

Minutes of Special Meeting of Zoning Board of Appeals May 21, 2008

MEMBERS PRESENT: Richard Carey, Howard Haberman, Fred Katen, Ed Mead, Nanci Seltzer

ALTERNATES PRESENT: Charles Montalbano

STAFF PRESENT: Rose Elliott, Clerk

The meeting was called to order at 6:30 p.m.

33-35 Laurel Avenue (Zone R-5) Thomas B. Lynch, attorney, for Titanium Properties, LLC, owner – request to vary Sec. 3.1.4.1 lot width from 50' required to 40'; lot area from 5,000 sq. ft. to 3,600 sq. ft. to allow two non-conforming building lots. CAM required. Map 16, Block 147, Parcel 23.

Chrmn. Katen stated this was a Special Meeting of the Zoning Board of Appeals for reconsideration of the vote for 33-35 Laurel Avenue, from May 13, 2008. He noted there was no approval letter issued to the applicant and Notice of the Board's approval of May 13, 2008, was not published in the newspaper. He added Code of Ordinance Section 2-55, makes Robert's Rules of Order applicable to meetings of all Boards and Commissions of the City of Milford and that Robert's Rules provides for a motion to reconsider.

He then asked if any member of the Board who voted in favor would like to make a motion to reconsider the vote approving the variance for 33-35 Laurel Avenue on May 13, 2008, on the basis that there is no hardship and no elimination and/or reduction of the non-conformity.

Mr. Carey made a motion to reconsider the vote with Mr. Mead seconding. The reason is because there really was no hardship. The lots were merged and therefore, cannot be unmerged. He added he reviewed a similar case on Dixon Street, where the property was merged and the application was denied because of the merger. Mr. Mead agreed that there was no hardship and the applicant incorrectly stated that granting the variance would reduce and/or eliminate the non-conformities because the application creates new non-conformities by creating two non-conforming lots with non-conforming street frontage. The motion carried 4-1 with Ms. Seltzer, Messrs. Carey, Mead and Katen voting in favor and Mr. Haberman voting against.

Chrmn. Katen stated the motion to approve is on the floor. He noted the Board made a mistake in approving the variance based on hardship. The applicant did not claim a legal hardship. A legal hardship cannot be a financial hardship or the inability to use property to its maximum. The applicant's statement regarding reduction and elimination of existing non-conformity was inaccurate because the application creates new non-conformities. The applicant is creating two non-conforming lots and new non-conforming street frontage. Because the applicant is substituting new non-conformities for existing non-conformities, the applicant

incorrectly stated that granting the variance would reduce or eliminate non-conformities.

Atty. Lynch questioned whether he was allowed to speak to which the City Attorney, Marilyn Lipton, stated he was not, as this was the business portion of the meeting and therefore, only Board members were allowed to speak.

The original motion to approve failed to carry 4-1 with Ms. Seltzer, Messrs. Carey, Mead and Katen voting against and Mr. Haberman voting in favor.

Chrmn. Katen then called for a motion to deny the application.

Mr. Mead moved to deny the application with Mr. Carey seconding. The reason for the motion is there was no hardship and the applicant incorrectly stated that granting the variance would reduce and/or eliminate non-conformities because the application creates new non-conformities by creating two non-conforming lots with non-conforming street frontage. He added that personally, he got caught up in the discussion that evening on how the application would clean up the area by tearing the house down and building two new homes on the same size lots as the other homes on the street. He has since reconsidered his vote and the fact that the proposed use would not be detrimental and may be beneficial to the neighborhood is not a sufficient enough hardship to be granted by this Board. He added it appeared the application was for financial gain more than for personal use. The motion carried 4-1 with Ms. Seltzer, Messrs. Carey, Mead and Katen voting in favor and Mr. Haberman voting against.

The meeting was adjourned at 6:45 p.m.

Attest:

Rose M. Elliott
Clerk - ZBA