino** supported his motion by reason of hardship of the orientation of the house on the lot, restricting approval to the exact plan submitted. The motion carried with **Messrs. Dubois, Haberman, Thomas, Vaccino, and Tuozzola** voting **with the motion**.

**D. OLD BUSINESS**

There was none.

**E. NEW BUSINESS**

There was none.

**F. STAFF UPDATE**

**Ms. Harrigan** noted that the changes in flood insurance enacted by Congress, including the phase-out of premium subsidies, will likely drive future variance and reconstruction applications to both land use boards.

**G. ACCEPTANCE OF MINUTES FROM OCTOBER 8, 2013, HEARING**

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

**H. ACCEPTANCE OF APPLICATIONS FOR DECEMBER 9, 2013, HEARING**

**Ms. Greene** reported 1 application so far in addition to the 2 postponed actions.

The meeting was adjourned at 7:40 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