

## **Minutes, Public Hearing of Zoning Board of Appeals Meeting held 13 April 2021**

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held remotely on Tuesday, 13 April 2021, beginning at 7:00 p.m. via ZOOM<sup>®</sup>, 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 reviewed guidelines for online public meetings. He asked **Mr. Hirsch** to vote for Ms. Valiquette who was excused, and **Mr. Dubois** for Mr. Wolfe, who logged in after the first item.

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

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

**MEMBERS/ALTERNATES ABSENT:** Christine Valiquette

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

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

- 1) **45 Lawrence Avenue** MBP 28/580/3; R-5; John Robertson, agent, for Tracy Schultz, owner; Vary section 6.3.2 to expand non-conforming structure; section 3.1.4.1 side-yard setback to 1.3' and 1.8' on southerly side where 5' required; side yard setback to 9.8' where 10' required on northerly side to construct a 2-story addition which adds 14' to house's footprint toward First Avenue and adds 7.8' to the house's footprint toward Lawrence Avenue.

**Mr. Robertson** addressed the board. He reviewed the site plan and stated that the house is already nonconforming. He said the aim was to build above the existing porches on both ends but keeping to the current shape of the house. He said the lot is very narrow and the house now only comprised of 1000 sf. He said there are many precedents on the street, drawing attention to abutting houses on the site plan and showing the similarities. He said he and Ms. Schultz had presented the project in detail to their neighbors and had received 19 signatures of approval, including approval from the direct abutters.

**Mr. Soda** got clarification about the footprint of the porch from Mr. Robertson. **Mr. Harris** shared the definition of a projection, which includes porches. **Mr. Hirsch** asked about enclosing the porch; **Mr. Harris** said there is an obscure regulation that allows a porch to be enclosed if the property shows a porch on an old field card. **Ms. Ferrante** confirmed that the current house is approximately 1000 and the plan would add about 800 sf.

**Mr. Tuozzola** asked if anyone wished to speak in opposition to the application; hearing none, closed the hearing.

### **BOARD DISCUSSION**

**Mr. Hirsch** reiterated his concern about increasing density on the shoreline. Mr. Soda said the back addition is warranted and would support it, but not the front. **Mr. Tuozzola** asked for a motion.

**Mr. Soda** motioned to **approve the First Avenue portion of the request, but not the Lawrence Avenue portion**, based on submitted materials. **Ms. Ferrante** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Soda, and Tuozzola** voting **with the motion**.

**Mr. Wolfe** was seated.

- 2) **775 Oronoque Road** MBP 84/935/4; HDD; Dan Fitzsimmons, agent, for Southern CT Gas Company, owner; Vary Section 4.1.7.4 to replace existing 8' perimeter fence with 15' security fence.

**Mr. Fitzsimmons** addressed the board and introduced David Senecen, the new supervisor at the Milford SCG property, and Robert Paruolo, supervisor at the SCG Rocky Hill plant where a similar fence has already been erected. He reviewed details of the project and said the request was to increase the fence height from 8' to 15', which includes the wire on top. He said the impetus for the request was a Department of Homeland Security recommendation for securing critical infrastructure. **Mr. Tuozzola** asked if Mr.

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Fitzsimmons could forward a copy of non-sensitive documentation supporting the request from the DHS, which Mr. Fitzsimmons said he could supply.

**Mr. Tuozzola** asked if anyone wished to speak in favor of or opposition to the application; none did. He asked to table until the May meeting until DHS information could be circulated to the board. He motioned to table and the motion passed without exception.

- 3) **33 West Orland Street** MBP 38/561/28; R-5; Thomas Lynch, Esq., for David Culhane, owner; Vary 3.1.4.1 rear-yard setback to 0.4' where 5' required, side-yard to 1.8' where 4' required to construct 2<sup>nd</sup> story loft addition; vary 4.1.5, patio to 1.8' where 4' permitted.

**Attorney Lynch**, 63 Cherry St, addressed the board. He introduced Mr. Culhane, noted that the lot in question is 30' wide, built in 1925, and has no basement for storage. Attorney Lynch said his client wishes to demolish the existing 2-car garage and build a new one on the same footprint but with a storage loft above. The request also includes a patio to the side of that garage due to the small lot. He said the existing garage is nonconforming, but the intent is not to expand the nonconformity. He said his client also owns the abutting lot at 37 West Orland, so the impact is to any other abutter is not an issue. He said the hardship is narrowness of lot and the placement of structures on the property.

### DISCUSSION

**Mr. Tuozzola** noted that a similar appeal was brought in 2017, but **Attorney Lynch** said height of the proposed garage had been reduced. He also noted that Mr. Culhane had personally presented the application and failed to describe a hardship. He said the proposed height is now conforming but had not been conforming in first application. **Mr. Tuozzola** expressed concern that the storage area might be converted to living space in the future. **Mr. Harris** provided background, that in 2003, the ZBA granted variance for 1-story addition to the house. **Mr. Soda** said he had a problem with 2<sup>nd</sup> floor projecting out over the patio as well as the walls on the second floor of the garage. He said a 12-degree pitched roof would provide storage, but no livable space. **Attorney Lynch** said if the board were concerned about the storage area, he would be happy to ask for a denial without prejudice and present a revised proposal with no extension over the patio, but only the patio. **Mr. Soda** said he also wanted to see the upper floor walls eliminated and the pitch reduced to between 12 and 8. A consensus from the board emerged to deny without prejudice.

### BOARD DISCUSSION

**Mr. Tuozzola** asked if anyone wished to speak in favor of or in opposition to the application; hearing none, closed the hearing and asked for a motion.

**Mr. Soda** motioned to **deny without prejudice** based on submitted materials. **Ms. Ferrante** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Hirsch, Soda, Wolfe** and **Tuozzola** voting **with the motion**.

- 4) **93 Boston Post Road** MBP 43/334/2; CDD-1; Thomas Lynch, Esq., for PRC Properties, LLC, owner; Vary 5.14.4.1 front landscape area depth to 6' provided from 20' required to allow construction of mixed-use office/residential building in CDD-1 zone.

**Attorney Lynch**, 63 Cherry St, addressed the board. He introduced owner Pat Ciccaglione and reviewed both the application and the zone requirements. He also introduced Ron Wassmer, PE, who did the site plans. He reviewed requirements for landscape buffers on the Boston Post Road, requiring 20' and Erna Street, requiring 6'. He said the parcel is 14,000 sf, which is relatively small for the CDD-1 zone. He said one building has been torn down and he identified the remaining buildings, including 2 residential structures on Washington Street where there is a steep grade. He said described talks he had with the city planner regarding a presentation for the Planning and Zoning Board which resulted in a determination that application must be made to the ZBA first. He said the hardship is having 3 front yards in the CDD-1 zone and that meeting both front-yard setbacks would reduce the plan by 6 parking spots, creating another nonconformity. He presented the elevations of the new building by architect Ray Oliver, saying the plan was aesthetically pleasing and reduces a previous nonconformity by providing a buffer where previously there had been none. He raised the hardship of the property fronting onto 2 streets.

### DISCUSSION

**Mr. Tuozzola** said he felt the project would enhance the property. **Ms. Ferrante** asked if was undersized to the point of nonconformity; **Attorney Lynch** replied that it was not, but small compared to other businesses parcels in the zone. **Mr. Soda** said he

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found the building a very attractive enhancement for the area. **Mr. Wolfe** asked to clarify 3 parking spaces on the plan and said he approved of the design.

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

- 5) **26 Hauser Street** MBP 12/124/8; R-7.5; James McElroy, owner; Vary Section 3.4.1.4 front-yard setback to 14.9' where 25' req., easterly side-yard setback to 9.7' where 10' req., and to 3.8' where 10' req.' 4.1.4 front-yard deck to 9.9' where 16' permitted, front stairs to 11.9 where 16' permitted; easterly stairs to 5.8' where 8' permitted; 6.3.2 expand nonconforming structure into easterly side yard and create nonconforming front-yard setback to construct addition to a single-family home.

**Mr. McElroy**, 26 Hauser St, addressed the board. He said the house is currently 1000 sf and located in zone R-7.5 but his lot size is only 3500 sf. He noted that abutting houses are closer to the road than his proposed additions would bring his house. He said he wished to build above existing porches to expand the second floor and that he had collected approvals from neighbors. He said there would be additional off-street parking provided and showed a photo of the current house versus an elevation drawing of the proposed house.

### DISCUSSION

**Mr. Tuozzola** confirmed that garage would accommodate 2 cars in tandem, plus room in the driveway for 2 more and that the hardship is that the lot should have been R-5 like adjacent homes.

### BOARD DISCUSSION

**Mr. Tuozzola** asked if anyone wished to speak in favor of or in opposition to the application.

### FAVOR

**Donna Dutko**, 234 Buckingham Avenue, said Mr. McElroy's designs have beautified the neighborhood, which is where she grew up. She approved of fewer cars on the street. Done work throughout the neighborhood.

**Cindy Sloan**, 40 Fairwood Avenue, agreed with Ms. Dutko, saying she is an adjacent neighbor and that Mr. McElroy had done a beautiful job with other neighborhood properties.

### OPPOSED

**Robert Dickinson**, 30 Grant Street, said he was opposed to any variances because of density of the neighborhood.

**Maureen Sawyer**, 19 Fairwood Avenue, said she felt people should be built within the setbacks. She said she regretted not opposing 13 Fairwood Avenue and other variances that had set a bad precedent.

### REBUTTAL

**Mr. McElroy** said he had a lower height level than is permitted and he would be further from the road than many adjacent. He said he did not require a rear yard setback.

### BOARD DISCUSSION

**Mr. Hirsch** asked about the zone again and **Mr. Harris** put up a zoning map. **Mr. Soda** said lots on either side of 26 Hauser looked significantly larger. **Mr. Wolfe** clarified that the porch and stairs on one side existed now, but the plan was to build above them. **Mr. Soda** reviewed existing request for garage extension and clarified the details with **Mr. Harris**. **Mr. McElroy** said he had simply been repairing the stairs and deck prior to deciding to ask for an addition. **Mr. Wolfe** and **Mr. Soda** agreed that the plan was a significant improvement over the existing house.

**Mr. Tuozzola** closed hearing. **Ms. Ferrante** agreed that the house would be an aesthetic improvement, but felt ambivalent because new construction is an opportunity to reduce nonconformity. **Mr. Soda** agreed with that principle but said he found a hardship.

**Mr. Soda** motioned to **approve** based on the hardship of the 40' wide lot. **Mr. Wolfe** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Hirsch, Soda, Wolfe** and **Tuozzola** voting **with the motion**.

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- 6) **1 Seabreeze Avenue** MBP 59/734/1; CDD-1; Peter Massey., for PMDK Group LLC, applicant; Vary 5.5.4.1 to allow a restaurant serving alcohol to operate less than 1500 feet from another restaurant serving alcohol, in a BD zone.

The applicant did not appear, so the hearing was held open.

- C. **NEW BUSINESS**-None.
- D. **OLD BUSINESS**-None.
- E. **STAFF UPDATE**-None.
- F. **ACCEPTANCE OF MINUTES** 9 February 2021: Approved unanimously.
- G. **ACCEPTANCE OF APPLICATIONS** for 11 May 2021 hearing.

Adjournment was at 8:33 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