

MEMBERS PRESENT: Richard Carey, Howard Haberman, Nanci Seltzer

ALTERNATES PRESENT: David Hulme, Ronald Spangler

STAFF PRESENT: Linda Stock, Zoning Enforcement Officer; Rose Elliott, Clerk

The meeting was called to order at 7:01 p.m.

A. CONSIDERATION OF AGENDA ITEMS

1. **46 Soundview Avenue cor. Summit Avenue** (Zone R-5) Michael Pergola & Lynnea Brinkerhoff, owners – request to vary Sec. 4.1.7.1 to allow 6'4" high fence within front yard; Sec. 3.1.4.1 side yard setback from 5' allowed to 2.2' to allow landing and stairs to remain; from 5' to 3.3' to allow shed to remain; from 5' to 1.5' to allow landing and stairs and shed to remain; rear yard setback from 20' to 14.5' to allow stairs and shed to remain. CAM required. Map 49, Block 732, Parcel 12.

Lynnea Brinkerhoff and Michael Pergola, 46 Soundview Avenue, submitted photos to the Board. Mr. Pergola said they purchased the property 2 years ago and it was in the process of being constructed. The property is a corner lot but the house basically runs along the property line. There is an almost 7' drop off between one side of the property and the other. The topography of the land, the placement of the house on the lot and the small size of the lot are the hardships. When they purchased the house, the platform and stairs were in place and provided egress from the top of the lot to the bottom. There was no usable outdoor space so they installed a patio and off street parking spaces, then added the fence to create a European courtyard, which allows for parking and outdoor living. The sheds provide place for salt and tools to maintain the property. The vertical fall off and lack of outdoor space creates a difficult situation. They thought the contractor had taken care of all permits.

Chrmn. Haberman confirmed the landings were there when the house was purchased and the sheds and fence were added afterwards to which Mr. Pergola said that was correct.

Ms. Brinkerhoff submitted letters in favor of the application.

Mr. Spangler asked if a contractor was hired to do all the work.

Mr. Pergola stated that was correct and he did none of the work himself.

Ms. Seltzer asked if the contractor was reimbursing him because he did the work without permits.

Mr. Pergola said the contractor has disappeared. He added he did not know the fence was too tall.

Ms. Stock clarified this house is fairly new. The As-built on file does not show any of these items. So between the time the As-built was done and now, these items were added.

Mr. Haberman asked if that included the landings and the stairs to which Ms. Stock repeated they were not there when the As-built was submitted for the Certificate of Occupancy.

Mr. Pergola said there were two previous owners. One who built the home in 2000 and another owner who was there for two years. He purchased the home about two years ago.

Mr. Spangler asked if they are claiming their hardship is naivety to the need for building permits.

Mr. Pergola said the contractor should have taken the permits and they are responsible for that. He said they are claiming there is a legitimate case for a variance because of the steep slope of the lot. The only way to get from the front to the back is by way of the stairs and the landings. The fence provides off street parking and some private usable space. The hardships are the physical dimensions, the topography and the placement of the house on the lot. The contractor had pulled and posted permits, but not for these items.

Chrmn. Haberman asked if these stairs and landings lead you into the house to which Mr. Pergola said they get you up the property. He added the fence is really on the side yard.

Ms. Brinkerhoff stated they did install the Belgian brick so there would be enough off street parking for two, possibly three cars. The plan did evolve as it went along, it wasn't planned that way right from the beginning.

FAVOR:

Gisela Boxleitner and Glen McDermott, 40 Soundview Avenue, supports their claim for a variance as it is a challenging property.

OPPOSED:

Aileen J. Waterhouse, 88 Summit Avenue, said she has lived there since 1955. When this house was built she lost her views of the water. It is a large house on a small lot. She is against the fence.

Terrance J. Saunders, 25 Highview Avenue, directly behind 46 Soundview Avenue. He has lived there for 24 years. The original house was a small cottage. There were two link fences between the properties. A retaining wall was built and a fence placed on top of the wall. The first owner had a lawn, the second owner put in a driveway and Michael and Lynn built the patio with the fence around it. He is opposed to the fence although it does give him privacy in his kitchen.

Mr. Carey stated the portion of the fence in violation is the fence on Summit Avenue.

REBUTTAL:

Mr. Pergola said there is a genuine hardship. He repeated the hardships and stated he is willing to work with the Board.

The hearing was closed.

DISCUSSION:

Mr. Spangler asked Ms. Stock what percentage of land could be covered to which she answered 65% but added if there is crushed stone or patio block, that doesn't count because it is pervious. Ms. Seltzer said the fence is too tall, but everything else was fine due to the topography and size of the lot. Mr. Haberman said there wasn't a hardship for the fence. He could understand the need for the stairs and landings but felt the sheds could be moved. Ms. Seltzer felt the sheds should remain as there was a need for them.

Ms. Seltzer made a motion to split the application. She made a motion to deny the fence and approve the other variances for all the sheds and landings and stairs with Mr. Carey seconding. The reason for denial is the fence is too tall and isolates the property and is not in character with the neighborhood. Everything else has a hardship and is a necessity for their quality of life. The motion carried unanimously with Ms. Seltzer, Messrs. Carey, Spangler, Hulme and Haberman voting.

2. **347 Wolf Harbor Road** (Zone RA) Kevin & Cheryl Reed, owners – request to vary Sec. 4.1.4 projections from 4' allowed to 8.5' to construct deck. Map 114, Block 914, Parcel 14.

Kevin Reed, 347 Wolf Harbor Road, stated his house was built prior to zoning in 1920. The deck will be constructed off the back of the living room and kitchen. It will not encroach any further into the side property line than the existing house.

Chrmn. Haberman asked what the hardship was to which Mr. Reed answered the location of the house on the lot, which predates the zoning regulations. Chrmn. Haberman added it also appears the house is set forward on the lot and is irregular in shape.

There being no one to speak in favor or opposition the hearing was closed.

DISCUSSION:

Chrmn. Haberman said the shape of the lot is the hardship and the deck will not encroach any further into the setback. Mr. Hulme added the applicant is keeping the same lines as the house and agreed the placement of the house and the shape of the lot are hardships. Ms. Seltzer added her agreement to what was said and added this is the best the applicant can do.

Mr. Carey made a motion to approve with Ms. Seltzer seconding. The hardships are the shape of the lot and the placement of the house on it. He added the deck will not protrude any further into the setback than the house already is. The motion carried unanimously with Ms. Seltzer, Messrs. Carey, Spangler, Hulme and Haberman voting.

3. **31 Underhill Road** (Zone R-10) Christopher & Maryanne Weishaupt, owners – request to vary Sec. 4.1.4 projections from 4' allowed to 13.1' to construct porch and stairs. CAM required. Map 35, Block 438, Parcel 14.

Maryanne Weishaupt, 31 Underhill Road, said the variance is to move the door, from the side by the driveway to the front of their home. Her hardship is the house, built in the 1940's, is set forward on the property. They are looking to add a porch and stairs.

There being no one to speak in favor or opposition the hearing was closed.

DISCUSSION:

The Board discussed the item.

Mr. Carey made a motion to approve with Mr. Hulme seconding. The hardship is the placement of the house on the lot. If the house were centered there would be no need for a variance. The motion carried 4-1 with Messrs. Carey, Spangler, Hulme and Haberman in favor and Ms. Seltzer against.

4. **68 Live Oaks Road cor. Paul Braun Court** (Zone R-12.5) Patrick Regan, appellant, for Sean & Edward J. Burke & Kevin Leydon, owners – request to vary Sec. 3.1.4.1 side yard setback from 10' to 4.5' to construct attached garage. CAM required. Map 93, Block 703, Parcel 5H.

Withdrawn.

5. **31 Cherry Street** (Zone RO) Fred P. Petrella, appellant, for 31 Cherry St. Assoc. LLC, owner – vary Sec. 5.3.4.1 sign area from 14 sq. ft. (granted by variance) to 38 sq. ft. and from 10' from property line to 8'3" to allow sign to remain. Map 65, Block 817, Parcel 13.

Fred Petrella, 431 Orange Street, New Haven, said the variance is for the directory sign they put up in the same location, the same height and the same dimensions as the previous sign. No permit was pulled because he didn't think he had to get one to replace it with the same thing. The original owners probably put the sign in that location because if it were pushed back any farther, it couldn't be seen until you were right on top of it because the apartment building next store, is so close to the road. The sign is imbedded in concrete. He renovated a dilapidated building to a multi-tenant office building and needs a sign that would allow him to display up to ten individual names.

Chrmn. Haberman said compared to the other signs on the street, it is no bigger nor is it located any further out than the other signs.

Ms. Seltzer asked Ms. Stock to clarify the variance request to which Ms. Stock answered it is 1'9" closer to the road than the other signs. A variance was granted for the sign to be 14 sq. ft. but the previous owner, without a permit, just made the sign larger. Mr. Petrella is using the dimensions of the other sign, but the other sign didn't have a variance to be that big. The previous owners just made it that big without any permits. The other signs on Cherry Street are mostly the same size.

There being no one to speak in favor or opposition the hearing was closed.

DISCUSSION:

Chrmn. Haberman said it seems to conform to the other signs. Ms. Seltzer didn't think there was a problem even though the sign was a little closer to the road.

Mr. Carey made a motion to approve with Ms. Seltzer seconding. It conforms with the other signs on that street. The motion carried unanimously with Ms. Seltzer, Messrs. Spangler, Carey, Hulme and Haberman voting.

6. **18 Elder Street cor. Bassett Street** (Zone RMF-16) Lori Semrau, owner – vary Sec. 4.1.4 to allow deck with rear yard setback of 19' where 21' is required. Map 35, Block 424, Parcel 1.

Lori Semrau, 18 Elder Street, said she purchased her condo last summer. She discovered the condo association had previously been approved for a variance to construct a deck for each of the ten units. No one was aware that after one year the approval would expire. Four of the units had the decks constructed. She wants to have this reapproved so she may build her deck. Another neighbor will be before the Board next month. All the dimensions will remain the same.

FAVOR:

Kathleen Britton, 32 Elder Street, president of the condo association, said she is in favor of the application.

Karen Karste, 16 Elder Street, said she has an existing deck and is in favor of the application.

The hearing was closed.

DISCUSSION:

Chrmn. Haberman said this is a reapproval of a previously granted variance.

Mr. Carey made a motion to approve with Ms. Seltzer seconding. It is a reapproval of a previous variance that expired. The motion carried unanimously with Ms. Seltzer, Messrs. Spangler, Carey, Hulme and Haberman voting.

7. **50 Long Island View Road** (Zone R-10) Mark Paglinco, appellant, for Kathleen Paglinco, owner – vary Sec. 3.1.4.1 rear yard setback from 25' to 7'; front yard setback from 25' to 14' to construct one story addition and wrap around porch. CAM required. Map 47, Block 526, Parcel 19.

Withdrawn.

8. **114 Monroe Street thru Maplewood Avenue** (Zone R-7.5) John D. Heher, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 2.9' to allow dwelling to remain. Map 20, Block 259, Portion of Parcel 1.

John D. Heher, 172 Ryegate Terrace, Stratford, said he is looking to vary the side yard to 2' to upgrade the dwelling, built in 1930. The interior is being renovated. He is not going outside of the footprint of the home.

Chrmn. Haberman confirmed the applicant was doing a lot of renovations to an existing non-conforming house to which Mr. Heher agreed.

There being no one to speak in favor or opposition the hearing was closed.

DISCUSSION:

Chrmn. Haberman repeated it is an existing non-conformity and will not encroach any further.

Mr. Carey made a motion to approve with Ms. Seltzer seconding. The only reason he is here is because of the extensive amount of renovating to be done. The motion carried unanimously with Ms. Seltzer, Messrs. Carey, Spangler, Hulme and Haberman voting.

9. **11 Oljay Terrace cor. Red Root Lane** (Zone RA) Allan T. Wilcox, owner – request to vary Sec. 4.1.1.3 accessory building height from 15' to 25'; vary Sec. 11.2 to allow 768 sq. ft. structure where 570 sq. ft. is permitted. Map 119, Block 905, Parcel 16F.

Allan T. Wilcox, 11 Oljay Terrace, passed out booklets to the Board. He lives in a reproduction of an early American New England Saltbox and wants to build a companion early American New England plain style barn. The barn will be used for storage and workshop space for his hobbies and interests in his retirement years. No animals or commercial use. The lot slopes from right to left towards Red Root Lane and also from front to back to the left rear corner by Red Root Lane. The barn is downhill from the house so it will appear smaller than the house. The lower level will be surrounded by a treed berm so it will appear to be one story when viewed from either Red Root Lane or Oljay Terrace. What people see will be about 18' high. All his neighbors have given their approval and their letters are in the booklets he passed out. He said Milford is a diverse City with different zone sizes and density. It is hard to create one set of rules that fits all circumstances. He feels he is not asking for anything unreasonable in an RA zone. This barn would be unfavorable in a smaller zone but not in his zone. It would be a tasteful building, in a rural area, not really that high or big, with neighbors' support.

Chrmn. Haberman asked what the hardship was to which Mr. Wilcox said the rules. They are over restrictive for an RA zone. One set of rules for all the zones in Milford is difficult.

Ms. Seltzer asked why such a tall building is needed.

Mr. Wilcox answered he is being penalized because he is having a basement.

Chrmn. Haberman stated a barn could be built without a variance and asked why it needed to be so big.

Mr. Wilcox said he doesn't think it is that big.

FAVOR:

Dale Schmidt, 23 Oljay Terrace, said he has reviewed the plans and sees no problem with the application.

The hearing was closed.

DISCUSSION:

Mr. Spangler said because of the size of the lot, he doesn't see a problem with either the height or the square footage of the barn. It won't block anyone's view. Mr. Hulme added he also has letters from 11 of his 12 neighbors in favor of the application. Chrmn. Haberman added he didn't see a hardship. The Regulations are not a hardship. He felt a barn could be built without coming before the Board. It is something Mr. Wilcox would like to have but that is not grounds for the Board to grant it. Ms. Seltzer agreed with Chrmn. Haberman and added the Regulations were created with limits; there is no hardship.

Ms. Seltzer made a motion to deny with Mr. Carey seconding. The application doesn't fit the Regulations and there is no hardship. The motion failed to carry 3-2 with Ms. Seltzer and Messrs. Carey and Haberman voting in favor and Messrs. Spangler and Hulme voting against.

Mr. Spangler made a motion to approve with Mr. Hulme seconding. Due to the size of the property, the barn will not block any views and will be set far enough away from the house. The motion failed to carry 2-3 with Messrs. Spangler and Hulme voting in favor and Ms. Seltzer, Messrs. Carey and Haberman voting against.

B. TABLED BUSINESS

C. OLD BUSINESS

D. NEW BUSINESS

1. **454 West Avenue** – request for an extension of time.

Ms. Stock read the letter from the owner, Paul Pitney, into the record and stated this variance was originally granted in May of 2007 for both a side yard and front yard setback to construct a two story addition.

Mr. Carey made a motion to approve the extension of time for one year with Ms. Seltzer seconding. The motion carried unanimously.

2. **175 Third Avenue** – request for an extension of time.

Ms. Stock read the letter from the architect, Valerie White, into the record, and stated this variance was granted in May 2007 to demolish the existing home and construct a new single family dwelling. The next door neighbors took an appeal of the Board's decision and lost but are now taking their appeal to a higher court. The applicant cannot do anything until the court settles the matter.

Mr. Carey asked Ms. Stock if a motion could be made to approve an extension of time for one year from the date the court case is settled to which Ms. Stock answered yes.

Mr. Carey made a motion for an extension of time for one year from the date the court case is settled with Ms. Seltzer seconding. The motion carried unanimously.

E. STAFF UPDATE

Ms. Stock stated at one point, there was a possibility that tonight's hearing might have to be postponed due to the lack of a quorum. She acknowledged the Board members efforts and thanked everyone for attending the hearing this evening.

F. ACCEPTANCE OF MINUTES FROM MARCH 11, 2008 MEETING.

The minutes were approved unanimously.

G. ACCEPTANCE OF APPLICATIONS FOR MAY 13, 2008 MEETING.

The meeting was adjourned at 8:40 p.m.

Attest:

Rose M. Elliott
Clerk - ZBA