

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 8 January 2019

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 8 January 2019, 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 / ELECTION OF OFFICERS/ROLL CALL

Mr. Harris called the meeting to order at 7:00 pm and announced the election of officers. **Mr. Soda** nominated **Mr. Tuozzola** for chairperson, **Ms. Ferrante** seconded, and the vote was unanimous. **Mr. Tuozzola** was seated as chair and thanked the board for their votes. **Mr. Soda** then nominated **Ms. Ferrante** for Board Secretary, **Ms. Valiquette** seconded, and that vote also was unanimous. After the election, **Mr. Tuozzola** chaired the meeting. **Mr. Tuozzola** asked the audience for conflicts of interest for board members with any agenda items; none were raised.

MEMBERS PRESENT: Joseph Tuozzola (Ch), Sarah Ferrante (Sec), William Soda, Christine Valiquette, Christopher Wolfe

ALTERNATES PRESENT: Michael Casey, Gary Dubois, Etan Hirsch

MEMBERS/ALTERNATES ABSENT: None

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

B. CONSIDERATION OF AGENDA ITEMS

1. **0 Rock Lane.** MBP 92/705/1K. LI, Joseph Kubic, Esq., for Joseph Arpino and Carol Arpino, owners; Sec 9.2.1. Appeal the Decision of the Zoning Enforcement Officer in a letter of violation dated 2 October 2018.

Mr. Arpino addressed the board. He said he had owned the property since 1971 and that he wasn't aware that the activity conducted there was not permitted. He said he was told to clean up the site and that he was making progress. He said the weather was an impediment to the final stages of clean-up.

Mr. Tuozzola expressed approval that progress had been made, but noted that the violation was not fully abated. He said the board could acknowledge the continuing status of the site by upholding the decision of the ZEO, while at the same time, Mr. Harris could continue to work with the site owner until the order was fully abated.

Mr. Harris reviewed the history of the site's activity and the city's response, saying that a prior order was written in 2006 about disallowed earth materials processing. He said there was no indication the prior order had been abated. He said to Mr. Arpino's credit, most of the violations had been abated, but agreed with Mr. Arpino's claim that large amounts of dirt remained to be dealt with. **Mr. Soda** asked for details on the order; **Mr. Harris** said the remaining violation was essentially piles of earth on the site that is difficult to deal with in winter.

Mr. Tuozzola asked if anyone wished to speak in support 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. Soda motioned to **uphold the decision of the ZEO**. **Ms. Ferrante** seconded. The motion carried with **Mss. Ferrante and Valiquette** and **Messrs. Soda, Wolfe, and Tuozzola** voting with the motion.

2. **50 Broad Street, Unit 31.** MBP 54/402/18. MCDD, Ryan McConnell for Wolff Spinnaker, owner, Vary sec. 5.5.4.2 to allow café permit (per State Liquor Regulations) within 1500' of existing restaurant permit location; sec.3.21.1.10 to permit eating place with less than 2,000 sq.ft. selling alcohol.

Mr. McConnell addressed the board. He said his business had been open for approximately a year and has enjoyed much success. He described his typical customers as 30-40-year-olds, often accompanied by their young families. He said customers who are so inclined currently bring in their own alcoholic beverages, typically beer, cider, and wine.

FAVOR

Julie Nash, Milford Director of Economic Development, spoke in favor of the application, saying Mr. McConnell had added a unique and enjoyable new type of business to the Milford green area.

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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. Soda motioned to **approve**. **Ms. Valiquette** seconded. The board was advised that a portion of the application was inadvertently not read. **Mr. Soda** withdrew his first motion and moved to reopen the hearing. No public comment was added. **Mr. Soda** introduced a new, comprehensive motion to approve. **Ms. Valiquette** seconded. The motion carried with **Mss. Ferrante** and **Valiquette** and **Messrs. Soda, Wolfe, and Tuozzola** voting **with the motion**.

3. **27 Fairwood Avenue**. MBP 12/123/10A, cor. Church Street, R-5, Thomas Lynch, Esq., for Molly Rentals, LLC, owner, Vary sec. 3.1.4.1 front yard set back from Church St. from 10' req. 7' provided to build single family residence.

Attorney Lynch, Lynch, Trembicki & Boynton, 63 Cherry St., addressed the board. He introduced his clients, Chris Fields and Buddy Fields. He helped long-standing members of the board recalled a prior variance application regarding a lot certification. He stressed that the result of the prior litigation that ensued was the creation of this legal lot. He said the proposed plan shows a reasonably sized 1800 sf house. He referred to handouts that contrasted a narrow house that could be built by right versus the proposed plan that shows a colonial. He asserted that the colonial style home was more in keeping with the aesthetic of the neighborhood. He noted that virtually all the houses in the area were about 5' from the front lot line. He said the legal hardship was the narrowness of the corner lot.

OPPOSED

Linda Christiani, 22 Fairwood Avenue, asked if the house would be elevated. She said Fairwood Avenue is already crowded and narrow. She was concerned about the safety of getting into and out of a driveway on Church Street.

Cindy Sloan, 40 Fairwood Avenue, said she was concerned about the small size of the lot. She said elevated houses were already consuming what green space exists on the street. She said she was also concerned with the traffic from the driveway and throughout the neighborhood.

Mr. Soda discussed the flood elevation requirements with Mr. Harris, confirming that the house had to be 14' above sea level to comply with FEMA flood mitigation rules.

Maureen Sawyer, 19 Fairwood Avenue, said the zoning regulations were too lenient in the city. She compared the size of the proposed home to the size of her home. She said she was also concerned about parking, traffic, and construction disruptions.

Richard Wheeling, 35 Fairwood Avenue, said he was concerned about snow removal and the narrowness of the road.

Marilyn McManus, 23 Fairwood Avenue, said she lived next to the site. She asked to submit photographs, which Mr. Tuozzola allowed. There was discussion about the lack of sidewalks.

REBUTTAL

Attorney Lynch said the height would be about 26' and that the house would not be elevated onto piers. He said 2 off-street parking spaces would be added. He stated that snow removal was a matter for the Department of Public Works and did not bear on the application. He reiterated that the application was only for a 3' variance to one setback. **Mr. Soda** confirmed with Attorney Lynch that the residence would be built on a slab. **Ms. Valiquette** discussed the elevation with Mr. Harris; **Attorney Lynch** said the FEMA requirements would be met.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor to the application, none came forward. He closed the hearing.

Mr. Soda said that after reviewing the photographs, he'd become very concerned about the narrowness of the street.

Mr. Soda motioned to **deny**. **Ms. Ferrante** seconded. **Mss. Ferrante** and **Valiquette** and **Messrs. Soda** voted **with the motion**. **Mr. Wolfe** and **Mr. Tuozzola** voted against, resulting in a second motion from Mr. Soda. **Mr. Soda** motioned to deny without prejudice. **Ms. Ferrante** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Soda, Wolfe, and Tuozzola** voting **with the motion**. **Ms. Valiquette** voted against the motion.

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4. **204 Melba Street.** MBP 38/542/1. BD, John Knuff, Esq., for Fire Engine Pizza Company LLC, owner; Vary Sec.3.8.4.2(3), 5.1.4(7), 5.14.6(6), 5.14.6(8) to use building as a restaurant.

Attorney Knuff, Hurwitz, Sagarin, Slossberg & Knuff LLC, 147 Broad St, distributed supplementary materials and addressed the board. He introduced his clients, restaurateurs Martin Mc Carthy and Phil Segniary, noting their 20 years experience. He described the Melba Street neighborhood, noting that the 1948 firehouse was historic. He said the goal for the proposed restaurant was to create a destination eatery like one his clients currently have in Black Rock. He said his clients have demonstrated commitment to giving back to the community there as they will in Milford. He said the property was one of only 4 city parcels zoned BD and that restaurants are a permitted use for that zone. He listed multi-family complexes nearby where people were likely to walk to the restaurant. He reviewed the packet of materials, starting with the history of the property and noting that when the city sold it, the intent was to have a restaurant use in the space. He reviewed current and proposed improvements to the property as illustrated in the packet. He said his clients had converted old fire engines into mobile pizza ovens for catering activity. He said that included in the target audience were beach residents, young families, and craft beer enthusiasts. He stressed that the food was excellent. He reviewed letters of approval, including some from current neighbors pleased with the preservation of the building as well as the prospect of a good "walkable" restaurant in their neighborhood. Other letters of approval were from beneficiaries of the community-building charities supported by the Black Rock Firehouse Pizza restaurant, those with experience of the Black Rock location's success, and those praising fair treatment of current staff. Attorney Knuff said a parking variance was required, but there was much on-street parking. He again stressed the probability of patrons walking to the restaurant.

DISCUSSION

Mr. Hirsch confirmed the home addresses of proprietors. **Ms. Ferrante** confirmed with Attorney Knuff that there were 26 parking spaces on site.

FAVOR

Phil Segniary, 327 Waverly Rd, Shelton, partner in and owner of Firehouse Pizza, said the Black Rock location had no off street parking but that it was nonetheless full of customers by 5:00 pm.

Marty McCarthy, 263 High Ridge Rd, Fairfield, partner in and owner of Firehouse Pizza, stressed the strength of the take-out business. He said the business was respectful neighbors, that they believe business have a responsibility to their community. He said they would be responsive to any objections. He said they wanted to be a catalyst for development in the plaza.

DISCUSSION

Mr. Soda confirmed with Attorney Knuff that there were to be about 100 seats in the restaurant. **Mr. Tuozzola** and Attorney Knuff discussed green space and required parking spaces.

FAVOR

Julie Nash, Director of Economic Development spoke in favor of the application. She read a letter of strong support signed by herself and Milford Economic Development Commission Chairman Michael Lynch.

Vincent Marbury, 55 Dewey Avenue, spoke in support of the compassion and ethical nature of the two business-people. He described an act of support for a seriously ill friend. He said the atmosphere of community was unusual and compelling, making the restaurant a good fit.

Michelle Labella, 52 Carriage Path So, said she had been a customer for many years and welcomed new dining options. She said she planned to walk and that many people also rode bicycles in the area. She suggested adding a bike rack.

Laney Ackley and her sister **Marley Ackley**, 28 Zurko Farm Rd, said Mr. McCarthy was a supportive family friend and they supported the community-oriented theme of the restaurant. They noted that it could offer jobs for local high schoolers.

Phil Vetro, Chairman of the Board of Aldermen, said the proposed restaurant is in his district and that voters have expressed support for the project and that many are impatient for the restaurant to open. He said the site has been improved and is always well maintained. He said the city and neighborhood would benefit from the business.

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Damian Cashman, 125 Edgefield Avenue, expressed support as a current customer who knows how invested the owners are in their community.

Stephanie Callahan, 67 Pelham Street, said she had lived in the area for many years, and was looking forward to a family-friendly, vibrant business.

Cortney Meng, 433 Pond Point Avenue, said she was looking forward to the restaurant and she personally planned to walk to it. She said she is involved in community outreach and that Marty has supported charitable projects she has run.

Martin Juliano, 35 Wilbar Ave, compared the plan with other restaurants without parking in walking distance. He felt the shortfall would not be an obstacle to success.

Thomas Monk, 110 Spruce Street, said he's known the business owners for years and he looks forward to the restaurant.

Peter Potrius and **Darren Hongo**, of Connecticut Distributors, Stratford, said they are wine and liquor vendors to the Black Rock site and that the applicants are good business owners, serving good food.

Joseph Cristino, 28 James Street, said the restaurant was perfect for the community, that he had lived near the in Black Rock business and that it had improved the surrounding commercial area.

OPPOSED

Merrilee Main, 16 Carriage Path North, said the area was quiet and should remain so. She said the property was not maintained early on in the project. She was concerned about traffic and about walking patrons choosing to drive during winter months.

Annamarie Richitsky, 180 Melba Street, Unit 213, was concerned that parking would encroach into her condo lot's spaces.

REBUTTAL

Attorney Knuff said the commercial abutter at the Dollar General lot had been in discussions to allow overflow parking for the restaurant in Dollar General's read lot, but this was not made part of the application. He said signage at condos allow non-resident vehicles to be towed.

BOARD DISCUSSION

Ms. Valiquette discussed the parking requirements, confirmed that the zoning requirement would be 72, whereas the application is for 26. **Attorney Knuff** said some might consider the Milford parking requirements as overly strict, but these are the regulations. **Mr. Soda** said he liked how the rendering brought the firehouse back to its historic red color. **Mr. Tuozzola** asked closed the hearing. After a short discussion, there were no issues in dispute, so he asked for a motion.

Mr. Soda motioned to **approve**. **Ms. Ferrante** seconded. **Mr. Soda** based the approval on hardship of the small lot. The motion carried with **Mss. Ferrante**, and **Valiquette**, and **Messrs. Soda, Wolfe**, and **Tuozzola** voting **with the motion**.

B. OLD BUSINESS-None

C. NEW BUSINESS-None

D. STAFF UPDATE-None

E. ACCEPTANCE OF MINUTES 11 December 2018: Approved.

G. ACCEPTANCE OF APPLICATIONS for 12 February 2018 hearing: none submitted as yet.

Adjournment was at 8:40 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