

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 13 December 2022

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday 13 December 2022, beginning at 7:00 p.m. at 110 River Street, to hear all parties concerning the following applications, some of which require Coastal Area Site Plan Reviews or exemptions.

A. PLEDGE OF ALLEGIANCE / ROLL CALL

Ms. Ferrante called the meeting to order at 7:00 pm. She advised that Mr. Tuozzola was unable to attend the meeting and that she would act as chair in his stead. She asked Ms. Hirsch to act as secretary. She asked Ms. Hirsch and Mr. Dubois to provide the 4th and 5th votes in the absence of Mr. Tuozzola and Mr. Wolfe. She advised that the agenda would be reordered such that Item 3 would be heard second.

MEMBERS PRESENT: Sarah Ferrante, Gary Montano, William Soda

ALTERNATES PRESENT: Gary Dubois Carmina Hirsch, Mike Smith

MEMBERS/ALTERNATES ABSENT: Joseph Tuozzola (Ch), Chris Wolfe

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

CONSIDERATION OF AGENDA ITEMS

- 1) **114 Merwin Avenue**, MBP 59/737/15, R-7.5, Kevin Curseaden, Esq., for Peter Dreyer, appellant (112 Merwin Avenue) Appeal the Decision in accordance with the provisions of section 9.2.1 regarding decision to issue a zoning permit date 7/21/22 for the construction of a single-family house in violation of zoning regulations.

Attorney Curseaden submitted a memorandum to the board explaining that he could not attend the meeting and asked the board to review his submitted materials in his absence.

Mr. Harris began his rebuttal. He said no specific violation was cited in the appeal. He reviewed his zoning compliance documentation. He noted that removal of fill to the minimal extent necessary is permitted during construction, which he asserted was done at this site. He stated that the permit for 114 Merwin Avenue did not require a Coastal Area Management Site Plan Review (CAMSPR) because the lot is more than 100 feet from the coastal resource. He listed areas of the project found to be in compliance with the regulations. He noted that the last time the permit was overturned, the board cited drainage concerns, but that the city engineer subsequently found the drainage plan to be satisfactory.

BOARD DISCUSSION

Ms. Ferrante asked if anyone wished to speak in favor of or in opposition to the application.

OPPOSED

Attorney Thomas Lynch addressed the board on behalf of Mr. Mooney, the owner and developer of 114 Merwin Avenue. He said he read the meeting minutes which identified the concern as being that the drainage plan was not reviewed by city engineer. He said Mr. Mooney had his engineer update the plan, which resulted in city engineer's approval. He noted as an aside that an action had been filed by the complainant in Superior Court referencing drainage. He noted that two points raised by Attorney Curseaden had no merit, namely that there is no requirement for a CAMSPR, and that the drainage plan had, in fact, been deemed satisfactory by the City Engineer. He cited section 5.7.3 of the zoning regulations providing an exception for bringing fill to a new house, specifically backfill to secure the foundation and topsoil. He said that he and Attorney Curseaden were attempting to reach a resolution. He noted that while the dispute continues, a lien has been placed on the property.

Ms. Ferrante asked if project was completed; **Attorney Lynch** said it had been. **Ms. Ferrante** asked when the fill was brought in; it had been delivered after the house was built with the drainage issue having been resolved after the June ZBA meeting. **Attorney Lynch** confirmed that soil brought in is minimum necessary.

Mr. Soda asked if the As-Built survey had been completed and what the final grade of the house was determined to be.

Cal Mooney, owner of 114 Merwin Avenue stood to address the board. He said the proposed elevations for grade around house and the actual are exactly the same. He said the property had previously been a parking lot that had a 90% impervious surface and that he had reduced the impervious surface by 33 percent, providing better drainage which was directed to the rear of property. As further evidence that his project was not the source of the appellant's drainage issue, he asserted that the water that collects on Mr.

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Dreier's lot is salt water, and that 114 Merwin Avenue drains fresh water to fresh water behind his property. He said all this information is contained in his soil scientist's report.

Ms. Ferrante noted that **Attorney Curseaden** was not present to be questioned, but that the board had extended a great deal of time to him on this appeal. She asked if the board wished to close the hearing. **Mr. Montano** asked to postpone the vote.

Mr. Montano motioned to **hold the meeting open**. **Mr. Soda** seconded. The motion carried with **Mss. Ferrante** and **Hirsch** and **Messrs. Dubois, Montano, and Soda** voting **with the motion**.

- 2) **[NOTE: HEARD LAST]** **12 Overton Avenue**, MBP 35/440/17, R-5; Sandra Cohen, owner; Vary 4.1.4 to 14' where 16' permitted rear-yard projection to construct a deck.

Ms. Cohen had difficulty hearing via the public address system, so **Ms. Ferrante** confirmed with her that she wanted to put a small deck on the back of her house and that no deck was currently there.

Ms. Ferrante asked if anyone wished to speak in favor of or in opposition to the application; hearing none, she closed the hearing and asked for a motion.

Mr. Soda motioned to **approve**. **Ms. Montano** seconded. The motion carried with **Mss. Ferrante** and **Hirsch** and **Messrs. Dubois, Montano, and Soda** voting **with the motion**.

- 3) **[NOTE: HEARD SECOND]** **14 Oakland Ave**, MBP 28/566/13, (R-5) Thomas Lynch, Esq., for Cary Benjamin and Andrea Benjamin, owners. Vary sec. 3.1.4.1 northerly side-yard setback to 4.2' where 5' required to construct addition to single family residence.

Attorney Lynch addressed the board. He noted his client's presence and summarized the request. He said the Bayview area was originally developed with summer cottages that subsequently were and are being winterized. He said his client's home was built in 1925 and is a 2-story structure with 1000sf of living space. He said the proposed addition to rear of property will increase the house's living area by 576 ft. He said there will continue to be 3 bedrooms, but they will be enlarged.

DISCUSSION

Ms. Ferrante confirmed that the same footprint was being extended.

BOARD DISCUSSION

Ms. Ferrante asked if anyone wished to speak in favor of or in opposition to the application; hearing none, she closed the hearing and asked for a motion.

Mr. Soda motioned to **approve**. **Ms. Montano** seconded. The motion carried with **Mss. Ferrante** and **Hirsch** and **Messrs. Dubois, Montano, Soda, and Smith** voting **with the motion**.

- A. **NEW BUSINESS** - None
- B. **OLD BUSINESS** - None
- C. **STAFF UPDATE** - None
- D. **ACCEPTANCE OF MINUTES FROM HEARING 13 NOVEMBER 2022:** Approved.
- E. **ACCEPTANCE OF APPLICATIONS FOR 10 JANUARY 2023 HEARING**

Adjournment was at 7:35 PM.

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:

M.E. Greene, Clerk, ZBA