

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 8 February 2022

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday 8 February 2022, beginning at 7:00 p.m. remotely, 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 7:00 pm. He announced that the first item would be heard in March at the applicant's request. He seated Ms. Hirsch as the fifth vote.

MEMBERS PRESENT: Sarah Ferrante, Chris Wolfe, William Soda, Joseph Tuozzola (Ch)

ALTERNATES PRESENT: Gary Dubois, Carmina K. Hirsch, Michael Clarke Smith

MEMBERS/ALTERNATES ABSENT:

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

CONSIDERATION OF AGENDA ITEMS

- 1. 70 Christine Terrace** MBP 108/835/40, RA; Chris Russo, Esq., for David Cruz, owner; Vary Sec. 3.1.1.7 to permit accessory apartment on non-conforming lot, allowing lot size of 42,209 sf where 43,560 sf required. **(Extended at the request of the applicant.)**
- 2. 102 Melba Street** MBP 29/589/4A; R-5; Chris Russo, Esq., for Jose Tiago, owner; Variance of Sec. 3.1.4.1. of the Zoning Regulations to increase the maximum height in the R-5 Zone from 35' to 38.4' to the main portion of the proposed roof and 46.9' to a proposed roof stairway enclosure and a further variance of Sec. 3.1.4.1 to reduce the minimum side property line setback from 10' to 7.6' to enclose existing access stairwell and entry porch.

Mr. Harris noted prior to the presentation that the variance request for the stairwell was not required.

Attorney Russo addressed the board. He described his client's plan as reducing the height of the non-conforming roof which had incorrectly exceeded the height setback when the house was built in 2001. He said the As Built survey showed a height of 34' but the measurement was in error. He said that when his client had a new survey done, he discovered the error on the original survey. The existing condition was at 39.5' to the midpoint and 47.5' to the highest point. He said his client wished to reduce the height of the roof by switching from a peaked to a flat roof. Attorney Russo showed a photo of the existing house. He said that although he is reducing the height nonconformity of the house, he still needs the variance for the flat roof. He shared elevation drawings to show the revised version of the roof. He said several other homes in the area have similar decks.

DISCUSSION

Mr. Tuozzola confirmed the height of the current building. He asked about the ceiling height of the top floor, wondering if it could be reduced. Attorney Russo said the same ceiling height was being used.

Mr. Soda said the ceiling height is 8'3 1/2" and said the height could not be lowered. **Mr. Wolfe** and **Mr. Harris** discussed that the house is single-family. **Mr. Soda** confirmed that the side porch will remain the same size.

OPPOSED

Margaret Coyle, 104 Melba Street, was skeptical that the stairway to the roof was within the regulations for a roof enclosure at 46'.9. She said she had long suspected 102 Melba Street was too tall.

Cody Delmonico, 106 Kent Lane, Trumbull, expressed concerns about proximity of the houses.

FAVOR

Leah Scalzi, 40 Beachland Avenue, said she lives behind the property. She said some properties are degraded in the area but the proposed improvement is welcome.

REBUTTAL

Attorney Russo acknowledged that Ms. Coyle's suspicions were correct and that the original survey was wrong. He emphasized that the variance was only needed near the road and that Ms. Coyle's water view would be improved due to removal of the roof gable.

Mr. Harris clarified what portion of the house is affected by the proposal. **Ms. Coyle** said she appreciated the clarifications.

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Marc Andre, architect, 34 Sherman Street, Fairfield, clarified that he is not the original architect and that he had authored only the new proposal. **Ms. Hirsch** and **Mr. Andre** discussed materials for the railing: stainless steel cable versus thin galvanized rods, versus tempered glass.

Attorney Russo said a petition of supporters was submitted and was part of the record.

BOARD DISCUSSION

Mr. Tuozzola asked for board comment. **Ms. Hirsch** said she would prefer more visibility for the deck. **Mr. Tuozzola** closed the hearing and asked for a motion.

Ms. Hirsch motioned to **approve**, but no second was forthcoming. **Ms. Hirsch** withdrew the motion. **Mr. Harris** said the hearing could be held open until next month to allow the board to think. **Mr. Soda** motioned to hold the meeting open for voting only next month. **Mr. Wolfe** seconded. The motion carried with **Mss. Ferrante** and **Hirsch**, and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

3. **81 Morningside Drive** MBP 39/616/4, R-10; Thomas Lynch, Esq., for Brian Foley, owner; Vary Sec. 6.3.2 to allow for expansion of nonconforming structure and 4.1.4 deck projection to 5.4 where 21' permitted.

Attorney Lynch, 63 Cherry Street, addressed the board. He said his clients purchased the house last August and wishes to improve it. He described the placement of the house on the lot as being like other Morningside homes in that predate zoning. He said the house was built closer to the 25' setback than current regulations allow. He detailed other additions that are conforming. He said in 2017 the previous owner added a small porch which the current owner wants to extend. He said he understood a petition in opposition was submitted but stressed that there would not be an impediment to neighboring views.

Joe Rousseau, JMR Architectural, 215 Research Drive, reviewed the existing floor plan with additions that do not require a variance as well as the front porch, which does. He highlighted that walk-out decks provide expanded views of the Sound. He said the porch was a critical piece of the design and the only item requiring a variance. **Attorney Lynch** said the covered porch is not enclosed, featuring pillars that would not infringe on abutting views.

OPPOSED

Chris LeDonne, 7 Thompson Hill Road, said he did not receive notification about the previous owner's 2017 variance. He said the deck would present driving visibility concerns and there was no hardship.

Bettina Thiel, 89 Morningside Drive, asked for clarification of the setbacks. **Mr. Harris** displayed the survey and reviewed the setbacks in detail. **Mr. LeDonne** also asked for clarification of the setback, which **Mr. Harris** provided. **Attorney Lynch** said the existing nonconformity would not be increased. **Ms. Theil** and **Attorney Lynch** discussed the deed line versus the curb line.

Zenon Protopappas, 89 Morningside Drive, said he believed the survey was incorrect. He said the porch on the second floor is also being expanded and he felt it would be a problem for a view. He also disputed the survey.

Mr. Harris said the Zoning Board of Appeals has no authority to arbitrate boundaries.

Jeff Schpero, 6 Soundview Place, said he purchased a portion of the rear of the previous owner's property, and believed the survey was correct. He asked about setbacks for corner lots. **Mr. Harris** explained corner lot setbacks. **Ms. Ferrante** clarified that corner lots do not have 2 back yards.

Ms. Theil said she was also concerned that Morningside is narrow. She asked about runoff.

Joe Rousseau said Ron Wassmer, LS, PE, had calculated runoff due to infiltrators in the design.

Hans Gschiesser, 1 Thompson Hill Road, said addition to front of house was problematic for line of sight.

Hassan Sarwar, 73 Morningside Drive, he said he hadn't heard about the 2017 variance.

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Carol Sarwar, 73 Morningside Dr, said her view was affected by the original 2017 variance. She also said the line-of-sight issues would be affected.

Hassan Sarwar, 73 Morningside Drive, he said the porch extension would block their view.

Mr. Tuozzola asked for clarification of 6.3.2 only related to the front porch, which **Mr. Harris** provided.

Cynthia Morris, Thompson Hill Road, said she also opposed the variance.

REBUTTAL

Attorney Lynch said he researched the 2017 notices and could not believe it wasn't properly noticed. With respect, he said that neither the existing porch nor an expansion would affect the views. He said attention was needed on the actual request before the board. He said he was dismayed at the lack of hospitality.

Ms. Theil said she felt she had been welcoming and that the letters were late.

Hasan Sawar said he welcomed Mr. Foley.

Mr. Tuozzola closed the hearing. **Mr. Soda** said the view to the water is straight ahead toward the Sound on Morningside and he felt there was no problem. **Ms. Ferrante** agreed. **Mr. Wolfe** expressed ambivalence but basically agreed. **Ms. Hirsch** said she understood concerns about the road, but she felt there were no impact with on the view.

Mr. Soda motioned to **approve** based on the submitted materials. **Ms. Ferrante** seconded. The motion carried with **Mss. Ferrante** and **Hirsch**, and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

- 4. 40 Ocean Avenue**, MBP 9/126/8; R7.5; Matthew Drengler, owner; Vary Sec. 3.1.4.1. front-yard setback to 18.8' where 20' required and side-yard setback to 4.6' where 5' required for addition.

Keri Drengler, 40 Ocean Avenue, addressed the board. She described the small triangular area to provide structural support to the upper floor. **Mr. Harris** shared the survey.

FAVOR

Stanislaw and Pamela Cichy, 43 Ocean Avenue, expressed support.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in opposition; hearing none, he closed the hearing and asked for a motion.

Mr. Wolfe motioned to **approve** based on the submitted materials. **Mr. Soda** seconded. The motion carried with **Mss. Ferrante** and **Hirsch**, and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

- A. NEW BUSINESS** - None
- B. OLD BUSINESS** - - -ZBA Board "primer" by the City Attorney's Office: zoning, hardship, and other relevant issues, was postponed to when in-person meetings resume. The board agreed that March would be in-person.
- C. STAFF UPDATE** - None.
- D. ACCEPTANCE OF MINUTES FROM 11 JANUARY 2022 HEARING:** Approved unanimously.
- E. ACCEPTANCE OF APPLICATIONS FOR 8 FEBRUARY 2022 HEARING** 70 Christine Terrace and 102 Melba Street (vote only)

Adjournment was at **8:54 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