

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 12 March 2024

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 12 March 2024, beginning at 7:00 p.m., 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 asked if anyone present felt a conflict of interest existed for a board member on an agenda item; no response was forthcoming. She advised that 59 Hillside Avenue, 33 West Orland Street, and 12 Wayne Road had all been postponed.

MEMBERS PRESENT: A. King, G. Montano, W. Soda, C. Wolfe, S. Ferrante (Ch)

ALTERNATES PRESENT: G. Dubois, C. Hirsch

MEMBERS/ALTERNATES ABSENT: None.

STAFF PRESENT: David Sulkis, City Planner; Meg Greene, Clerk

CONSIDERATION OF AGENDA ITEMS

59 Hillside Avenue MBP 49/724/2; R-5; Nick Aquilina, owner; Vary sec. 4.1.7.3 for fence abutting Long Island Sound; survey by Codespoti & Associates, 01/25/22. **POSTPONED**

528 Wheelers Farm Road MBP 104/915/13 & 13A; Kevin Curseaden, attorney for The Village Foundation, Inc, owner; vary section 3.6.4.2 front-yard setback to 30.4' where 200' required and side-yard setback to 104.7' for pump house and generator; site plan by Indigo Land Design, LLC, 12/14/23.

Attorney Curseaden, 3 Lafayette Street, addressed the board, providing handouts to describe the hardship. He introduced John Wicko, the architect for the project. He said the lot was legal, predated zoning, and was undersized for the zone by more than 50%. He said the pump house and generator were being installed to provide water pressure for fire prevention and the water pump must be close to a water lateral per the Regional Water Authority (RWA). He said the project was consistent with the city's Plan of Conservation and Development (POCD) in protecting and promoting public welfare. He said the hardship is the undersized lot, and that given the RWA requirement, the proposed location is the only feasible one.

John Wicko, AIA, 58 Prospect Street, described the pump house as a utility building of minimal size (14x14) and reviewed the drawings. He said the dimensions are determined by requirements for fire-fighter access, and the architectural style is consistent with the program services building that can be seen from the road. Messrs. Wolfe, King and Montano asked about details of the generator.

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 moved to **approve as presented the petition of** Kevin Curseaden, attorney, for The Village Foundation, Inc, owner; vary section 3.6.4.2 front-yard setback to 30.4' where 200' required and side-yard setback to 104.7' for pump house and generator; site plan by Indigo Land Design, LLC, 12/14/23.

Mr. King seconded.

Discussion: **Ms. Ferrante** said her questions were answered during the presentation and that she understood the RWA complications. **Messrs. Soda** and **King** agreed.

The motion carried with Ms. Ferrante and Messrs. King, Montano, Soda, Wolfe voting with the motion.

9 Little Pond Road MBP 39/618/5 A; R-10; Sachin Anand, owner; Vary Section 4.1.4 side-yard projection to 5' where 8' permitted to attach construct a portico; survey by P. Stowell, 2/16/22, rev. 9/13/22.

Attorney Curseaden, 3 Lafayette Street, addressed the board and handed out summaries and introduced Mr. Anand. He said the variance was for a side-yard projection in the chosen side-yard (chosen due to the lot having 2 front yards). He said the request is to allow a portico roof over an exterior walkway. He said the lot was a legal corner lot created in 1912 prior to zoning and subdivision regulations being enacted. He described other aspects of the lot and said Mr. Anand wants to protect the walkway from the weather. He said the lot's size, shape, 2 front yards, and grade created the hardship and that other properties in the zone don't have same characteristics. He shared 2 letters of support from 7 Little Pond Road and 10 Little Pond Road (across the street).

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 12 March 2024

Mr. Soda asked if other variances were obtained for the house and was told that after the original permits were issued, a variance was needed in the rear yard to cover basement stairs for similar reasons and that a variance was needed for the patio's proximity to the northerly and easterly property lines. He asked if the proposal was for just a roof or the sides as well. **Attorney Curseaden** said the portico might feature pillars. **Mr. King** asked for dimensions and was told 4' x 5'. **Ms. Ferrante** asked about construction date, determining that the house was built in 2022-2023 on a vacant lot. She confirmed that the basement stairs were constructed prior to asking for a variance at this same address. **Attorney Curseaden** said the patio and cover were approved and then it was discovered that the stairs projected further than originally planned. He said some DPLU interpretation was involved in determining whether variances were required. **Ms. Ferrante** expressed concern as to why a brand-new house on a vacant lot, where you can see exactly what you have to work with, would require so many variances after the fact—why the issues had not been considered in the planning phases.

Mr. Anand said he thought a greater concern would be if he were asking to increase living space. He said he did not expect the side door to be used so much, particularly by his toddler, which created safety concerns. He said he could do a 2' portico as of right but he wished to extend it. **Mr. Soda** asked if the portico landing had been given a variance. **Attorney Curseaden** said it had, but because variance language has been made specific to a feature in recent years, it did not follow that a portico could be installed over an approved landing. He stressed that the lot has hardships. **Mr. Montano** asked whether, if the board approves the request, the applicant will agree not to enclose the sides, which was agreeable to Mr. Anand.

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

OPPOSED

Kathleen McGuire, 29 Hilldale Court, said she looked up the Zoning Regulations and learned that approval is required before construction. She said Mr. Anand had already built the portico prior to asking for variance application. She said she reported the work being done without permits and that she spoke for other neighbors as well, specifically at 14 Crest Place. She said she didn't approve of Mr. Anand's approach. **Ms. Hirsch** asked whether Ms. McGuire would still be opposed if Mr. Anand had come to board in advance; she was unsure. She felt that Mr. Anand had built the home as a developer rather than a neighbor. **Mr. King** asked if she had something in writing from 14 Crest Place expressing a similar objection; she did not. **Ms. Ferrante** asked to see a photo of the portico Ms. McGuire offered to share.

Kripa Damodharan, 135 Ridgeview, said he lived in the 2nd house across street from 9 Little Pond Road. He said he bought the house due to the openness of the area and that an extension of the portico would block his sea view. He said he was concerned about sides being added to the portico.

Attorney Curseaden said that the origin of the variance application was not an enforcement action but rather based conversations on options with DPLU: apply for a variance, reduce the size, or remove it. He said the portico wasn't completed and that there was no intention to enclose it. He said he didn't think it blocks views and that his client wasn't hiding the construction.

Mr. Anand said he instructed his workers to continue working on the house while he was out of the country without intending them to add the portico. He said that when he heard from ZEO Harris that it was in the setback, he left it unfinished and that it was a mistake followed by an honest attempt to correct it by variance. **Ms. Hirsch** asked him to confirm that he was aware of the rules and had no intention to violate them. He stated that he works closely with city agencies on his project. She asked for a timeline of Mr. Anand returning to Milford on 1/13 and learning of the complaint. He said he applied within days of this, wanting to correct the mistake. He said he reached out to the most impacted neighbor, Tony Franke at 14 Crest Place, and got a text message in support that he would share with the board. **Attorney Curseaden** noted that Ms. McGuire's house is over 500' away from 9 Little Pond Road, beyond the 200' abutter notification area. **Mr. Sulkis** clarified that the genesis of the variance was a notice of zoning violation issued 1/17/24.

Ms. Ferrante closed the hearing and asked for a motion.

Mr. Soda moved to **approve with the following modification** the petition of Sachin Anand, owner; vary Section 4.1.4 side-yard projection to 5' where 8' permitted to attach construct a portico; survey by P. Stowell, 2/16/22, rev. 9/13/22.

-Modification: The portico will never be enclosed.

Mr. King seconded.

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 12 March 2024

Discussion: **Ms. Ferrante** said the board had heard 2 neighbors in opposition and 2 in support. She noted the issuance of the zoning Notice of Violation. **Mr. Soda** said he was in favor of approving the variance until he heard it was already built, but that his negative view was mitigated by the existence of the variance for the landing. **Mr. King** said he wished for clarification at 14 Crest. **Ms. Ferrante** said she agreed about the landing but was concerned that the structure was pre-built. She said she can accept the idea of an honest mistake, but in this case, the applicant is an experienced builder.

The motion carried with Ms. Ferrante voting against the motion and Messrs. King, Montano, Soda, Wolfe voting with the motion.

238 Grinnell Street MBP 52/937/31 A; R-10; William Doyle, agent, for Brian & Lauren Bogert, owners; Vary Section 3.1.4.1 side-yard setback to 6.06' where 10' required to attach garage to primary dwelling; survey by P. Stowell, 1/25/24.

Mr. Doyle, 25 Eighth Avenue, addressed the board. He said he submitted a permit application without understanding there is a difference in the setback for houses and garages. He said that when he understood his mistake, he took on the cost and effort of applying for the variance and survey himself. He said the detached garage was built as of right, but he was seeking a variance to attach the garage with a mudroom. He said the lot was on the corner of Grinnell and Plains Road and oddly shaped, making it harder to adhere to setbacks. **Ms. Ferrante** asked for a timeline; **Mr. Doyle** said permit applications were submitted online on or about January 2. He said that when he went to the Zoning Office, he learned that he would need a variance. He said he had dug a footing thinking he was avoiding setbacks, so he submitted permit applications for a conforming detached garage. She asked why, prior to getting the variance, the mud room was constructed. He said when the February meeting was cancelled due to a snowstorm, he was concerned about the time already lost and the prospect of more severe weather, he thought he would get permission and only built the exterior to protect the area planned for the mudroom. He said no foundation currently connects the garage to the house. **Mr. King** asked when the mudroom was attached to the garage; **Mr. Doyle** said after the February meeting was canceled, due to the financial constraints of a small business.

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 moved to **approve as presented the petition of** William Doyle, agent, for Brian & Lauren Bogert, owners; Vary Section 3.1.4.1 side-yard setback to 6.06' where 10' required to attach garage to primary dwelling; survey by P. Stowell, 1/25/24.

Mr. Wolfe seconded.

Discussion: **Ms. Ferrante** called a brief recess. When the meeting resumed, **Mr. Soda** described an alternative to needing a variance. **Ms. Ferrante** said she appreciates the difficulties of running a small business. **Mr. Wolfe** expressed concern that another plan had not been sought, but also said he appreciated the problem. **Mr. Soda** said he felt the applicant had learned his lesson.

The motion carried with Ms. Ferrante and Messrs. King, Soda, and Wolfe voting with the motion, and Mr. Montano voting against the motion.

33 West Orland Street MBP 38/561/28; R-5; Thomas Lynch, attorney, for David Culhane, owner; Vary sec. 3.1.4.1 west side-yard setback to 1.43' where 4' required, east side-yard setback to 2.06' where 4' required, rear setback to 0.4' where 5' required, lot coverage to 73.3% where 65% required, building coverage to 48.2% where 45% required, all to construct new detached garage; survey by CCG Civil Group, LLC, 11/3/23. **POSTPONED**

188 Point Beach Drive MBP 30/644/3; R-7.5 & 12.5; Thomas Lynch, attorney, for Robin and Jenna Ranaudo, owners; Vary Section 4.1.4 front-yard projection to 6.5' where 16' permitted for deck; section 3.1.4.1 side-yard setback to 3' where 5' required to build addition; survey by Codespoti Associates, rev 12/19/23.

Attorney Lynch, 63 Cherry Street, addressed the board. He introduced his clients saying they purchased the house 2 years ago and wish to construct an addition to the rear of the house and a 2nd-floor deck off the master bedroom. He said he was involved in the 2016 application that allowed a previous configuration of the property to be divided into 4 lots. He provided details on the re-subdivision noting that Planning and Zoning Board and Board of Alders allowed access by driveway to the 2 rear lots rather than a fully improved city street. He shared 3d elevation drawings, one showing the deck projecting into one of the front yards of the corner lot, and another showing the rear addition. He reviewed other improvements that were compliant. He said that Brian McDonald (184 Point Beach) is the neighbor most affected by the addition, but that Mr. McDonald sent an email in support. He said the hardship is the irregularly shaped lot with 2 front yards. He said the purpose of a setback is to create space between neighbors

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 12 March 2024

but that due to the right of way, no neighbor exists on the side with the deck. **Ms. Ferrante** asked if that front yard were a side yard, would the deck already zoning-compliant; it would exceed the side-yard setback. **Mr. Montano** and **Attorney Lynch** discussed the area surrounding the house.

Ms. Ferrante asked if anyone wished to speak in favor of or in opposition to the application. With no further comment forthcoming, **Ms. Ferrante** closed the hearing and asked for a motion.

Mr. Soda moved to **approve as presented the petition** of Thomas Lynch, attorney, for Robin and Jenna Ranaudo, owners; Vary Section 4.1.4. front-yard projection to 6.5' where 16' permitted for deck; section 3.1.4.1 side-yard setback to 3' where 5' required to build addition; survey by Codespoti Associates, rev 12/19/23.

Mr. Wolfe seconded.

Discussion: **Mr. Soda** said he doesn't have a problem. **Mr. Wolfe** said it was architecturally appropriate. **Mr. King** agreed. **Ms. Ferrante** said these were small requests with few neighbors would might be impacted.

The motion carried with Ms. Ferrante and Messrs. King, Montano, Soda, Wolfe voting with the motion.

74 Hawley Avenue MBP 71/764/2; R-5; Andrew Yannes, agent, for John Borer, owner; Vary Section 3.1.4.1 Building Area Coverage to 47.3% where 45% permitted to construct a garage with a detached, enclosed breezeway; survey by Codespoti Associates, rev 2/1/24. (**Mr. Montano** emphasized the correction of a scrivener's error noting the garage was detached, not attached.)

Mr. Yannes, Beacon Falls, addressed the board. He said his client, Mr. Borer, previously got a variance in 2018 for the garage's lot coverage but adding the breezeway added 2% more. **Mr. Sulkis** clarified that the breezeway must be fully detached from the garage to avoid yet another, different variance would be needed. **Mr. Soda** asked if the breezeway was built yet; it was not. **Mr. Wolfe** confirmed that the breezeway is completely detached at both ends. **Mr. Yannes** said there will be gutters on both side of breezeway. **Mr. Montano** asked Mr. Sulkis what the minimal detachment is and was told that the structure would be zoning compliant as long as it's not attached. **Ms. Ferrante**, noting in the audience the attendance of **Joe Griffith, DPLU Director** and an architect asked him to speak to Mr. Montano's question. Mr. Griffith said a 2' detachment is acceptable under the building code.

Ms. Ferrante asked if anyone wished to speak in favor of or in opposition to the application. With no further comment forthcoming, **Ms. Ferrante** closed the hearing and asked for a motion.

Mr. Soda moved to **approve with the following modification the petition of** Andrew Yannes, agent, for John Borer, owner; Vary Section 3.1.4.1 Building Area Coverage to 47.3% where 45% permitted to construct a garage with a DETACHED enclosed breezeway; survey by Codespoti Associates, rev 3/4/24.

Modification: Detachment will be a minimum space of 2".

Mr. King seconded.

Discussion: **Ms. Ferrante** said she appreciated the fact that nothing was yet built and commended the creativity of the solution.

The motion carried with Ms. Ferrante and Messrs. King, Montano, Soda, Wolfe voting with the motion.

12 Wayne Road, cor. Wendy 103/702/1; R-12.5; Warner Rodriguez, owner; Vary Section 4.1.1.1 to locate accessory structure in required front yard, survey by CT Land Surveying, LLC, rev. 1/4/23. **POSTPONED**

12 Overton Avenue MBP 35/440/17; R-5; Sandra Cohen, owner; Vary Section 4.1.4 to 4.3' where 8' permitted to build 2nd-floor deck, survey by P. Stowell, rev. 2/15/24.

Ms. Cohen addressed the board. **Ms. Ferrante** asked for a hardship; **Ms. Cohen** said her sidewalk was in the way of the supporting posts for the deck. **Ms. Ferrante** confirmed the 6' x 10' size but **Ms. Cohen** said if she would accept a 4' projection. **Mr. Sulkis** said the request for variance is reasonable and despite the accommodation of the application, he was concerned that the narrow sidewalk would be problematic. **Mr. Soda** said he thinks 4' is too narrow, 6' is the minimum to allow seating and movement around chairs.

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 12 March 2024

Kathleen Burton, 10 Overton Avenue, said she opposed the deck because the space between 2 houses is close. **Ms. Ferrante** commended both parties' willingness to compromise. **Mr. Soda** asked how close the houses are to each other. **Mr. Sulkis** said that the GIS map measures 18' between houses and that with the sidewalk measuring 4', the supporting posts should end up outside the sidewalk and not on it.

Ms. Ferrante asked if anyone else wished to speak in favor of or in opposition to the application. With no further comment forthcoming, **Ms. Ferrante** closed the hearing and asked for a motion.

Mr. Soda moved to **approve as presented the petition** of Sandra Cohen, owner; Vary Section 4.1.4 to 5.8' where 8' permitted to build 2nd-floor 4.5 by 10 deck, survey by P. Stowell, rev. 2/15/24.

Mr. Wolfe seconded.

Discussion: **Ms. Ferrante** summarized the discussion. King expressed appreciation of the compromise.

The motion carried with Ms. Ferrante and Messrs. King, Montano, Soda, Wolfe voting with the motion.

- A. NEW BUSINESS** – Ms. Ferrante thanked the board for her January nomination.
- B. OLD BUSINESS** - None
- C. STAFF UPDATE** – **Ms. Greene** asked the board if they would follow the lead of the Planning and Zoning Board and eliminate paper mailings in favor of emailed materials. The board agreed without objection.
- D. ACCEPTANCE OF MINUTES FROM 9 JANUARY HEARING:** Approved.
- E. ACCEPTANCE OF APPLICATIONS FOR 9 APRIL HEARING:** **Ms. Greene** advised that in addition to 3 postponed items, 2 new variance applications have been received.

Adjournment was at **8:53 PM**.

Attest: M.E. Greene, Clerk, ZBA

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.**