

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 8 May 2018

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 8 May 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 asked for conflicts of interest for board members with any agenda items; none were raised.

MEMBERS PRESENT: Joseph Tuozzola (Ch), Christine Valiquette

ALTERNATES PRESENT: Gary Dubois, Etan Hirsch

MEMBERS/ALTERNATES ABSENT: Sarah Ferrante, William Soda, John Vaccino, 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 for Robert Farakos. Owner: RMF Builders, LLC.

Mr. Harris advised that the item could be voted that evening or in June. **Mr. Tuozzola** noted that this item was closed last month and that a quorum existed to vote the matter. He asked if **Ms. Valiquette** had reviewed the file, she answered affirmatively that she had. He seated alternates Etan Hirsch and Gary Dubois to vote for absent voting members Ferrante, Soda, and Vaccino. He also reminded the board that a motion would require all 4 votes to pass. He said the board could opt to delay the vote until June.

DISCUSSION

Mr. Hirsch said he was ready to vote on the item and that he felt the permit was correctly issued. **Mr. Tuozzola** helped frame the motion, noting that Planning and Zoning Board functions are not the purview of the ZBA. He stressed that the only issue before the board was whether the permit was lawfully issued.

Mr. Hirsch motioned to **uphold the decision of the ZEO**. **Mr. Dubois** seconded. The motion carried with **Ms. Valiquette**; and **Messrs. Dubois, Hirsch, 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 said the parties involved were negotiating and asked that the item be continued to the June ZBA meeting, pending possible settlement.

3. **65 Old Field Lane**. MBP: 37/520/21R. R-12.5. Peter Smith and Catherine Smith, owners; vary Sec 3.1.4.1, side-yard setback to 6.26' where 10' required; Sec 4.1.4, eave proj. to 5.26' where 8' perm.; to build a 2-car garage.

Mr. Smith addressed the board, noting the presence of his wife Cathy. He said they purchased the home at the end of 2017 and wanted to share their thought process about adding a 2-car garage. He said they wished to minimize the existing intrusion into the setback because the house sits at an angle on the lot, rather than squarely. He said he had researched the history of how his parcel took on an irregular shape. He handed out several documents. He said one hardship issue is a City-owned right-of-way, creating non-conformity in the front-yard setback. He further pointed out a

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“well lot” from the early 1800 and provided a deed with a description of it. He speculated that both these issues may have helped create the non-conformities. He said he was trying to minimize the variance request and had consulted his abutting neighbors, making at least one accommodation after these discussions. He said he wished to minimize impact to the neighborhood.

DISCUSSION

Mr. Hirsch asked if the variance could be avoided through the use of another design. **Mr. Smith** said it would be difficult to fit 2 cars except as positioned and that as he gets older, attaching the garage to the house is important. **Mr. Hirsch** asked where the cars are parked now. **Mr. Smith** said they hadn’t moved into the house yet.

FAVOR

Mr. Smith read a letter of support from **Patricia Maroney**, 15 Ranch Terrace, an abutter.

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. Dubois** seconded. **Mr. Hirsch** based the approval on the irregular position of the house on the lot. The motion carried with **Ms. Valiquette**; and **Messrs. Dubois, Hirsch, and Tuozzola** voting **with the motion**.

4. **20 South Street**. MBP: 49/604/5. R-5., Jason Digiandomenico, applicant, for Wilton Wright and Betsy Wright, owners; vary Sec 4.1.4, proj. to 0’ where 4’ perm.; to build a 3-season porch.

Mr. Digiandomenico, addressed the board. He described the addition which would add what is basically a roof cover to an existing deck. He said there would be extra support added to the existing deck. He said the house is positioned on the lot in a non-conforming way.

DISCUSSION

Mr. Tuozzolo asked Mr. Harris if there was a deck permit previously issued and whether it should be added to the variance request. **Mr. Harris** reviewed the file again and confirmed that no permit existed and that the existing deck/patio was too close to the lot line. He said he thought it was probably proper to withdraw the application and amend it to consider the non-conforming deck. Mr. Harris said the fee could be waived. He reviewed the board’s voting options. He said the new application should feature building plans for the deck. **Mr. Digiandomenico** asked if the project could be partially constructed, but learned that it would require a second, separate application. The application was withdrawn.

5. **17 Gardner Avenue**. MBP: 27/455/9. R-5. Paul Friia, owner; Vary Sec 3.1.4.1 rear-yard setback to 10.48’ where 20’ req.; 4.1.4 SE deck projection to 14’ where 16’ permitted; north deck projection to 14’ where 16’ permitted; all to construct a single family dwelling.

Mr. Friia addressed the board. He provided handouts relating to a previous variance granted in 2015, saying that variance was similar to the one he is currently seeking, but that the newly proposed house was in a different location, and that he was adding decks as well. He said the hardship was still the shallowness of the lot. He said tidal wetlands required state approval. Mr. Friia said he had moved the home away from the tidal wetlands toward the highest elevation of the lot for flood risk mitigation. He said he contacted a DEEP official to confirm that state permission was not required. He said the current plan was slightly larger than the original plan, but more respectful of wetlands.

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DISCUSSION

Mr. Tuozzola discussed differences with the previous plan. **Mr. Hirsch** asked to see the site plan from the approval from 2015. **Mr. Friia** and **Mr. Hirsch** reviewed the 2015 plans to confirm there were no decks approved then. **Mr. Tuozzola** asked for comment in favor or opposition.

OPPOSED

Ellen Buchanan, 25 James Street, said she lives directly behind the property. She said she did not object to the previous application due to the storm damage to the house, but that this request was excessive. She said this house is much larger and may create runoff toward her property. She said her own home sustained storm significant damage.

Michael Hawie, 21 James Street, said similar houses are being built, but on bigger lots. He said the size would be oppressive in such a small neighborhood. He said the previously proposed house would have been much smaller.

REBUTTAL

Mr. Friia said the runoff would not be different because the house is virtually the same size footprint. He said a rain barrel or rain garden would be added to help control water absorption. He said the positioning of the house considered the runoff. He said the lot wasn't smaller than other lots, but is a different shape. He said the height was conforming and that he lives in the neighborhood, so he was aware of scale in the area. He referenced open spaces toward the marsh. **Mr. Tuozzola** confirmed that the sf of the previously approved house was 840 versus the new sf of 1700 plus.

BOARD DISCUSSION

Mr. Hirsch asked what **Mr. Friia** considered a shallow lot. **Mr. Friia** said it meant he'd need a variance to make the house a reasonable size. **Mr. Friia** described neighboring variances.

Mr. Tuozzola closed the hearing. **Mr. Hirsch** said the prior approval was for a different configuration. **Mr. Harris** pointed out that the footprint size was the same, but the position was different. **Ms. Valiquette** asked what had been requested in the previous application; **Mr. Harris** said a rear-yard setback variance. **Mr. Dubois** said additional restrictions should be considered for the deck projections. **Mr. Tuozzola** said the board could approve with conditions.

Mr. Hirsch motioned to **deny without prejudice**. **Ms. Valiquette** seconded. The motion carried with **Ms. Valiquette**; and **Messrs. Dubois, Hirsch, and Tuozzola** voting **with the motion**.

B. OLD BUSINESS-None

C. NEW BUSINESS-None

D. STAFF UPDATE-None

E. ACCEPTANCE OF MINUTES 10 April 2018: Approved.

G. ACCEPTANCE OF APPLICATIONS for 12 June 2018 hearing.

Adjournment was at 8:05 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.**

Attest:

Meg Greene
Clerk, ZBA