

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 13 June 2017

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Wednesday, 13 June 2017, 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

Mr. Tuozzola called the meeting to order at 7:00 p.m. He asked Ms. Ferrante to serve as Acting Secretary for Mr. Vaccino, and asked Ms. Huber-Happy to provide the 5th vote. He asked for conflicts of interest for board members regarding any agenda items; none were raised.

MEMBERS PRESENT: Joseph Tuozzola (Ch), Sarah Ferrante (Acting Sec), Benjamin Gettinger, William Soda

ALTERNATES PRESENT: Gary Dubois, Jeanne Huber-Happy

MEMBERS/ALTERNATES ABSENT: John Vaccino

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

B. CONSIDERATION OF AGENDA ITEMS

1. **36 Roselle Street (MBP: 43/304/62)** CDD-1. Peter Stark, Esq., for Marilyn Drew, owner; Sec. 9.2.1: Appeal the Decision of the Zoning Enforcement Officer regarding a Cease and Desist Order dated 1 February 2017.

Mr. Harris said the violation underlying the first agenda item had been abated, but a vote was required to take the item off the agenda. **Mr. Soda** motioned to remove the item from the agenda; **Mr. Gettinger** seconded; the motion passed unanimously.

2. **32 Norwood Avenue (MBP: 39/605/5)** R- 10. Matthew Martino, agent for Peter Kaufman and Nora Kaufman, owners; Vary Sec. 4.1.4 front proj to 5.3' where 4' perm to build a porch.

Mr. Martino, 16 Beacher Rd, New Haven, addressed the board. He described the front deck project which the Kaufmans had attempted to replace in kind. The existing deck was found to be nonconforming.

DISCUSSION

Mr. Soda confirmed that the deck would be the same size as the existing deck.

FAVOR

Mr. Kaufman submitted a letter of support from 33 Parkland Place.

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 hardship of rectifying the pre-existing nonconformity, exactly per the submitted materials. The motion carried with **Mss. Ferrante, and Huber-Happy** and **Messrs. Gettinger, Soda, and Tuozzola** voting **with the motion**.

3. **37 Park Avenue (MBP: 16/148/15A) & 44 Naugatuck Avenue** R-5. Kristina Porter, Esq., attorney for 42 Naugatuck Properties, LLC; Vary Sec. 3.1.4.1 front-yd setback to 2.1' where 10' req, west side-yd to 4.3' where 5' req and east side-yd to .2' where 10' req; building area to 80.6% where 45% allowed; lot coverage to 93.2% where 65% allowed

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to construct 2-car garage.

Attorney Curseaden, Carroll, Curseaden, and Moore, 26 Cherry Street, addressed the board. He introduced the contractor, Matthew Pastir, and submitted handouts and an affidavit regarding the posting of the placard. He described the through lot with 2 front yards and a zone difference bisecting the parcel. He said CT case law favors using the least restrictive zone, but that the proposed garage is in the R-5, so that was the zone used. He referred to a GIS photograph of the area. He described the owner's requirement to park a business truck used by the other portion of the building, 42 Naugatuck Avenue. He said the lot is long and narrow.

DISCUSSION

Mr. Soda confirmed the size of the existing garage. He expressed concern that any parking in front of the garage would be in the right of way and that such parking would be restricted.

Matthew Pastir, 78 Hill Street, and **Mr. Soda** discussed how the side door accessed the house via the garage. **Attorney Curseaden** said legal cross-easement agreements are already in place. He provided more background on the property. **Mr. Soda** was concerned that the garage door couldn't be used for egress in an emergency. **Attorney Curseaden** said the goal was loading and unloading of a truck in the enlarged garage. He noted that issues of building code could be addressed during the permitting process. **Mr. Pastir** said steps would be taken to meet code and other egress exists.

FAVOR

Heidi Lang, 37 Park Avenue, said she supported the garage expansion plans of her neighbor Susan Patrick; that Patrick is a neighborhood leader who needs more room for business activities with a goal of hiring disabled people.

Susan Patrick, 660 Gulf Street, said she wanted to hire senior citizens with disabilities and the variance would help.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in opposition to the application. Hearing none, he closed the hearing. **Ms. Ferrante** said she found it problematic that the improvement would benefit a neighbor. **Mr. Soda** felt the lot coverage was too high. **Mr. Gettinger** was impressed that the neighbor most affected supported it.

Mr. Soda motioned to **deny**. **Ms. Ferrante** seconded. **Mr. Soda** supported his motion by reason of lack of hardship. The motion carried with **Mss. Ferrante, and Huber-Happy** and **Messrs., Soda, and Tuozzola** voting **with the motion**, and **Mr. Gettinger** voting **against the motion**.

4. **123 Stiles Avenue (MBP: 98/800/11F)** R- A. Scott Farquharson, agent for Mark Ubaldi and Kelly Ubaldi, owners; Vary Sec. 3.1.4.1 front-yd setback to 39.3' where 50' req, side-yd setback to 24.5' where 25' req for accessory apartment.

Mr. Farquharson, Baybrook Remodelers, 824 Boston Post Road, West Haven, addressed the board. He submitted pictures of the placard and home. He described the project, saying that the existing lot is nonconforming, the position of the house is problematic, and the requirement that accessory apartments be attached directly to the main house could not be readily met.

DISCUSSION

Mr. Tuozzola confirmed that the house was existing non-conforming.

FAVOR

Mark Ubaldi, 123 Stiles Avenue, said his mother would be in the accessory apartment. **Mr. Soda** confirmed that the house was built in the late 1960s.

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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 hardship of the irregular shaped lot, exactly per the submitted materials. The motion carried with **Mss. Ferrante, and Huber-Happy** and **Messrs. Gettinger, Soda, and Tuozzola** voting **with the motion**.

5. **46 Sylvan Court (MBP: 56/506/8D)** R- 12.5. Alex Vernucci and Stasha Vernucci, owners; Vary Sec. 4.1.4 front porch proj to 22.4' where 26' perm to build a porch.

Mr. and Ms. Vernucci addressed the board. He said lot was older nonconforming. He described wetlands and ledge in the rear of the house, forcing the house to be positioned further forward.

FAVOR

Ms. Vernucci said she was in favor.

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.

Ms. Ferrante motioned to **approve**. **Mr. Soda** seconded. **Mr. Ferrante** supported his motion by reason of hardship of position of the house, exactly per the submitted materials. The motion carried with **Mss. Ferrante and Huber-Happy**, and **Messrs. Gettinger, Soda, and Tuozzola** voting **with the motion**.

6. **24 Chelsea Circle (MBP: 91/706/2K)** R- 12.5. William Maruottolo and Tammy Maruottolo, abutters, regarding John Flanagan, owner of 24 Chelsea Circle; Sec. 9.2.1: Appeal the Decision of the Zoning Enforcement Officer regarding the lighting issue at 24 Chelsea Circle, and the approval of lights that are purposely pointed at my house so as to cast a shadow in our bedroom.

Mr. and Ms. Maruottolo addressed the board. **Ms. Maruottolo** submitted pictures and documentation to the board while **Mr. Maruottolo** said the light trespass was intentional. He described the nature of the lots and light positions. He said Mr. Harris had issued a violation, but there was no response from Mr. Flanagan at 24 Chelsea Circle. Mr. Maruottolo described his attempts to get his neighbor to reduce the lighting. He produced what he represented to be the exact lighting product used at 24 Chelsea and asked to demonstrate how bright it is. **Mr. Tuozzola** allowed the demonstration. **Mr. Maruottolo** said it provided 1800 lumens, and asserted it was too bright for residential use. He read research about the use of such lighting being unacceptable for residences. He said the Milford Regulations were outdated due to newer technology such as LED. He resumed the narrative of the violation letters, disputing how Mr. Harris said the lighting was angled. He cited the regulation on light trespass. He described the intensity of the light at night. He said the light was on almost constantly since September of last year.

DISCUSSION

Mr. Tuozzola confirmed that 3 sets of lights were involved. **Mr. Soda** confirmed when the two families moved in about the same time and had experienced conflict. **Mr. Gettinger** confirmed that the lights could be angled downward.

FAVOR (support of appeal)

Stephen Povroznik, 312 Wheelers Farm Road, asked why the regulations were not being enforced.

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Mr. Harris said he felt sympathy for the Maruottolos, but that he can only enforce the regulations as written. He reviewed the regulations. **Mr. Tuozzola** asked if the number of lights was regulated, but it was not. **Mr. Soda** and **Mr. Harris** discussed the probability that the regulations haven't kept up with LED technology. **Mr. Maruottolo** and **Mr. Harris** discussed the inspections. **Mr. Tuozzola** asked if the ZBA could order the neighbor to redirect the lights. **Mr. Harris** said the problem seemed to be one of nuisance. **Mr. Soda** asked if it the 1800 lumen measurement could be verified; **Mr. Harris** said that the lumen level was not in dispute. **Mr. Soda** and **Ms. Ferrante** expressed frustration that the board couldn't help the **Maruottolos**.

Mr. Maruottolo said he had asked for detail on the departmental decision. **Mr. Harris** returned to a description of the regulations. **Mr. Gettinger** asked if a regulation change could address it. **Mr. Harris** said the Planning and Zoning Board could amend the regulation. **Mr. Gettinger** felt he could not send the **Maruottolos** home without relief and hoped that a regulation revision should be fast-tracked.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in opposition. Hearing none, he closed the hearing. The board said they wanted to provide relief to the applicants.

Mr. Soda motioned to **overturn the decision of the ZEO**. **Ms. Ferrante** seconded. The motion carried with **Mss. Ferrante** and **Huber-Happy**, and **Messrs. Gettinger, Soda, and Tuozzola** voting **with the motion**.

B. OLD BUSINESS-None

C. NEW BUSINESS-None

D. STAFF UPDATE-**Ms. Greene** stated that she had been asked to support the Planning and Zoning Board as well as ZBA due to Phyllis Leggett's retirement.

F. ACCEPTANCE OF MINUTES from 13 May 2017 hearing; Minutes were approved.

G. ACCEPTANCE OF APPLICATIONS for 11 July 2017 hearing.

Adjournment was at 8:25 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