

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 March 2020

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 10 March 2020, 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.

A. PLEDGE OF ALLEGIANCE / ROLL CALL

Mr. Tuozzola called the meeting to order at 7:01 pm and asked Mr. Hirsch to vote for Mr. Soda, who was absent. The chair also asked the audience for conflicts of interest for board members with any agenda items; none were raised.

MEMBERS PRESENT: Sarah Ferrante; Christine Valiquette, Chris Wolfe, Joseph Tuozzola (Ch)

ALTERNATES PRESENT: Michael Casey, Etan Hirsch

MEMBERS/ALTERNATES ABSENT: Gary Dubois, William Soda

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

B. CONSIDERATION OF AGENDA ITEMS

1. **12 Nells Road**, MBP 12/66/70, R-7.5, Michael Gardella, IV, agent, for Michael Gardella, III, owner; Vary Sec. 4.1.4 to 2' where 4' req. to legalize location of pool.

Attorney Thomas Lynch, 63 Cherry St., addressed the board. He distributed handouts and said his clients were present. He described the owner as a retired firefighter who, with his family, is moving to another house in Milford and had an offer in hand for his former residence, the Nells Road house. He said the owner had improved the home over the years, by among other things, adding a patio and pool. Attorney Lynch referred to photographs on the handouts, noting that the patio wrapped partially around the pool. He said his client didn't realize the pool was also considered an accessory structure when he applied for deck permits. He referred to a map and said Mr. Gardella's placement of the pool was also done in relation to a neighbor's shed to a mutual benefit of more privacy. Attorney Lynch said that current mortgage closings set a higher standard for closing open permits than in years past, and that his client wants to retroactively legalize the pool, which would be extremely difficult to move.

DISCUSSION

Mr. Tuozzola confirmed that only the pool must be legalized. **Mr. Wolfe** asked if permitting for the pool and patio was done at the same time. **Mr. Hirsch** asked if a smaller pool could be installed; **Mr. Gardella** answered that the deck was designed to wrap around the pool. **Attorney Lynch** suggested that the gap created by changing the fit of the pool to the deck might create a safety hazard. **Mr. Wolfe** confirmed that house is for sale and under contract, and that the neighbor most affected is not opposed.

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. Hirsch motioned to **approve**. **Mr. Valiquette** seconded. **Mr. Hirsch** supported the motion based on the hardship of the lot's topography; in accordance with submitted materials. The motion carried with **Mss. Ferrante** and **Valiquette** and **Messrs. Hirsch, Wolfe,** and **Tuozzola** voting **with the motion**.

2. **0 Indian Hill Road aka 20 Myers Lane**, MBP 37/520/16A, R-12.5, Kevin Curseaden, Esq. for Lisa Leso, owner; Vary Sec. 2.5.5 as follows: Rear lot less than one acre. 2.) Access-way less than 25' wide. 3.) Rear lot less than 150' min. lot depth req; all to construct a single family dwelling in accordance with submitted zoning location survey by Codespoti and Assoc, dated 1/3/2020.

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Attorney Curseaden addressed the board and submitted materials. He said the property was essentially landlocked and described the history of the original subdivision and subsequent creation of the lot. He said the lot doesn't front onto a city street. He referred to previous approvals given by the Planning and Zoning Board and the Board of Aldermen in 2016 to sell city land, however he said there is now resistance to implementing that remedy to providing access to the lot. He said he had reviewed the new variance approach with the Inlands Wetlands Officer and Conservation Commission, which were not opposed. He said that if his clients sell or transfer the 20 Myers Lane property, there would be no access to the 0 Indian Hill Road lot. He said the original plan was to build a one-level ranch style home due to the disability of the owner, but the exact nature of the proposed house was not definite. He said the landlocked nature of the property created a hardship.

He said the property was taxed as a building lot for 20 years. He said Mr. Leso owned the property at 20 Myers for several more decades and that 0 Indian Hill Road was taxed as a building lot. He said his clients they decided to forgo advice to have the tax burden reduced in order to build on the property at some point.

DISCUSSION

Attorney Curseaden clarified for **Mr. Tuozzola** that the administration's issue was with conveyance of city property. **Mr. Tuozzola** noted potential issues with the shared driveway. **Attorney Curseaden** said the driveway easement would be recorded on the land records, regardless of whether the variance was granted. **Mr. Hirsch** asked about the city property at 0 Myers Lane; **Attorney Curseaden** said it was the subject of the 2016 application. **Attorney Curseaden** said he had consulted with the City Attorney, who did not raise an objection. **Mr. Wolfe** confirmed with **Attorney Curseaden** that the intent was for his client to buy the 0 Myers land and install a driveway with 2 aprons. **Ms. Ferrante** asked for details on the sale of the property. **Mr. Tuozzola** confirmed with **Attorney Curseaden** that the property was bought to enlarge the original lot. **Attorney Curseaden** referred to a 1976 Board of Aldermen decision which also approved selling the same parcel if city property to the Lesos. **Ms. Ferrante** asked why the original sale didn't go through and learned that there was no apparent appeal or denial. She summed up that the options had been on the table for many years, but were never exercised. **Attorney Curseaden** said the money to purchase the parcel has been set aside in an account in his office for 4 years since the 2016 vote. He said the variance was suggested by the previous Assistant City Planner but not pursued. He stressed that the hardship is that the property is landlocked. **Mr. Tuozzola** and **Attorney Curseaden** discussed the standards applied to determine a hardship.

FAVOR

Attorney Curseaden submitted 3 letters of support from neighbors at 119 Old Field Lane, 99 Old Field Lane, and 15 Myers Lane.

Mark Leso, 20 Myers Lane, shared his views on the 2016 8-24 application to the Board of Aldermen, summarizing the events leading to the application. He expressed his frustration about the lack of implementation of the purchase.

OPPOSED

Richard Ryan, 32 Indian Hill Road owner, 34 Shelter Cove resident; argued that the lot is not landlocked and that the hardship was self-created. He said the lot was not separate and that taxation was irrelevant. He said the proposed house would be a 2 story 3000 sf home, which was out of scale to other homes in the area. He said a drainage easement runs along his lot and lets out onto this lot. He questioned where utilities would be run. He said if the board approved the variance, conditions should be placed on the size of the house and other features.

REBUTTAL

Attorney Curseaden said the lot is not merged because it meets and exceeds the size of the zoning requirements. He said the lot lacked only the required frontage. He said it was an unusual type of hardship and that he disagreed with rest of the opposition comments. **Mr. Hirsch** asked how sewer lines would be installed and was advised that all utilities

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would run under Myers Lane and under the driveway to the proposed house. They discussed shared driveways. **Mr. Tuozzola** clarified that the 20 Myers home has 2 stories and that the proposed house would be a raised ranch. **Mr. Tuozzola** advised that there are no plans for what the house would be. Harris, elevations and floor plans are not strictly required for ZBA. AC similar restrictions were applied to the BOA sale and could be considered.

BOARD DISCUSSION

Mr. Tuozzola expressed sympathy but said he didn't understand why the Board of Aldermen-approved project was stuck. **Mr. Hirsch** said the more appropriate response would be to go to the courts to resolve the situation. **Mr. Tuozzola** closed the hearing. After a short discussion, there were no issues in dispute, so he asked for a motion.

Mr. Hirsch motioned to **deny**. **Mr. Ferrante** seconded. **Mr. Hirsch** said there was no hardship. The motion carried with **Ms. Ferrante** and **Valiquette** and **Messrs. Hirsch, Wolfe** and **Tuozzola** voting **with the motion**.

- C. NEW BUSINESS**- None.
- D. OLD BUSINESS**-None
- E. STAFF UPDATE**-None
- F. ACCEPTANCE OF MINUTES** 11 February 2020: Approved.
- G. ACCEPTANCE OF APPLICATIONS** for 14 April 2020 hearing.

Adjournment was at 8:12 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:

Meg Greene
Clerk, ZBA