

**ZONING BOARD OF APPEALS  
MINUTES OF BUSINESS MEETING HELD  
JANUARY 10, 2012, 7:00 P.M.  
CITY HALL AUDITORIUM  
110 RIVER STREET, MILFORD, CT**

**MINUTES**

The Regular Meeting of the Zoning Board of Appeals of Milford, CT was held on Tuesday, January 10, 2012, beginning at 7:00 p.m. in the 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, as indicated below:

Kathy Kuchta, the Zoning Enforcement Officer, called to order the January 10, 2012, meeting of the Zoning Board of Appeals at 7:02 p.m.

**A. PLEDGE OF ALLEGIANCE**

**B. ELECTION OF OFFICERS**

**Ms. Kuchta:** The meeting will begin with the election of officers. Appointed John Collins as voting alternate. Asked for nominations for Chairman. Mr. Haberman nominated Joe Tuozzola for Chairman. Mr. Carey seconded the motion. There were no other nominations for Chairman. Joe Tuozzola was elected Chairman.

The meeting was turned over to Chairman Tuozzola who thanked the Commissioners for asking him to represent them once again.

**Chairman Tuozzola:** Asked for nominations for secretary..

**Mr. Carey:** Nominated Mr. Haberman.

**Mr. Evasick:** Seconded the nomination.

There were no other nominations for Secretary. Howard Haberman was elected Secretary.

**Chairman Tuozzola:** This is the Zoning Board of Appeals January meeting. Stated to the applicants if there was a commissioner on the board who they believe might have a conflict of interest to their hearing, please make that known.

**C. CONSIDERATION OF AGENDA ITEMS**

1. **15 Wall Street** (R-7.5) Patricia Attolino, appellant, Anthony & Sandra Evangelista, owners - appeal the issuance of a Planning and Zoning Permit by the Assistant City Planner for construction of a single family home, on November 1, 2011. Map 71, Block 773, Parcel 5.

**Application Withdrawn.**

2. **264 Broadway cor. Hauser Street** (R-7.5) Anna Lamorte, owner - Vary Section 4.1.4 projection into side yard to 1' 4" in lieu of 1' allowed for 2 exit steps to remain. CAM 10/20/09. Map 9, Block 130, Parcel 17A.

**Anna LaMorte, 264 Broadway, Milford.** She is before the Board because the contractor who built her new home did not follow the grading that was specified in the original plan. She had to get her architect to redo all the grading and in order for her to have the specified steps to the side of her house, the best that could be done after the house was built was to go four inches into the setback for these steps.

**Chairman Tuozzola:** Asked the applicant if she was looking for a four inch variance on the side steps going out?

**Mrs. LaMorte:** Yes.

**Ms. Kuchta:** The house was built and Mrs. LaMorte was unable to get a Certificate of Occupancy because along the shoreline it is very important that the elevation is exact because of the flooding and the contractor built the house too low. She is trying to compensate for that, so in order to exit from the side of her house she needs four inches to make a building code compliance step.

**Chairman Tuozzola:** Anyone to speak in favor of this application? (No response). Anyone opposed to this application? (No response) There being none, the hearing was closed.

The Board members discussed the request for the four inch variance for steps to be placed permanently at the side of the applicant's house so that she could get building compliance and a Certificate of Occupancy.

Commissioner Carey made a motion to approve the variance.  
Commissioner Collins seconded the motion for approval.

The reason for the motion to approve is the house is in a flood zone. It had to be to a certain elevation. Because of the elevation the steps have to be closer into the setback in order to meet the code.

All members voted in favor of approval. The motion carried unanimously.

3. **121 Melba Street cor. Beachland Avenue** (Zone R-5) Vahida Vohra, owners – request to vary Sec. 3.1.4.1 side yard set back to 3.3' in lieu of 5' required to construct 3' x 14' 2 story addition. CAM required. Map 29, Block 548, Parcel 2.

**Vahida Vohra, 121 Melba Street, Milford.** Requesting a variance for a five foot setback in the side yard in order to construct a small addition.

**Chairman Tuozzola:** Asked the Commissioners if they had seen the placards displayed on the property if they visited the site. One commissioner confirmed he saw the placards. Another commissioner noted he had not seen the placards.

The Commission discussed the poor locations for the notices, as well as the fact that the size of the addition was improperly noticed in the newspaper, at the City Clerk's office and on the City website. The applicant was also advised if the hearing was held and approved someone could contest the construction because the application was improperly noticed, even though the placards and notices stated the correct addition dimensions.

The applicant will post new placards and re-send out notices to the neighbors. The hearing will be considered postponed and noticed correctly in next month's published hearing agenda. The applicant was given instruction as to the proper posting of the placards. It was determined it would be to the applicant's benefit to postpone the hearing until all notices were issued correctly.

A motion was made and seconded to table. J. Tuozzola, H. Haberman, R. Carey, B. Evasick and J. Collins voted with the motion.

4. **104 Waterbury Avenue** (Zone R-5) Mark Pucci, appellant, for Michael Singaliese, owner – request to vary Sec. 3.1.4.1 rear yard setback to 10' in lieu of 20' required for principal structure. CAM required. Map 13, Block 136, Parcel 2.

**Mark Pucci, 2 Broad Street, Milford.** Attending on behalf of the property owner, Michael Singaliese, the owner of the property. Mr. Pucci will be the contractor for a new house if the variance is approved. Looking for a 20 foot setback in lieu of a 10 foot setback. The property is land locked. You have to go through a shared driveway in order to get to the property. The property was damaged more than 50 percent by TS Irene. The existing house will be demolished. The front and rear are considered two sides because the house faces Waterbury Street. In reality the house should face Long Island Sound and the back of the property should face Broadway. The way the setbacks are now, the house would have to be 20 feet wide and that is not feasible.

The garage will be demolished with the house. Parking will consist of two off street parking spaces in the driveway and two parking spaces in the attached garage of the new house. The new house will be built in compliance with FEMA regulations. Three sides of the new house will be in compliance with the setbacks with the exception of what is being called the rear yard setback. The new house will be more conforming than the present house.

Mrs. Kuchta stated the size of the house is 27.9 wide x 37 long. She explained how the existing property sits in relation to the other properties to which it is adjacent on Waterbury Avenue. They are asking for ten feet and the current house, with the exception of the bay window is at 13.9'. With the bay window it is about 14.9'. They are asking for ten feet in place of what was there before. The required back yard in this district is 20 feet. She noted if this is approved tonight it would be conditional upon CAM approval by the Planning and Zoning Board. Because it requires CAM approval, they may not be able to situate the house where it currently is.

**Chairman Tuozzola:** Anyone to speak in favor of this application? (No response) Anyone to speak in opposition of this application?

**Gina Tinaglia, 406D Heritage Hills, Somers, NY 10589.** Owner of the property located at 96 Shorefront, also known as 96 Bridgewater Avenue in Milford, which is next to the property requesting a variance tonight. She received the notice from Mark Pucci seeking the 10 foot variance. She was told Mr. Pucci was buying the property and was building a new house as long as he got the variance. They now see that he is going to put the rear of the house facing the right side of her house. That would leave a ten foot backyard instead of a 20 foot backyard. Concerned about what he could put in the rear of the house, such as compressors which would be noisy. She rents the property and this would have an adverse impact on her house for future value and for rental purposes. There is no hardship in this application. The purpose is to build a large house and make a lot of money. In the event she wants to ask for a variance in the future she will be denied because the houses will be too close.

**Chairman Tuozzola:** Anyone else to speak in opposition?

**Dr. Michael Zabinski, 102 Waterbury Avenue, Milford.** His property is between Waterbury Avenue and the property in question. He considers Mark Pucci a “white knight” because he is coming in and fixing up a dangerous building. The building could fall apart in another bad storm. Looks forward to having a replacement. He is not speaking for the variance, but the fact that a dangerous building will be removed and be replaced by a beautiful building.

Chairman Tuozzola clarified that Mr. Zabinski was speaking in favor of the application, which he had called out previously but to which he got no response.

Mr. Zabinski clarified the location of his property is between Waterbury Avenue and the property in question. The front of the subject house faces his house, which indirectly faces Waterbury Avenue.

**Chairman Tuozzola:** Anyone else to speak in opposition to the application? Mr. Pucci has the right to rebut.

**Mr. Pucci:** According to procedure he sent out the proper notices to the neighbors. He received about 10 phone calls. He spoke to everyone who called him. He spoke to the couple present tonight who asked if they had to come to the meeting because the husband was elderly. He said no they did not have to come to the meeting. They could send a letter for or against the application. Everyone knows why he is here. He still has to go before the Planning and Zoning Board for the CAM approval. The CAM application will dictate how far the house could be put toward the water; how far they want it back; the drainage, etc. Here tonight because if he cannot build a house wider than 20 feet, it is not worth him doing it. This is what he does for a living. He thinks the way it will be reconfigured it will conform better to the property.

**Chairman Tuozzola:** Compressors, air conditioning and other mechanical items are not on the plans.

**Mr. Pucci:** There is no house design at present. This is the preliminary step. Where everything will be placed is part of the CAM application.

**Mr. Haberman:** The current house is only 11 feet away from the property line now. He is only asking for another foot.

**Mr. Pucci:** Noted that was correct and if he only got another 11 feet, he could do a 29 foot wide house. The problem is with the zoning regulations. The house would have to be 20 feet. By the time a three foot staircase is put in, the house is 17 feet wide, so it would not make sense from his standpoint.

**Mrs. Kuchta:** Stated an air conditioner or generator in that rear yard setback would not receive a permit. It would need another variance because it is only ten feet, so it does not meet the setback requirements for anything that makes noise. The only place that equipment could be installed right now is on the shore side.

**Chairman Tuozzola:** Closed the hearing.

The Commissioners discussed that the present property is nonconforming. It was agreed that this is the first step in the process of going before the Planning and Zoning Board for CAM approval. If a dwelling is to be put up it should be as close to the existing structure of the property right now. If they stayed within the same footprint they could go up 35 feet and have that as the back wall. That entire back wall would still be facing the neighbors’ house and it will still be 11 feet from the property line. They also have the option to go up three stories instead of two. Reality is if they went to the 20 foot setback the house would be 20 feet wide, but a two story 20 foot wide house vs. a three story 20 foot wide house makes a difference.

Ms. Kuchta noted the property line was 11 feet from the bay window; 13-1/2 feet to the sides of the house. Even if they were to add a second floor, they would still need a variance to remain because it is nonconforming and a 50 percent improvement.

It was noted that even if the variance was granted, the house could go to three stories because there is no house plan as yet. It was also mentioned that this board could be reviewing this type of situation many times in the future due to the effect of the hurricane. It was thought that it would not be a problem if the new construction went back to the same footprint as the older house and approve the variances for any setback variances of that house. There is a problem with disregarding the old footprint of the house and expanding it out, where there are more or larger variances that need to be granted.

**Chairman Tuozzola:** The Board could deny this without prejudice and the applicant could come back with a different plan.

Another member noted he did not see a hardship in this case. When someone says it is not worth it to rebuild the house in its existing state and that it has to be bigger to be worthwhile for financial gain that is not a hardship. The houses that are affected by the storm need to be repaired or replaced and there are many that will have to be rebuilt. The Board wants to see them get built correctly, but with the constraints that if there is a hardship it has to be dealt with correctly.

**Mr. Evasick:** Made the motion to Deny Without Prejudice. Reason being failure to meet the hardship requirement.

**Mr. Haberman:** Second.

**Voted With The Motion to Deny Without Prejudice:** B. Evasick, H. Haberman, R. Carey, J. Collins, J. Tuozzola.

The Motion carried unanimously.

**D. TABLED ITEMS – None.**

**E. OLD BUSINESS – None.**

**F. NEW BUSINESS**

1. **71 Melba Street** (Zone R-5) Kevin Curseaden, attorney, for K.R.Robinson Company, Inc., owner – request to be reheard prior to the six month waiting period.

**Kevin Curseaden, Esq., 26 Cherry Street, Milford.** 71 Melba Street was denied at the last meeting. He is requesting Board approval to come back next month with a more conforming plan, instead of waiting the required six months.

Mr. Curseaden was asked for a recap of the application he had previously applied for. There was a request for five different variances due to the nature of the construction. The client wants to come back with one or two variances that will not be as near to the property line as previously requested.

Mr. Curseaden was asked if he would be requesting the variances to be voted upon individually as he had presented at the last hearing. Mr. Curseaden said the client will be coming back for a variance for

the foundation and for the one foot overhang. This application will be more conforming than the previous application.

A motion was made and seconded to approve allowing 71 Melba Street to present a new variance application to the Zoning Board of Appeals prior to the six month waiting period.

All members voted in favor of approving the motion. The motion passed unanimously.

2. **29 Baldwin Street cor. Lenox Avenue** (Zone R-7.5) Andrew J. Flanagan, appellant, for Leszek and Joanna Lewczak, owners - request to be reheard prior to the six month waiting period.

**Andrew Flanagan, 29 Carriage Path North, Milford.** Requested the Board waive the six month waiting period in order for the applicant to resubmit a revised plan. The previous plan requested two variances. The new application will be of a lesser request.

A motion was made and seconded to approve allowing 29 Baldwin Street to present a new variance application to the Zoning Board of Appeals prior to the six month waiting period.

All members voted in favor of approving the motion. The motion passed unanimously.

#### **G. STAFF UPDATE**

Ms. Kuchta informed the Board that she has taken an early retirement as of December 31, 2011. She will be working as a seasonal temp for approximately two more months. She and her husband are considering moving south. The City is actively looking for a zoning enforcement officer replacement.

The Board members were happy for Kathy but is sorry to see her go.

#### **H. ACCEPTANCE OF MINUTES FROM NOVEMBER 9, 2011 HEARING**

(Item H. should have read the Minutes of the December 13, 2011 meeting.)

The Minutes of the December 13, 2011 meeting were accepted as submitted.

#### **I. ACCEPTANCE OF APPLICATIONS FOR FEBRUARY 14, 2012 HEARING**

Ms. Kuchta took in one new application, in addition to 71 Melba Street and 29 Baldwin Street that will be coming back, as well as the application that was postponed tonight, 121 Melba Street.

She noted 15 Wall Street was withdrawn. It was an appeal and they settled with the attorney. They are no longer appealing the issuance of a zoning permit.

Mr. Evasick made a motion to adjourn.

Mr. Carey seconded the motion.

All members voted in favor of adjourning the meeting at 7:54 p.m. The next Zoning Board of Appeals meeting will be held on Tuesday, February 14, 2012.

Respectfully submitted,

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Phyllis Leggett, Acting Board Clerk