

## Minutes, Public Hearing of Zoning Board of Appeals Meeting held 13 September 2022

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday 13 September 2022, beginning at 7:00 p.m., 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**

**Ms. Ferrante** advised that Chairman Tuozzola, Mr. Wolfe, and Ms. Hirsch were excused. She announced that Item 3 (Shell Avenue) Item 6 (114 Merwin Avenue) had been postponed until the October meeting. She asked **Mr. Smith** to provide the 4<sup>th</sup> vote for the evening and to read the agenda items in her place and asked **Mr. Dubois** to provide the 5<sup>th</sup> vote for the evening.

**MEMBERS PRESENT:** Sarah Ferrante, Gary Montano, William Soda,

**ALTERNATES PRESENT:** Gary Dubois, Mike Smith

**MEMBERS/ALTERNATES ABSENT:** Carmina K. Hirsch, Chris Wolfe, Joseph Tuozzola (Ch)

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

### **CONSIDERATION OF AGENDA ITEMS**

1. **142 Bird Lane**, MBP 48/713/9A, R-12.5; James Dahl, owner; Vary Section 4.1.7 to construct an 8-ft fence in side-yard and rear-yard where 6-ft fence is permitted.

**Mr. Dahl** addressed the board. He described the presence of a walking path leading to Foran High School where he would like to erect a fence for privacy from school traffic.

**Ms. Ferrante, Mr. Montano, and Mr. Soda** felt strongly that a precedent would be set and indicated that they would vote to deny the application.

**Ms. Ferrante** asked if anyone wished to speak in favor of or in opposition to the application; hearing none, she closed the hearing and asked for a motion.

**Mr. Soda** motioned to **approve**. **Mr. Montano** seconded. The motion failed with **Ms. Ferrante** and **Messrs. Dubois, Montano, Smith,** and **Soda** voting **against the motion**.

2. **5 Sand Street**, MBP 6/86/11, R-5; Thomas Lynch, Esq., for Michael Apkon and Michelle Apkon, owners; Vary section 4.1.4 rear-yard projection from 16' permitted to 11' proposed to allow construction of open spiral deck staircase.

**Attorney Lynch**, 63 Cherry Street, addressed the board. He provided an overview of the planned house. He noted that there was no access from the deck to the ground.

### DISCUSSION

**Mr. Montano** asked if the spiral staircase would be an egress for the house as well as the deck; **Attorney Lynch** said it would be.

### BOARD DISCUSSION

**Ms. Ferrante** asked if there was anyone speaking in favor or opposition. Hearing none, she closed the hearing.

**Mr. Soda** and **Ms. Ferrante** said they favored the application due to its provision of additional egress.

**Mr. Soda** motioned to **approve**. **Mr. Montano** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Montano, Smith,** and **Soda** voting **with the motion**.

3. **25 Shell Avenue**, MBP 45/510/85, R-12.5; Thomas Lynch, Esq., for Sea Shell, LLC, owner; Vary Section 6.2.1 to allow renovation and enlargement of structure devoted to a non-conforming residential use with no increase in unit count. **POSTPONED.**

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4. **75 Anchorage Drive**, MBP 13/146/8, R-12.5; Sarah Lebov and Michael Lebov, owners; Vary 3.1.4.1 west side-yard setback to 5' where 10' required to construct an attached garage.

**Ms. Lebov** addressed the board. She described the house and variance to rebuild a one car garage and extend it to accommodate 2 cars. She said Anchorage Drive is a dead-end cul-de-sac and the hardship is that their lot is the smallest around the cul-de-sac and nonconforming. She said abutters had previously received variances for 2-car garages that were similar to her request. She said that she and her husband discussed the project with her neighbors, and they had no problem with it.

### DISCUSSION

**Mr. Montano** agreed that the cul-de-sac design had reduced the size of the Lebov's lot. **Ms. Ferrante** confirmed that the lot was the smallest.

### BOARD DISCUSSION

**Ms. Ferrante** asked if anyone wished to speak in favor of or in opposition to the application; hearing none, she closed the hearing and asked for a motion.

**Mr. Soda** motioned to **approve**. **Mr. Montano** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Montano, Smith, and Soda** voting **with the motion**.

5. **37 Lilac Lane**, MBP 92/704/1J, R-12.5; Rose Elliott and John Elliott, owners; Vary section 3.1.4.1 side-yard setback to 4.4' where 10' required and rear-yard setback to 23' where 25' required to build an attached garage and shed.

**Ms. Elliot** addressed the board. She described the project and said the hardship was a need to make the house support a smoother transition to hers and her husband's retirement. She also expressed concern about securing her property and recounted an attempted car theft at their home that was caught on their surveillance camera. She also said the lot is oddly shaped. She referred to a petition in support from neighbors.

### DISCUSSION

**Ms. Ferrante** asked how wide the garage and shed would be; **Ms. Elliott** described a 24 x 24 garage and a 10 x 10 shed. **Mr. Soda** discussed the placement of the shed with **Ms. Ferrante**. **Mr. Smith** pointed out that the most affected neighbors had no objection to the proximity of the addition.

### BOARD DISCUSSION

**Mr. Ferrante** asked if anyone wished to speak in favor of or in opposition to the application; hearing none, she closed the hearing and asked for a motion.

**Mr. Soda** motioned to **approve**. **Mr. Montano** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Montano, Smith, and Soda** voting **with the motion**.

6. **114 Merwin Avenue**, Kevin Curseaden, Esq., for Peter Dreyer, appellant (112 Merwin Avenue) Appeal the Decision in accordance with the provisions of section 9.2.1 regarding decision to issue a zoning permit date 7/21/22 for the construction of a single-family house in violation of zoning regulations **POSTPONED**

7. **50 Morris Lane**, MBP 57/712/178, R-10; John Gagne, owner; Vary section 4.1.4 front-yard projection from 21' permitted to 17.2' proposed to allow construction of a front porch.

**John Gable**, CT Consulting Engineers, 1 Prestige Drive, Shelton, addressed the board. He described the porch addition and the need for an additional 4' to fit furniture, creating a depth of 8'. **Ms. Ferrante** asked if the 8' depth was necessary. **Mr. Smith** asked about letters of support. **Mr. Soda** said the columns were taking up a foot of depth. **Mr. Montano** confirmed the variance depth to the front lot line.

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**Mr. Ferrante** asked if anyone wished to speak in favor of or in opposition to the application; hearing none, she closed the hearing and asked for a motion.

**Mr. Soda** motioned to **approve**. **Mr. Montano** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Montano, Smith, and Soda** voting **with the motion**.

**8. 144 Meadow Park Lane**, MBP 76/917/38A, R-10; Alejandro Lezama, owner; Vary 3.1.4.1 side-yard setback to 3' where 10' required to construct a 12'x12' addition.

**Mr. Lezama** addressed the board. He described a variance that he previously obtained in January but said he had decided he wanted to extend the addition further than the original plan to accommodate his family.

### BOARD DISCUSSION

**Mr. Ferrante** asked if anyone wished to speak in favor of or in opposition to the application; hearing none, she closed the hearing and asked for a motion. She said the original variance had been approved and this was consistent with it.

**Mr. Soda** motioned to **approve**. **Mr. Montano** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Montano, Smith, and Soda** voting **with the motion**.

**9. 261 First Avenue**, MBP 9/82/14, R-10; Eileen O'Rourke, owner; Vary 3.1.4.1 northerly side-yard setback to 7.8' where 10' required to construct a 21'x12' addition. *(This item was moved to later in the agenda as the applicant was temporarily absent.)*

**Colin Healy**, Colin Healy Home Design, Stratford, addressed the board. He said the goal is a total renovation of the house, which has been in the owner's family since the 1950s. He said the addition is smaller at 21' x 8' than advertised, and that the house is nonconforming. He said the required additional space is about 4x4 sf. **Ms. Ferrante** confirmed that the house is already in the setback, but the addition would extend the existing house.

### BOARD DISCUSSION

**Mr. Ferrante** asked if anyone wished to speak in favor of or in opposition to the application; hearing none, she closed the hearing and asked for a motion. She said it was similar to a previous request and very modest.

**Mr. Soda** motioned to **approve**. **Mr. Montano** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Montano, Smith, and Soda** voting **with the motion**.

**10. 9 Little Pond Road**, MBP 39/618/6A, R-10; Kevin Curseaden, Esq., for Sachin Anand, owner; Vary section 4.1.4 easterly rear-yard projection of 17.4' where 21' required for basement access, northerly side-yard projection of 6' where 8' required for stairs; vary 4.1.5 northerly side-yard setback of 1' where 4' required for patio and easterly rear-yard setback of 3.6' where 4' required for patio.

**Attorney Curseaden**, 3 Lafayette Street, addressed the board. He said that all the variance requests on the original application had been reduced due as it had been determined that a variance was not needed. He said the lot was existing nonconforming and had not previously been developed. He described the grade and configuration of the corner lot. He said the proposed basement access would be the only exterior access to that part of the house and that it effectively functioned like a Bilco door. He said his client was prepared to forgo the housing around the stairs if the board objected to it. He described the lot and its irregularities.

### DISCUSSION

**Mr. Soda** confirmed the design of the exterior structure. Discussion ensued about the difference between variances for structures versus stairs. **Mr. Soda, Mr. Harris, Mr. Montano, and Attorney Curseaden** discussed whether the structure could be added at this point. **Ms. Ferrante** asked why the variance application was made so late on a new house; Attorney Curseaden said the architect had misinterpreted the Milford Zoning Regulations.

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### BOARD DISCUSSION

**Mr. Ferrante** asked if anyone wished to speak in favor of or in opposition to the application; hearing none, she closed the hearing and asked for a motion.

The board's concerns centered on the safety issue of having basement egress; the group decided to let the Planning and Zoning office decide if the applicant had to come back next month for an additional variance.

**Mr. Soda** motioned to **approve**. **Mr. Montano** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Montano, Smith,** and **Soda** voting **with the motion**.

**11. 0 Indian Hill Road**, MBP 37/520/16A, R-12.5; Kevin Curseaden, Esq., for Lisa Leso, owner; Vary Sec. 2.5.5 for rear lot in order to build single-family house.

**Attorney Curseaden**, 3 Lafayette Street, addressed the board. He described the project as based on a need to provide access to a rear lot. He said a preexisting nonconforming lot was created in 1968 when it was deeded to another property and that no rear lot regulations existed before 1972. He said a deeded easement exists from 20 Myers Lane, which is also owned by his client. He said the lot is assessed and taxed as a building lot, but it has little value if no principal structure can be built because it lacks frontage. He said wetlands are on the site, but a house could still be located there. He said the city preferred not to extend Myers Lane to provide access to the house. He said case law was provided in his submitted materials and that denial of a variance prevents all use of the lot, amounting to a confiscation. He said the confiscation was sufficient hardship to compel a variance to be granted.

### DISCUSSION

**Mr. Soda** asked about the requirement for a rear lot to be an acre. **Mr. Smith** and **Attorney Curseaden** discussed the history of the assessment and taxation of the lot. **Attorney Curseaden** said when the lot was deeded off, it would have complied with requirements for a building lot. **Ms. Ferrante** asked if the application was the same as the one submitted in 2019. **Attorney Curseaden** said it was the same except for describing failure to grant a variance as a confiscation. **Mr. Soda** said he was concerned about setting a precedent for rear lot size. **Attorney Curseaden** said rear lots should be handled on a case-by-case basis. He said the lot had become increasingly nonconforming over time. He said there is no practical use of the lot as it is landlocked.

### BOARD DISCUSSION

**Mr. Ferrante** asked if anyone wished to speak in favor of or in opposition to the application; hearing none, closed the hearing and asked for a motion. She said the lot was significantly undersized and that she doesn't like reversing the previous decision. **Mr. Smith** said he was troubled by the taxation. **Mr. Soda** and **Ms. Ferrante** felt the lot is so undersized, development would set a precedent.

**Mr. Soda** motioned to **approve**. **Mr. Montano** seconded. The motion failed with **Ms. Ferrante** and **Messrs. Smith,** and **Soda** voting **against the motion** and **Mr. Dubois** and **Mr. Montano** voting **with the motion**.

**12. 589 Bridgeport Avenue**, MBP 25/207/50A, CDD-3; John Knuff, Esq., for CDP Milford, LLC, owner; Vary section 5.3.5 to allow ground sign on parcel separate from premises, where only on-premise signs are permitted; Vary section 5.3.5.1 to allow 2 ground signs along the front property line, where only 1 is permitted.

**Attorney Knuff**, 183 Broad Street, addressed the board. He submitted the abutter notification materials to the clerk. He described the project and the improvements to the property that his client was making. He reviewed previous Planning and Zoning approvals and those to be heard soon. He reviewed features of the 17.9-acre site plan and noted current tenants. He said Taco Bell does not have a curb cut on Bridgeport Avenue, so many of its customers arrive via Lansdale Avenue, necessitating a sign there. He described plans to completely redo the site up to the area of the Dollar Tree Store, taking down and completely redoing the Kmart building. He said a new multifamily community would also be built on its own parcel. He described Lansdale drive as the primary access to the residential portion of the site but said the second proposed sign is needed for wayfinding to Taco Bell and the residence. He said the unusual aspect is that both signs must be located on the same property, underscoring how unique the development is. He said there will be 2 lots and 2 signs, otherwise potential traffic issues are likely due to people missing the turnoff.

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**Mr. Montano** asked about the square footage of the signs; **Attorney Knuff** said they would be compliant with the regulations at perhaps 20 to 30 sf. **Mr. Soda** agreed that the property is unique.

### BOARD DISCUSSION

**Mr. Ferrante** asked if anyone wished to speak in favor of or in opposition to the application; hearing none, she closed the hearing and asked for a motion. **Mr. Soda** said he felt that much activity will be funneling through Lansdale Avenue where stores can't be seen from major roads. He agreed clear signage is required.

**Mr. Soda** motioned to **approve**. **Mr. Smith** seconded. The motion carried with **Ms. Ferrante** and **Messrs. Dubois, Montano, Smith,** and **Soda** voting **with the motion**.

- A. NEW BUSINESS**
- B. OLD BUSINESS**
- C. STAFF UPDATE**
- D. ACCEPTANCE OF MINUTES FROM 12 JULY 2022 HEARING**
- E. ACCEPTANCE OF APPLICATIONS FOR 11 OCTOBER 2022 HEARING**

Adjournment was at **8:19 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:

M.E. Greene, Clerk, ZBA