

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 April 2018

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 10 April 2018, 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 / ELECTION OF OFFICERS/ROLL CALL

Mr. Tuozzola called the meeting to order at 7:00 pm. He welcomed new board member **Christine Valiquette**. **Mr. Tuozzola** asked for conflicts of interest board members might have with any agenda items; none were raised.

MEMBERS PRESENT: Joseph Tuozzola (Ch), Sarah Ferrante, William Soda, John Vaccino, Christine Valiquette

ALTERNATES PRESENT: Gary Dubois, Etan Hirsch

MEMBERS/ALTERNATES ABSENT: Michael Casey

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

B. CONSIDERATION OF AGENDA ITEMS

1. **40 Crabtree Lane**, MBP: 12/62/2. R-7.5. Section 9.2.1. Appeal of zoning permit dated 10/24/17. Applicant: Danielle Bercury, Esq., for Robert Farakos. Owner: RMF Builders, LLC.

Mr. Tuozzola noted that this item had been extended from last month. He asked for Mr. Dubois to act in Ms. Valiquette's stead because she was not present for the initial hearing of this item.

Attorney Bercury, Brenner, Saltzman & Wallman, LLP, New Haven, addressed the board. She ascertained that there was a quorum of voting members. She reviewed the arguments given in her original presentation, her take on the previously submitted memorandum of the Assistant City Attorney, and the court decision. She referred to a handout she had provided prior to the meeting regarding a case called Caserta v. Milford ZBA. She discussed the powers of the ZBA to review a decision made by a ZEO as it related to the Caserta case. She discussed the circumstances surrounding the assertion that the ZEO decision should have been appealed to the Superior Court. She said the administrative decision of the chairman of the Planning and Zoning Board did not satisfy the need for a full hearing on the matter, and might not have been accepted by the Court. She asked the board's fresh consideration.

DISCUSSION

Mr. Soda asked when the lot line adjustment was made. **Attorney Bercury** said the decision was taken 19 April 2016 with a publication date of 26 April 2016. She said there was confusion over how and when the decision could have been appealed. **Mr. Soda** asked for a review of the history of the lots from 2001; **Attorney Bercury** said the lots had been merged by then-ZEO Crabtree. **Mr. Harris** stated that reviewing the actions of the Planning and Zoning Board are not the purview of the ZBA. He stressed that the only issue before the board was whether the permit was lawfully issued.

FAVOR

Gerald Sheen, 46 Crabtree Lane, reaffirmed his recollection that then-ZEO Crabtree had pronounced the lots merged.

Robert Farakos, 35 Deerfield Rd, reviewed characteristics of the lots and asserted that the lots had been merged.

OPPOSED

ZEO Harris reiterated that the only question before the ZBA was whether a permit could be issued for a legal lot of record.

Attorney Curseaden, Carroll, Curseaden and Moore, 3 Lafayette St., referred to his previously submitted handout, saying its content was substantial, thorough, and honest. He said that the decision of a Planning and Zoning Board

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 April 2018

chairperson could not be appealed to the ZBA, only the decisions of ZEO. He reviewed the history of the lots back to the original subdivision map where 2 lots were certified. **Mr. Soda** asked for clarification of which lot line had been certified relative a shed, trying to determine that lots 133 and 132 became 40 Crabtree Lane.

REBUTTAL

Attorney Bercury reiterated her assertion that the lots were merged in 2001, and that no building lot existed. She said an appeal to Superior Court might have been rejected.

Mr. Tuozzola closed the hearing. **Mr. Soda** moved to hold off the vote until May; **Ms. Ferrante** seconded. The motion carried with **Ms. Ferrante**; and **Messrs. Dubois, Soda, Vaccino, and Tuozzola** voting **with the motion**.

2. **1A Seaview Avenue.** MBP: 6/84/45. R-10. Section 9.2.1. Appeal of Cease and Desist Order concerning height of fence along Westerly side of property. Applicant/Owner: Laurel Sands Condominium.

Mr. Harris advised that the Seaview applicant was negotiating and asked if the item could be postponed until later in the hearing. The attorneys for both parties later asked to table the item until May; the chairman agreed to this. [See **NOTE below**.]

3. **80 Surf Avenue.** MBP: 27/472A/42. R-10. Skinner Enterprises, Inc., applicant represented by attorney Kevin Curseaden; JJV, LLC, owner; variance of Sec 3.1.4.1, front-yard setback to 6.3' where 25' required; Sec 4.1.4, deck proj. to 6.3' where 21' perm., eave proj. to 5' where 21' perm.; all to build a new single family dwelling.

Attorney Curseaden, Carroll, Curseaden & Moore, 3 Lafayette St., addressed the board. He said the lot had been comprised of 3 combined lots from an older subdivision. He noted that the lots were not square to the street and the developer, Mr. Skinner, put the house at an angle to the street to make it look better. He noted that a paper street went along one side as well as wetlands. He said the variance requests to construct a single family home were to make a livable house in a lot with 2 front yard setbacks. He noted that the extra variances were required by satisfying projections into the setbacks as well as the setback variances themselves.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or 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 **approve**. **Mr. Vaccino** seconded. **Mr. Soda** supported his motion by reason of the corner lot with 2 front yard. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Soda, Vaccino, and Tuozzola** voting **with the motion**.

NOTE: Mr. Tuozzola seated **Ms. Valiquette**. He also acknowledged a request for 1a Seaview Avenue to be postponed to the May hearing.

4. **107 Melba Street.** MBP: 29/587/36. R-5., K. Curseaden, Esq., applicant for Craig Southard and Geri Southard, owners; all requests listed below are to construct a new single family dwelling:

Vary Sec.3.1.4.1:

- West SY of 4.6' where 10' req.
- East SY of 3.8' where 5' req.
- Lot coverage 79.9% where 65% perm.

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 April 2018

Vary Sec.4.1.4,

- West eave proj. to 3.6' where 8' perm.
- East eave proj. to 2.8' where 4' perm.
- East front deck proj. to 3.8' where 4' perm.
- West front deck proj. to 4.6' where 8' permitted
- East rear deck proj. to 3.8' where 4' permitted

Attorney Curseaden, Carroll, Curseaden and Moore, 3 Lafayette St., addressed the board. He noted the presence of the Southards. He said architect Jim Denno could not attend, but that Mr. Denno had made revisions to the plan based on the board's concerns in January. He described removal of or reductions in roof deck projections. He said the house was keeping to the existing side-yard setbacks. He said the hardship of the lot was that it featured ½ the required lot width for the zone and crossed flood zones that mandate elevation. He said the lot coverage was being reduced from 99% and that the new structure would be 100% FEMA compliant for flood mitigation. He said there was redundancy between setback and projection variance requests. He said there was precedent to grant variances in the neighborhood.

DISCUSSION

Mr. Tuozzola noted that the house could be rebuilt entirely on the same footprint without variances. **Attorney Curseaden** said the owners wanted to move it away from the higher risk flood zone. **Mr. Soda** discussed the new footprint and narrowness of the lot.

FAVOR

Craig Southard thanked the board for its advice in January. He noted removal of a deck and staircase. He said reducing the width of the home further would make it feel like a trailer. He said he wanted to move the home away from the water.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in opposition to the application. Hearing none, he closed the hearing. **Mr. Soda** was satisfied that the Board's earlier suggestions were incorporated in the revision. **Mr. Vaccino** agreed, but wasn't sure it went far enough. **Mr. Soda** noted that the staircase took up much interior space. **Mr. Vaccino** wondered if the driveway could be reduced in size to reduce lot coverage. **Mr. Soda** and **Ms. Ferrante** thought this was desirable. **Mr. Harris** pointed out that a calculation for the new lot coverage percentage would have to exist to allow a vote. **Mr. Harris** said that the board could grant all variances except lot coverage and attach a condition that prior to a permit being issued, the lot coverage be made conforming.

Mr. Soda motioned to **approve with the condition that prior to permit issuance, the applicant make the lot coverage conform to the zone**. **Mr. Vaccino** seconded. The motion carried with **Mss. Ferrante** and **Valiquette**; and **Messrs. Soda, Vaccino, and Tuozzola** voting **with the motion**.

5. **16 Point Lookout East**. MBP: 28/581/19. R-12.5. Thomas Lynch, Esq., for Linda Fogler, owner; variance of Sec 3.1.4.1 side-yard setback to 5.7' where 10' req. to construct addition to single family dwelling.

Attorney Lynch, Lynch, Trembicki & Boynton, 63 Cherry St., addressed the board. Prior to Attorney Lynch's remarks, **Mr. Tuozzola** confirmed that the placard was placed last month. **Attorney Lynch** noted that Ms. Fogler was a lifelong Milford resident, a fellow attorney, and had purchased the parcel to be closer to family. He described the house redesign by architect John Wicko. He said widening the garage created the need for a variance. He said the lot was also pie-shaped, creating a hardship.

DISCUSSION

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 April 2018

Mr. Tuozzola remarked that the house fit the lot well, but asked about the width of the garage, which **Mr. Soda** confirmed was 15.25'.

Mr. Vaccino asked for more detail about the garage expansion. **Attorney Lynch**, **Mr. Soda**, and **Mr. Vaccino** discussed what portion of the layout was the kitchen versus the garage.

FAVOR

Attorney Lynch submitted an email from a neighbor.

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. Soda motioned to **approve**. **Ms. Ferrante** seconded. **Mr. Soda** supported his motion by reason of the hardship of the pie-shaped lot. The motion carried with **Mss. Ferrante** and **Valiquette**; and **Messrs. Soda**, and **Tuozzola** voting **with the motion**. **Mr. Vaccino** voted against the motion.

6. 78 North Rutland Road. MBP: 85/925/9A. R-30. Chelsea & Logan Casey, owners; variance of Sec 3.1.4.1 west side-yard setback to 15' where 20' req. to construct 2-story addition; 4.1.4 front-yard projection to 22.5' where 46 perm. west side-yard eave to 14.5' where 16' perm; all of this is to modify a single family dwelling.

Mr. Casey addressed the board. He said he purchased the property a year previous. He said the trapezoidal shape of the lot created a hardship and added to this, the rear of the property had been a leach field. He described the position of the house at the end of a dead end street. He said the neighbors were in support.

DISCUSSION

Mr. Tuozzola confirmed that the house was at an angle to the front of the lot and that the applicant wanted to extend the kitchen 6' and put on a front porch. **Mr. Casey** said he was trying to add space to a small cape with small dormers. He said the square footage would increase from 1300sf to 2200sf. **Mr. Vaccino** confirmed that no variance was needed to add a 2nd floor. **Ms. Ferrante** said the required front-yard setback today would be 50' and that this would cut into the existing house. **Mr. Casey** said the rear yard was restricted by power lines and reiterated that the house sat at a difficult position on the lot.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or 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 **approve**. **Ms. Ferrante** seconded. **Mr. Soda** supported his motion by reason of the house's diagonal position on the lot. The motion carried with **Mss. Ferrante** and **Valiquette**; and **Messrs. Soda**, **Vaccino**, and **Tuozzola** voting **with the motion**.

7. 88 Bray Avenue. MBP: 15/43/13. R-10. Linda Testone, owner; variance of Sec 3.1.4.1 front-yard setback to 17' where 25' req.; 4.1.4 projection to 6.2' where 21' permitted to construct addition and fireplace on a single family dwelling.

Ms. Testone addressed the board. She described the project of adding a gas fireplace bump-out and a room now planned as an art room, but eventually to be converted to a bedroom to allow her to age in place on one level.

DISCUSSION

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 April 2018

Mr. Tuozzola confirmed the location of the garage and asked **Ms. Testone** to review the plan. **Mr. Vaccino** asked about the size of the garage; **Ms. Testone** said she needed storage for art supplies and stairs providing access to the house.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or 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.

Ms. Ferrante motioned to **approve**. **Ms. Ferrante** seconded. **Mr. Soda** supported his motion by reason of position of house on lot. The motion carried with **Mss. Ferrante** and **Valiquette**; and **Messrs. Soda**, , and **Tuozzola** voting **with the motion**. **Vaccino** **against**

8. 32 Gulfview Court. MBP: 37/588/5C. R-12.5. Doron Munzer, owner; variance of Sec 3.1.4.1 side-yard setback to 9.1' where 10' req.; 4.1.4 front-step projection to 19.2' where 26' permitted and front-porch projection 23.6' where 26' permitted; 6.3.2 expand a nonconformity; all to construct a new single family dwelling on existing footprint with additions.

Mr. Munzer addressed the board. He said personal health hardship previously prevented him developing the property. He said he subsequently scaled down his original ideas and wished to keep the existing basement, but noted that the foundation was already nonconforming. **Mr. Tuozzola** and **Mr. Harris** discussed the need for a small variance that extends past the current footprint.

Dan Pato, architect, 128 York St., Stratford, said the goal was to stay in the existing footprint of the garage, but add some storage. He described that the area that protrudes into the setback. He said bringing the garage forward reduces the current nonconformity, but any changes to the front of the house would require a variance.

OPPOSED

Frank Bonisch, 22 Gulfview Court, said he was disappointed that his view would be obstructed, but understood the owner could do this by right. He expressed concern about asbestos and lead paint being present in the house. **Mr. Soda** described the process for legal demolition.

BOARD DISCUSSION

Mr. Tuozzola closed the hearing. After a short discussion, there were no issues in dispute, so he asked for a motion.

Mr. Soda motioned to **approve**. **Ms. Ferrante** seconded. **Mr. Soda** supported his motion by reason of irregular position on a cul de sac. The motion carried with **Mss. Ferrante** and **Valiquette**; and **Messrs. Soda**, **Vaccino**, and **Tuozzola** voting **with the motion**.

B. OLD BUSINESS-None

C. NEW BUSINESS-Turek

Mr. Harris advised the board that their decision regarding **59 Hillside Drive** had been appealed to Superior Court and the City Attorney's office has asked for ZBA review pending potential action in Appellate Court. After a short discussion, **Mr. Vaccino** motioned to file an action in the Appellate Court; **Mr. Soda** seconded; the motion passed unanimously.

D. STAFF UPDATE-None

E. ACCEPTANCE OF MINUTES 13 February 2018: Approved.

G. ACCEPTANCE OF APPLICATIONS for 8 May 2018 hearing.

Adjournment was at 9:05 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.**

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 10 April 2018

Attest:

Meg Greene
Clerk, ZBA