

## **Minutes, Public Hearing of Zoning Board of Appeals Meeting held 9 April 2019**

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 9 April 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 / ROLL CALL**

**Mr. Tuozzola** asked for board member conflicts of interest with any agenda items; none were raised. He asked Mr. Hirsch to substitute for Ms. Ferrante, and asked Mr. Dubois to vote in place of Ms. Valiquette.

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

**ALTERNATES PRESENT:** Michael Casey, Gary Dubois, Etan Hirsch

**MEMBERS/ALTERNATES ABSENT:** Sarah Ferrante, Christine Valiquette

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

### **B. CONSIDERATION OF AGENDA ITEMS**

1. **793 Milford Point Road.** MBP 19/249/9. R-7.5, Kevin Curseaden, Esq. for Bella Properties Milford, LLC, Sec. 9.2.1 Appeal the Decision of the ZEO's Notice of Violation dated 1/28/2019 regarding a 3<sup>rd</sup> unpermitted dwelling unit and storage of a commercial container.

**Attorney Curseaden** requested a postponement of this item.

2. **25 Chevelle Place.** MBP 86/916/7E, R-A, Kristen Jacob and Todd Nichols, owners, Vary sec. 3.1.4.1 west side-yard setback to 8.7' where 25' req. for addition.

**Mr. Nichols** addressed the board. He said he wished to renovate their garage and the yard was constrained by the septic system.

### **DISCUSSION**

**Mr. Tuozzola** confirmed that the septic system was behind the existing garage and that the leeching fields are about 1116 sq feet. He confirmed the location of the deck. **Mr. Nichols** said placing the garage in the back would alter the contemporary roofline of the house and necessitate extensive change to the existing roof and vaulted ceiling. **Mr. Soda** asked to see a copy of the septic plan. He confirmed that the house was built 1983 and should have an as-built survey to locate the septic system. **Mr. Hirsch** asked if the septic system weren't there, would the owner still request a variance. **Mr. Soda** asked if a sewer hook-up was available; **Mr. Nichols** confirmed that it probably was. **Mr. Tuozzola** said the variance seemed excessive to him. **Mr. Wolfe** asked if a neighbor was on septic.

### **BOARD DISCUSSION**

**Mr. Tuozzola** asked if anyone wished to speak in favor of or in opposition to the application. Hearing none, he closed the hearing.

**Mr. Soda** suggested a design that would avoid the need for a variance. **Mr. Hirsch** felt the hardship was not sufficient.

**Mr. Soda** motioned to **deny without prejudice**. **Mr. Hirsch** seconded. **Mr. Soda** said he felt there was no demonstrated hardship; in accordance with submitted materials. The motion carried with **Messrs. Dubois, Soda, and Tuozzola** voting **with the motion**. **Mr. Wolfe** voted **against the motion**.

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3. **6 Bayshore Drive** MBP 29/586/3. R-5, Cheryl and Kimm Warren, owners, Vary sec. 4.1.7.3 fence in yard that abuts Long Island Sound.

**Ms. Warren** addressed the board. She described the fence on her property as predating Storms Irene and Sandy, having been damaged by the storms, and how she had replaced it. She described her anxieties about safety risks to the children of families in summer rentals, saying the families were unfamiliar with the tidal water rise and that the fence helped keep children away from danger. She said she had gotten questions from her neighbors about her intentions for the fence; that her intent was not to use the fence to control her two dogs, but to protect children from risk. She submitted photographs showing the high water mark and bulkhead with a sandy drop formed by shifting water currents. She expressed particular concern about short-term rental families not being aware of risks.

### DISCUSSION

**Mr. Tuozzola** confirmed that the fence became a problem after the storms. **Mr. Hirsch** confirmed the timeline of the fence's destruction and repair, and noted that a cease and desist order was issued. **Ms. Warren** said she was trying to legalize the fence with a variance and had intended to do so earlier on. **Mr. Harris** said several properties repaired fences close to Long Island Sound after the storms, resulting in cease and desist orders to as many of them as possible since such fences are not permitted. **Mr. Soda** confirmed that the bulkhead could be a tripping hazard without the heightened visibility of the fence. **Mr. Tuozzola** confirmed that the bulkhead could be completely submerged at times. **Mr. Soda** and **Mr. Hirsch** discussed the nature of the tripping hazard.

### FAVOR

**Ruth Rizzo**, 6 Melba Street, said children play in the area and at high tide it would be easy for them to fall into the 4' of water that is typical then.

### BOARD DISCUSSION

**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. Hirsch** motioned to **approve**. **Mr. Soda** seconded. **Mr. Hirsch** supported the motion based on the hardship of the lot and safety/liability risk; in accordance with submitted materials. The motion carried with **Messrs. Dubois, Soda, Wolfe** and **Tuozzola** voting **with the motion**.

4. **67 Maple Street**, MBP 65/313/43. R-12.5, Vary sec. 11.2 definition of Accessory Structure to allow garage with footprint of 1064 sq. ft. where 528 sq. ft. permitted..

**Attorney Lynch**, 63 Cherry St., provided handouts and addressed the board. He noted the presence of his clients. He said the project was to expand the size of the garage. He said that residences built in the 1920s often had detached garages and had previously been carriage houses or barns. He said the home was in a historic district and on that part of Maple Street where the lots are very narrow and deep. He said parking is a problem on that part of Maple Street due to the limited number of larger garages. He said the plan was to remove the existing garage and add the one described. He said that if the house were on a more rectangular lot, there could be a similar attached garage which would not require a variance. He referred to an elevation drawing showing a conforming roof height. He compared the project to garages in the area that currently exceed the 50% footprint. He said the structure would not obstruct the neighbors or intrude on their privacy, but be close to a factory.

### DISCUSSION

**Mr. Tuozzola** asked if any of the nearby properties had garages that were as large as the proposed one; **Attorney Lynch** said only one. **Mr. Tuozzola** expressed concern that the garage seems extremely large. **Mr. Hirsch** confirmed that the

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project would be one of only 2 garages with 3 bays in the area. **Mr. Soda** said that as a contractor, he personally doesn't like the 50% rule, but he felt that the overage of this percentage was too much. He suggested moving the access door to the side to reduce the size. **Mr. Tuozzola** said the garage doors themselves seemed overly wide. **Mr. Wolfe** confirmed that the access door is to put things in storage above the parking area.

### **BOARD DISCUSSION**

**Mr. Tuozzola, Mr. Hirsch** and **Mr. Soda** discussed ways to reduce the size. **Mr. Tuozzola** asked if anyone wished to speak in favor of or 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 **deny without prejudice**. **Mr. Wolfe** seconded. **Mr. Soda** supported the motion based on the lack of a demonstrated hardship; in accordance with submitted materials. The motion carried with **Messrs. Casey, Dubois, Soda, Wolfe** and **Tuozzola** voting **with the motion**.

**C. OLD BUSINESS**-None

**D. NEW BUSINESS**-None

**E. STAFF UPDATE**-None

**F. ACCEPTANCE OF MINUTES** 12 March 2019: Approved.

**G. ACCEPTANCE OF APPLICATIONS** for 14 May 2019 hearing. Staff noted one more extension for the 793 Milford Point Road and another application that missed the April deadline.

Adjournment was at 7:48 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