

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 14 May 2019

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 14 May 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

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

ALTERNATES PRESENT: Gary Dubois, Etan Hirsch

MEMBERS/ALTERNATES ABSENT: Michael Casey

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

Mr. Tuozzola asked for board member conflicts of interest with any agenda items; none were raised. Mr. Tuozzola then advised that if anyone was in attendance for the first item, it would be continued next month. Lastly, Mr. Tuozzola advised that the board would meet in Executive Session before the public hearings. Mr. Tuozzola invited **ZEO Harris** and **City Attorney Jonathan Berchem** to join the session.

B. EXECUTIVE SESSION: Robert McEvoy, et. al. v Zoning Board of Appeals, et. al., 771 East Broadway, Appeal of Variance—Discussion of Pending Litigation

Upon returning to the session, **Ms. Ferrante** made a motion: “As discussed in executive session, I hereby move to authorize the City Attorney to enter into a stipulated judgment to sustain the appeal in *Robert McEvoy, et. al. v Zoning Board of Appeals, et. al.* in as much as the successful applicant is no longer interested in pursuing the project for which the variance at issue was sought.” **Mr. Soda** seconded. The motion carried unanimously.

C. 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 3rd unpermitted dwelling unit and storage of a commercial container.

Mr. Tuozzola opened the hearing. He then asked that the item be tabled per the request of Attorney Curseaden. **Mr. Soda** motioned to table; **Ms. Ferrante** seconded; the motion passed unanimously.

- 2. 215 Second Avenue** MBP 9/81/15. R-10, Callie Talamo, owner; Vary sec. 3.1.4.1 northwest side-yard setback to 3’10” where 10’ req. for addition.

Salvatore Talamo, architect, 215 Second Avenue, addressed the board. He said the plan was to add a 2-car garage and attach it to the house. He said that he and his wife are expecting a child and the addition was to add space. He said the height would be the same, and the lot was smaller than a conforming lot.

Ms. Talamo said she supported the project.

DISCUSSION

Ms. Ferrante confirmed the location of the new garage. **Mr. Soda** suggested a modification to reduce the variance request; **Mr. Talamo** said he had considered the idea, but hoped to preserve the original roofline and foundation of the existing house. **Mr. Wolfe** asked about window alignment in the elevation drawing. He, **Mr. Talamo**, and **Mr. Soda** discussed the implications of Mr. Soda’s suggestions for reducing the variance.

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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** felt there was room for improvement, as did **Mr. Wolfe**.

Mr. Soda motioned to **deny without prejudice**. There was no second. **Mr. Wolfe** motioned to approve. **Ms. Valiquette** seconded the motion. The motion carried with **Mss. Ferrante** and **Valiquette**, and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

3. **30 Surf Avenue, Lot 41** MBP 27/446/3. R-5, Thomas Lynch, Esq. for Molly Rentals, owner; Vary sec. 3.1.4.1 side-yard setback to 5.1" where 10' req., rear-yard setback to 15.8" where 20' req.; 4.1.4 to 5.87 where 16' perm. to construct a single family residence.

Attorney Lynch, 63 Cherry St., addressed the board. He noted the presence of Chris Field and Buddy Field, principals of Molly Rentals. He said his clients planned to demolish the existing house and build 2 new houses. He reviewed the history of the lots using a 1911 map and said that the filing of the map had occurred prior to Zoning Regulations in 1930. He said there are 2 applications, but said he wished to address this item (Lot 41) and the next (Lot 42) together in his presentation while recognizing that 2 separate votes would be required. He said the existing house is non-conforming and that replacing it would reduce some of the nonconformities while creating more aesthetically pleasing structures. He said the new house would not affect current proximity to other houses. He said the variances were intended to create maximum space between the 2 proposed houses. He also noted the submission of a list of 8 neighbors in support of the project, including the 2 abutting neighbors.

DISCUSSION

Mr. Soda asked if a lot line adjustment could be done. **Attorney Lynch** said it would create an adjustment of only about 2 feet and confirmed that the proposed houses would be identical. **Ms. Ferrante** asked about the square footage of the 2 proposed houses versus if the houses were conforming. **Attorney Lynch** said they would probably be about the same. **Mr. Tuozzola** confirmed the height of 34'.

Buddy Field, Molly Rentals, 17 Beacon Hill Lane, said the tall blue house currently on the lot (a photo was submitted) was 4 stories tall with short stories. He said the floors in his plan are truss constructed and can be wider. **Mr. Wolfe** confirmed the number of cars that could be fit under to as many as 4 per house. **Ms. Valiquette** said she was troubled by the rear yard setback's close proximity to marshland.

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

FAVOR

Bill Salito, 210 Mariner's Walk, said he supported the project and thought it would benefit the neighborhood.

BOARD DISCUSSION

Mr. Tuozzola asked for a motion.

Mr. Soda motioned to **approve**. **Mr. Wolfe** seconded. **Mr. Soda** supported the motion based on the hardship of the 2 narrow lots; in accordance with submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**. **Ms. Valiquette** voted **against the motion**.

4. **30 Surf Avenue, Lot 42** MBP 27/446/3. R-5, Thomas Lynch, Esq. for Molly Rentals, owner; Vary sec. 3.1.4.1 rear-yard setback to 15.8" where 20' req.; 4.1.4 to 5.87 where 16' perm. to construct a single family residence.

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Attorney Lynch incorporated his previous remarks for the record.

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 and asked for a motion.

Mr. Soda motioned to **approve**. **Mr. Wolfe** seconded. **Mr. Soda** supported the motion based on the hardship of the 2 narrow lots; in accordance with submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**. **Ms. Valiquette** voted **against the motion**.

5. **67 Maple Street**, MBP 65/313/43. R-12.5, Thomas Lynch, Esq. for A. Parise, owner; Vary sec. 11.2 definition of Accessory Structure to allow garage with footprint of 810 sq. ft. where 528 sq. ft. permitted.

Attorney Lynch, 63 Cherry St., addressed the board and provided a handout. He recalled the previous month's request which was denied without prejudice. He said his clients had incorporated the board's suggestions into a revised plan. He referred to a supplement created by Mr. Parise, which overviewed the problem of street parking. He referred to a letter of support from 2 neighbors, one an abutter. He said there were several nearby homes with oversized, non-conforming garages. He reviewed the reduction in sizes and changes in configuration.

DISCUSSION

Mr. Soda and **Mr. Tuozzola** confirmed the family parking situation was being alleviated.

FAVOR

Mark Lofthouse, 54 Maple St., said the neighborhood was crowded by parking and prone to accidents. He supported the number of vehicles being removed from the street.

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. Valiquette** seconded. The motion carried with **Mss. Ferrante** and **Valiquette** and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

6. **15 Woodside Terrace**, MBP 23/221/31, R-10, Eric Scibek & Jessica Scibek, owners; Vary Sec. 3.1.4.1 south side-yd setback to 7.3' where 10' req. for addition.

Mr. Scibek addressed the board. He said they wished to add a 1-car garage plus a dining room addition. He reviewed the floor plan. He said the hardships were that his lot is undersized and narrow.

DISCUSSION

Mr. Hirsch confirmed the width of the garage, asking if it could be smaller. **Mr. Scibek** said a narrower garage or driveway would likely not accommodate his wife's car for opening doors.

FAVOR

Ms. Scibek said she supports the project.

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A petition of 8 neighbors, including 2 abutters, was submitted.

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. Wolfe motioned to **approve**. **Mr. Soda** seconded. The motion carried with **Mss. Ferrante** and **Valiquette** and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

7. **13 Fairwood Avenue**, 9/130/14. R-5, Robert Klob, agent, for Tom Colby, owner; Vary sec. 4.1.13, roof area of 32% where 10% permitted; 3.1.4.1 front yard setback of 6' where 10' required; 4.1.4 bay window projection of 4'-5" where 8' permitted, and front steps projection of 2'-5" where 8' permitted.

Mr. Klob, architect, 4909 East Colonial Drive, Chandler, AZ, addressed the board. He said the design anticipates storm events by adding strong resistance because the home will be concrete construction. He said the home was on an existing non-conforming lot and that a requirement was to make it accessible to family members with disabilities. He said the incorporation of an elevator created challenges in managing the height of the structure. He said the stairwell, elevator and deck storage area forced the design above the 35' due to building code requirements. He said the footprint of the entire house could have been made larger, but the owners wanted to maintain ocean views for the neighbors. He said the rear of the home would be made slightly more conforming. He said the backyard is now a garden that the owner wishes to preserve, so he had created an alternative by putting a pool on the roof deck. He reviewed the floor plans. He said FEMA flood mitigation rules created a need to leave clearance on the ground floor of the house. He said mechanicals were to be placed on the roof and that the elevator required maintenance access. He reviewed other aspects of the plan including storage. He said there was an extension of the stairs added to provide more inviting access to the porch. He said the bay window exists today and that the owner wished to preserve it because it's the only window that affords a water view. He said every adjacent neighbor responded with support for the project.

DISCUSSION

Mr. Tuozzola asked for clarifications about the 32% roof extension; **Mr. Kolb** said consideration of the neighbors was a priority. **Ms. Valiquette** confirmed dimensions of the staircase and bay window projections. **Mr. Tuozzola** expressed reservations about exceeding height limits. **Mr. Soda** clarified the mechanical location and made suggestions for reducing the height by using a flat roof. **Mr. Kolb** said the aesthetic was to avoid a modern design treatment. He said the elevator shaft added height. The two debated more construction details and maintenance issues. **Mr. Hirsch** asked about other design details.

FAVOR

Tom Colby said he loved his neighborhood and wants to retire there, but that the house was not sound. He described the thought process of behind the proposed house's design as well as family members who are wheelchair-bound and have difficulty accessing the current house. He said he was trying to maximize the use of minimal square footage and that he wanted to preserve the garden.

Mr. Tuozzola asked for a hardship. **Mr. Colby** said because the house is in a flood zone and he must observe FEMA requirements. He said it was to be a concrete house to withstand storms, but as such it could not be redesigned, hence putting the mechanicals on the roof so they remain well clear of the base flood elevation over time.

Mr. Harris clarified the roof area use regulation by reading Section 4.1.13.

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Robert Rudd, 1 Fairwood Ave, said he and his wife were delighted by the design and that Mr. Colby was a good neighbor for reviewing the design with them.

OPPOSED

Marilyn McManus, 23 Deerwood Avenue, said Superstorm Sandy did little damage to the street. She said she didn't know what the hardship is, and that the house would be too high. She said she thought a new house could be built under current zoning regulations. She said she didn't agree with the front yard setback variance request, and that front yards are very limited. She submitted photographs to the board.

REBUTTAL

Mr. Colby said the house would not be closer to the street and that he was under the height maximum.

Mr. Soda asserted that the mechanical room was excessively large and suggested that pool equipment could be stored outdoors. **Mr. Klob** allowed that the storage area was long, but said other considerations such as aesthetics were involved.

BOARD DISCUSSION

Mr. Tuozzola closed the hearing. After a short discussion about the percentage of roof usage, he asked for a motion.

Mr. Soda motioned to **deny without prejudice**. **Ms. Ferrante** seconded. The motion carried with **Mss. Ferrante** and **Valiquette** and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

8. **286 Broadway**, MBP 9/130/14. R-5, Alphonse Ippolito, owner; Vary sec. 3.1.4 Grant St. front-yard setback to 5' where 20' req. to construct a single family residence.

Attorney Tim Lee addressed the board. He reviewed the history of the house and the plans for demolishing and building a new house. He said the hardship was due to the corner lot. **Mr. Harris** asked that the applicant confirm that the projection of the front stairs was to be eliminated from the request as previously discussed; **Attorney Lee** agreed. **Mr. Tuozzola** confirmed that the house would be 44' wide including a walkway. He said he was hard pressed to see a hardship with the lot.

Al Ippolito, 286 Broadway, said his 91-year old mother-in-law needed to live on the first floor, which was why the expansion was required. He said Grant Street was unused in the area of the request, making it a natural place to avoid impact to neighbors.

DISCUSSION

Mr. Wolfe confirmed the 4100 sf size of the house and the driveway orientation.

OPPOSED

Peter Lesser, 3 Grant St, said all neighbors on Grant St. will have their views obstructed. He said the house would be one of the biggest in the neighborhood on one of the biggest lots. He said the neighbor across the street asked for the same variance and didn't proceed for lack of a hardship.

Brian Higgins, 11 Grant St, agreed with the previous speaker and said it would be detrimental to all the houses on Grant Street. He disagreed that there is any hardship.

Carolyn Walker, 285 Broadway: Ms. Greene noted an emailed letter of objection submitted.

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REBUTTAL

Attorney Lee asserted that corner lot was a hardship. He said the application was consistent with other corner lot houses in the area.

Mr. Soda suggested a reduction to the variance by keeping the house in line with the garage. **Mr. Tuozzola** rejected the idea of granting a lower variance without plans.

BOARD DISCUSSION

Mr. Tuozzola closed the hearing.

Ms. Ferrante motioned to **deny**. There was no second. **Mr. Soda** motioned to **deny without prejudice**. **Ms. Valiquette** seconded. The motion passed with **Ms. Valiquette** and **Messrs. Soda** and **Wolfe** voting **with the motion**; and **Ms. Ferrante** and **Mr. Tuozzola** voting **against the motion**.

D. OLD BUSINESS-None

E. NEW BUSINESS-None

F. STAFF UPDATE-None

G. ACCEPTANCE OF MINUTES 9 April 2019: Approved.

G. ACCEPTANCE OF APPLICATIONS for 11 June 2019 hearing.

Adjournment was at 9:31 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