

Minutes, Public Hearing of Zoning Board of Appeals Meeting held December 11, 2012

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, December 11, 2012, 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 required Coastal Area Site Plan Reviews or exemptions.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

MEMBERS PRESENT: Joseph Tuozzola (Chmn.) Howard Haberman (Sec.), William Evasick, Richard Carey, John Vaccino

ALTERNATES PRESENT: John Collins, Gary Dubois, Robert Thomas

MEMBERS/ALTERNATES ABSENT: None

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

Mr. Tuozzola asked for known board-member conflicts of interest with any item on the agenda; none were raised.

C. CONSIDERATION OF AGENDA ITEMS

1. **60 James Street** (R-5) Attorney Kevin J. Curseaden for Dennis Warren and Tracy Warren, appellants/owners; Appeal the Cease and Desist Order of the Assistant City Planner in a letter dated 9/13/2012 regarding garage alterations in accordance with Sec. 9.2.1. Map 27, Block 456, Parcel 20

Mr. Tuozzola announced that this item had been **WITHDRAWN**.

2. **7 Point Beach Drive** (R-7) Ronald J. Rinaldi, contractor, for Carole Greunke and Laura Jubenville, owners; Vary Sec. 3.1.4.1 front-yard setback to 13.16' where 20' is req; wood walkway and stairs projecting 1.5' where 1' is permitted on east side. CAM required. Map 30, Block 363, Parcel 3

Mr. Tuozzola announced that this item had been **WITHDRAWN**.

3. **42 Field Court** (R-5) Joseph Hannon, Jr., contractor, for William Newbauer, III, owner; Vary Sec. 3.1.4.1 and Section 4.1.4 as listed below for elevation of single-family residence; Map 28, Block 573, Parcel 4
 - a. West side stair projection of 1.6' where 4' permitted.
 - b. West side setback of 4.9' where 5' required.
 - c. West side patio 0.5' where 4' permitted.
 - d. South side patio 0' where 4' permitted.
 - e. East side patio 0' where 4' permitted.
 - f. South side second floor deck projection of 7' where 4' permitted.
 - g. South side first floor deck projection of 16' where 4' permitted.
 - h. East Side first floor deck projection of 4' where 2' permitted.
 - i. East side yard of 9' where 10 required.
 - j. East side step projection of 6.8' where 8' permitted.
 - k. Lot coverage of 98% where 65% is permitted.

Mr. Hannon, 110 Beach Avenue, Milford, addressed the board on behalf of the Newbauers. Mr. Hannon noted that the home has sustained substantial damage during the past 2 storm events and that the city wants the house elevated. He said his clients wish to move the house back 8 feet from the water attach it to the existing garage, bringing it closer to the lot lines. He noted that the elevation would rise 6', be set on piers, and require stair projection accommodations. **Mr. Tuozzola** asked if the variances required to move the house 8 ft closer to the street will increase or decrease any existing nonconformities, noting that the list of requests contained 11 items. **Mr. Hannon** remarked that there is currently a patio surrounding the house. **Mr. Haberman** and **Mr. Hannon** discussed

Minutes, Public Hearing of Zoning Board of Appeals Meeting held December 11, 2012

details of the house relocation and confirmed that it is already out of compliance, and also that the current 8' gap between the house and garage would be eliminated. **Mr. Evasick** asked that Mr. Hannon walk the board through the variance requests and explain the nature of the hardship. **Mr. Hannon** stated that the hardship is recurring storm damage. He said the lot already had nonconforming side-yard setbacks, but that raising the house would force the stairs to increase the encroachment. **Mr. Evasick** reviewed the variances requested in detail with **Mr. Hannon**, particularly the configuration of the patio, decks and stairs. **Mr. Evasick** confirmed that 3 new structures would be added in all. **Mr. Tuozzola** asked about the materials for the patios and wanted to confirm that lot would be almost entirely covered. He expressed concern about runoff to adjacent properties. He noted the exceptionally long list of variance requests. **Mr. Haberman** asked for current lot coverage percentage; **Mr. Harris** said it is 84%. **Mr. Evasick** asked if the 1st floor deck could be cut down on south side. **Mr. Hannon** said the size of deck requested was due to the elevation, patio space would no longer be available as one walks out from the main living area. They discussed other possible reductions in the size of the decks and the stair configurations.

Mr. Tuozzola asked if anyone wished to speak in favor of the appeal. He noted that 17 postcards had been submitted indicated they were not opposed to the project. **Mr. Tuozzola** asked if anyone wished to speak in opposition to the appeal; none did, so he closed the hearing.

DISCUSSION

Mr. Haberman noted that only 1 variation was optional in the list of those requested. **Mr. Vaccino** noted that 4 of the requests are new, and all but one relate to the change in stairs needed for elevation. **Mr. Tuozzola** asked Mr. Harris if all work had been permitted; Mr. Harris said no, but one reason for the length of the list was to legalize the non-permitted work. **Mr. Carey** noted that the owner is trying to save his home from future damage and appreciated the level of detail. **Mr. Tuozzola** agreed that the storms represented a hardship and the elevation was advisable, but that there was an increase in non-conformity. He restated his concern about lot coverage and possible runoff to adjacent lots. **Mr. Evasick** asked Mr. Harris about recent permits; **Mr. Harris** said emergency stabilization work may have been done, but that the owner hasn't done the extensive repairs without permits. **Mr. Tuozzola** suggested denial without prejudice, given the number of questions being raised.

Mr. Haberman moved to approve, **Mr. Carey** seconded. **Mr. Haberman** stated that the reason to approve was because all but 4 requests are existing, with 3 required to meet code to raise the house. The motion **failed** with **Messrs. Carey, Haberman and Vaccino** voting **with the motion** and **Messrs. Tuozzola and Evasick** voting **against the motion**.

4. **30 James Street** (R-5) William Piacitelli, applicant/owner; Vary Sec. 3.1.4.1 side-yard setback to 3' where 5' is required; front-yard setback to 6.9' where 10' is required, for construction of single-family residence. Map 27, Block 456, Parcel 14

Mr. Piacitelli, 99 Sentry Hill Road, Monroe, CT, addressed the board. Mr. Piacitelli described the variances requested, stated that a new house would be constructed to replace his previously storm-damaged house, using a similar footprint. He said that soil testing shows better ground on the side he was moving the house toward. In addition, he noted that 2 houses on a lot abutting the side the house is currently close are in severe disrepair and have been for 12 years, therefore he wants to move his home as far from these houses as possible. He noted that the lot he wishes to move his house closer to is now vacant, but the owner will be building on it. Although he is asking for a front variance, he stated that his existing porch is in line with all other houses on block. He said that his new house won't have a front porch which will be less non-conforming. He offered to provide photos. **Mr. Tuozzola** accepted the photos. He and **Mr. Haberman** briefly discussed with **Mr. Piacitelli** the frontage alignment, soil testing, and neighbor proximity issues.

Mr. Tuozzola asked if anyone wished to speak in favor of or opposition to the appeal. Hearing none, he closed the hearing.

Minutes, Public Hearing of Zoning Board of Appeals Meeting held December 11, 2012

DISCUSSION

Mr. Evasick asked Mr. Piacitelli to state the hardship. **Mr. Piacitelli** stated that the soil sample showed it would be more difficult to build in the current footprint and reiterated concerns about proximity to the unmaintained houses. **Mr. Vaccino** confirmed setback compliance on the side of the house where no variances were requested. He asked whether the house could be moved to the limit of that setback, negating the need for a variance on the other side. **Mr. Piacitelli** stated that the driveway on that side of the house would still be needed due to the number of cars in his household, otherwise the cars would have to be parked on the street, inconveniencing his neighbors. **Mr. Harris** noted that a projection variance would be required even if moved the house were moved to the edge of the east setback. **Mr. Tuozzola** asked for a motion.

Mr. Carey moved to approve. **Mr. Haberman** seconded. **Mr. Carey** supported the motion by stating that anything done to the house would require a variance. **Mr. Haberman** added that the off-street parking featured by the plan was also a benefit. **Mr. Vaccino** noted that the front nonconformity was diminished. The motion carried with **Messrs. Carey, Evasick, Haberman, Vaccino and Tuozzola** voting **with the motion**

5. **21 Smiths Point Road** (R-7.5) Richard Couch, engineer, for George Dewey, owner; Vary Sec. 5.8.7.3 for placement of septic system. Map 3, Block 90, Parcel 5

Mr. Couch, a CT-licensed Professional Engineer with Martinez Couch, 1084 Cromwell Ave, Rocky Hill, CT, addressed the board on behalf of Mr. Dewey. He stated that the variance was for a septic system the installation of which would be facilitated by an improvement being proposed by the neighbor at 19 Smiths Point. He noted that the entire neighborhood is on a septic/leeching field system. He said the nearest sewer is 1500 ft away and connecting to it would require a pump and cause future problems to other homes. He said that since the homes in the area now on a septic system, the proposed plan was consistent. **Mr. Couch** confirmed for **Mr. Haberman** that existing system is at front of house, while the proposed will be in rear and that there is no construction on this lot, but rather the project leverages construction on the neighbor's lot to provide temporary access to this property's rear yard. Mr. Couch said the current front septic location is too close to the existing house and garage and that its cesspit doesn't meet current code standards, therefore it can't be renovated. He said moving the system will change a nonconforming condition into a conforming leeching system. In an answer to **Mr. Tuozzola**, **Mr. Couch** said he didn't know of any plan to put sewers on the street.

Mr. Tuozzola asked if anyone wished to speak in favor of the appeal. **Rebecca Ellsley**, 4 Partrick Lane, Westport, and 19 Smiths Point Road, Milford; and **Beverly Ellsley** of 87 Redcoats Road, Westport, and 19 Smiths Point Road, Milford, both spoke in favor of the project.

Mr. Tuozzola asked if anyone wished to speak in opposition to the appeal. Hearing none, he closed the hearing. After a short discussion which identified a letter from the Director of Public Works supporting the septic projects at both 21 and 19 Smiths Point Road, he asked for a motion.

Mr. Carey moved to approve. **Mr. Haberman** seconded. **Mr. Carey** supported the motion by stating that the project replaced a non-conformity with a conformity. The motion carried with **Messrs. Carey, Evasick, Haberman, Vaccino and Tuozzola** voting **with the motion**.

6. **19 Smiths Point Road** (R-7.5) Richard Couch, engineer, for BE Architectural Classics Ltd, owner; Vary Sec. 5.8.7.3 for placement of septic system. Map 3, Block 90, Parcel 4

Mr. Couch, a CT-licensed Professional Engineer with Martinez Couch, 1084 Cromwell Ave, Rocky Hill, CT, addressed the board on behalf of **BE Architectural Classics Ltd: Rebecca Ellsley**, 4 Partrick Lane, Westport, and 19 Smiths Point Road, Milford; and **Beverly Ellsley** of 87 Redcoats Road, Westport, and 19 Smiths Point Road, Milford. **Mr. Couch** said

Minutes, Public Hearing of Zoning Board of Appeals Meeting held December 11, 2012

the project would create a current-code-compliant septic system as required by the Health Department. He said the hardship was a lack of sewer service due to the same obstacles to a sewer connection as with 21 Smiths Point Road. Discussion between Mr. Tuozzola and Mr. Couch confirmed that the existing septic system is in the rear of the house, but in other respects does not comply with current code.

Mr. Tuozzola asked if anyone wished to speak in favor of the appeal. **Mr. Couch** said he had **Mr. Dewey's** permission to speak in favor of the request.

Mr. Tuozzola asked if anyone wished to speak in opposition to the appeal or further questions; hearing neither, he closed the hearing.

DISCUSSION

Mr. Evasick asked several questions about the residence. **Mr. Tuozzola** commented that the hearing had been closed and the topic was septic system. Mr. Harris acknowledged that the hearing had been closed, therefore no new material could be introduced, but noted that the house will undergo Planning and Zoning and Costal Area Management review. He reiterated that the variance only relates to the septic system.

Mr. Tuozzola asked for a motion. **Mr. Haberman** moved to approve; **Mr. Carey** seconded. **Mr. Haberman** supported the motion by stating that the septic system is preexisting and the upgrade will make it more efficient. **Mr. Carey** added that the Health Department requires it. The motion carried with **Messrs. Carey, Haberman, Vaccino** and **Tuozzola** voting **with the motion** and **Mr. Evasick** voting **against the motion**.

C. OLD BUSINESS

There was none.

D. NEW BUSINESS

There was none.

E. STAFF UPDATE

Mr. Harris said the Planning and Zoning Board is reviewing the zoning regulations and that he had proposed changes to about 30 items so far.

F. ACCEPTANCE OF MINUTES FROM NOVEMBER 13, 2012 HEARING

Mr. Carey moved they be accepted; the motion carried unanimously.

G. ACCEPTANCE OF APPLICATIONS FOR JANUARY 8, 2013, HEARING

Mr. Harris said he expected at least one variance application on a garage destroyed by a falling tree. He noted that there was an appeal of the November ZBA decision on **30 Wildwood Avenue**.

The meeting adjourned at 7:59 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