

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 9 July 2019

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 9 July 2019, beginning at 7:00 p.m. **in the Board of Education, 70 West River St**, 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 asked for board member conflicts of interest with any agenda items; none were raised.

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

ALTERNATES PRESENT: Michael Casey, Gary Dubois

MEMBERS/ALTERNATES ABSENT: Etan Hirsch, Christine Valiquette

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

B. CONSIDERATION OF AGENDA ITEMS

1. **29 Gerard Street**, MBP 48/718/21, R-5, Jeff Lecza, owner; Vary sec. 3.1.4.1 side-yr setback to 5.8' where 10' is req.; 4.1.4 roof eave proj. to 4.7' where 8' perm.; 6.3.2 enlargement of nonconforming structure; all for relocation, renovation, and enlargement of single family home.

Mr. Lecza, 14 Upson Drive, Oxford, addressed the board. He said nonconformities would be reduced by making one side yard conforming. He said an additional parking spot would be adding due to moving the stairs.

DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or 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**. **Mr. Wolfe** seconded. **Mr. Soda** supported the motion based on the hardship of the narrow lot; in accordance with submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Casey, Soda, Wolfe** and **Tuozzola** voting **with the motion**.

1. **13 Fairwood Avenue**, MBP 13/123/14. R-5, Kevin Curseaden, Esq. for Tom Colby, owner; Vary sec. 3.1.4.1 front-yard setback to 4.5' where 10' req.; 4.1.4 front-yard proj. to 2'-5" where 8' perm.; 3.1.4.1 side-yard setback to 5' where 10' req.; 4.1.4 side yard proj. to 3'-6" where 8' perm.; 4.1.13 to allow 15% where 10% permitted.

Attorney Curseaden addressed the board. He noted the presence of the owners and overviewed the application made in May. He said his services were engaged by the owner after the original ZBA denial, but that he had reviewed the MGAT broadcast and noted the chairman's concerns about the requested rooftop plan. He said there had been several revisions since the original plan and he would summarize the process with 5 main points in an MS Powerpoint^(R) presentation. He said he had respectfully noted the board's concerns about making any exceptions to height regulations. He showed overhead views of the location of the property, the flood map, and a list of hardships. He noted the undersized lot, the elevation requirement requiring that the house's living space start at the second floor. He said smaller houses are at a disadvantage due to elevation requirements, because the restriction is based on a percentage. He clarified that the variance was for the coverage percentage, not the height. He said the new house would be FEMA compliant, incorporating recommendations that mechanicals be located on the roof. He said the house was also likely to be much more building code compliant. He said the board, in his experience, did not set precedents. He emphasized that each application and hardship are individual and that he doubted that there would be "setback creep" due to a decision of this application. He said he had pushed the designer to reduce to the bare functional hardship. He said there was an overall reduction of nonconformity, including removal of a shed. He said a lot merger eliminated another nonconformity, and FEMA compliance was a plus. He said some mechanicals had been moved to a bump-out on side of the house. He showed a photograph of similar style houses on the street. He showed a new bump out for storage.

DISCUSSION

Mr. Soda said he had thought hard about the designer's calculations since the May meeting, and had come up with a way to eliminate a window and the entire need for a variance.

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Mr. Colby listened to Mr. Soda's observations, saying he thought he had done basically what Mr. Soda had previously asked with the redesign presented by Attorney Curseaden. They discussed structural and design issues at length and in great detail. They reviewed the placement of the mechanicals, dimensions of the stairwells, and equipment servicing issues. **Mr. Tuozzola** praised the quality of Mr. Soda's professional expertise, the respectful nature of the dialog; he also noted the relative obscurity of the 10% rule. **Mr. Colby** asked if the rest of the variances could be granted without the roof percentage, **Mr. Tuozzola**, after consulting with Mr. Harris, said it was possible.

FAVOR

George Colby, 10 Weathervane Dr., Easton, brother of Mr. Tom Colby, noted that he is wheelchair-bound and the design would allow him access to all areas of the house, unlike the present situation. He noted his brother's concern for his neighbors.

Deidre Smith-Dey, 60 Richard Sweet Dr., Woodbridge, owner of the George J. Smith Insurance Agency (Milford), said Mr. Colby was a client and that many of her clients are in a flood zone, necessitating that she become more of an expert and witness to flood damage for her clients. She praised his efforts to mitigate his risk.

Robert Rudd, 1 Fairwood Avenue, said he was also speaking for his wife, Betty. He expressed respect for the design and flood mitigation efforts of the Colbys and for their consideration of neighbors. **Mr. Tuozzola** and **Mr. Soda** said that they had no issues with the design, but that a precedent could be set for exceeding the 35' height restriction.

Mrs. Dennie Colby, 13 Fairwood Avenue, described her concerns about the age of the house and the ability to have her family be comfortable in the house.

BOARD DISCUSSION

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

Mr. Soda motioned to **approve the variance requests with the condition of denying the 4.1.13 request**. **Ms. Ferrante** seconded. **Mr. Soda** supported the motion based on the hardship of the nonconforming lot; in accordance with submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Casey, Soda, Wolfe** and **Tuozzola** voting **with the motion**.

C. OLD BUSINESS-None

D. NEW BUSINESS- None

E. STAFF UPDATE- None

F. ACCEPTANCE OF MINUTES 11 June 2019: Approved.

G. ACCEPTANCE OF APPLICATIONS for 13 August 2019 hearing. **Mr. Tuozzola** mentioned a possibility of postponing to September if only one or two applications were submitted.

Adjournment was at 7:53 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