

MEMBERS PRESENT: Howard Haberman, Fred Katen, Nanci Seltzer, Joseph Tuozzola

ALTERNATES PRESENT: Tom Nichol

STAFF PRESENT: Kathy Kuchta, Zoning Enforcement Officer, Rose Elliott, Clerk

The meeting was called to order at 7:00 p.m.

A. CONSIDERATION OF AGENDA ITEMS

1. **Alpha Street/Eels Hill Road** (Zone R-18) Stephen W. Studer, attorney, for Milford Heights, LLC, appellant, for United States of America, U.S. Coast Guard Finance, CTR, owner – appeal the decision of the City Planner in correspondence dated June 4, 2010 from City Planner denying a Certificate of Zoning Compliance. Map 69, Block 711, Parcel 17A.

Withdrawn.

2. **4 Parkland Place** (Zone R-10) Christopher T. and Kim E. Roberts, owners – request to vary Sec. 3.1.4.1 to allow 5.1' (4.1' to overhang) side yard setback in lieu of 10'; 4.0' side yard in lieu of 10'; 4.9' and 6.3' deck and elevator projection in lieu of 2'; 64.9% lot coverage in lieu of 50% allowed; and vary Sec. 4.15 to allow patio area 0' in lieu of 4' from property line for substantial improvement to a single family residence. CAM received. Map 39, Block 606, Parcel 4

Kim Roberts, 4 Parkland Place, said they have lived in this house since 1996. They are keeping the house within the same footprint. The proposed renovations to the house, including the elevator, will enhance their ability to remain in Morningside.

Ray Oliver, 3 Lafayette Street, architect, said the current house is small and located on a small lot. The lot predates zoning and the hardship is trying to apply the requirements of the regulations for the larger zone to their lot. Currently, the house is approximately 1,000 sq. ft. with a basement. To increase the living area of the house, they will maintain the footprint of the house and elevate the building up one story and build a new first floor on top of the existing basement area. Basically, what is proposed is the same as what is currently existing, except for the elevator. There is a proposed new boat shed, hatchway and terrace area that increases the coverage amount.

Mr. Haberman confirmed the existing side deck is at a 0' setback now to which Mr. Oliver said that was correct.

Mr. Oliver said these renovations would allow for an indoor garage and would provide two additional off-street parking spaces in the parking area in front of the house. This would help to alleviate the congestion in the neighborhood.

Chrmn. Katen asked what the hardship was.

Mr. Oliver said the size of the lot is non-conforming with 40' lot width where 50' is required.

Chrmn. Katen said the hardship cannot be the lot size; you could say that about any lot.

Ms. Seltzer asked Ms. Kuchta when all these decks and additions were approved originally, because it looks like it should have come before the ZBA before this.

Ms. Roberts said the house was built in 1972 and the decks were added in December of 2003. They did come before the Board for a variance.

Ms. Kuchta said the decks and stairs received a variance on November 3, 2003 and read the approval into the record.

Chrmn. Katen asked for clarification to which Ms. Roberts said the house itself was built without variances prior to their purchasing the home. When they went for permits to build the decks, they were told they needed a variance because the house itself was not in compliance. There was a side deck and front deck that was existing, so they went for a variance and replaced the side deck and increased the size of the front deck.

Ms. Kuchta said there is a notation in the file that when an inspection was conducted by the zoning enforcement officer in August of 1971, it was found they were in the process of constructing a single family dwelling and they were required to come in for permits. The variance was to allow the decks to remain.

Mr. Tuozzola asked what exists where the patio is proposed.

Ms. Roberts said there is a concrete box and the decking is on top of that.

FAVOR:

Ann Moore, 18 Parkland Place, said she is two houses away from the applicant and is in favor of the request. She reminded the Board there was another house on Parkland Place that was recently approved on a narrower lot. This request should also be approved.

The hearing was closed.

DISCUSSION:

Ms. Seltzer said just because the house you buy is as big as the property, doesn't make a hardship. She is against the variance. Mr. Haberman said the lot is significantly undersized for the zone and the request is to build up on what currently exists. Mr. Tuozzola said he had had concerns about the side patio but if the person who spoke in favor was the adjacent neighbor and didn't have any concerns with runoff then that issue was settled. He still wasn't sure about the decking. Mr. Haberman said the decking was already there.

Mr. Haberman made a motion to approve with Mr. Tuozzola seconding. The hardship is the undersized lot with 4,000 sq. ft. where 10,000 sq. ft. is required by the Zoning Regulations. The motion failed to carry 3-2 with Mr. Tuozzola, Haberman and Nichol voting in favor and Ms. Seltzer and Chrmn. Katen voting against.

Ms. Seltzer made a motion to deny with no second.

Chrmn. Katen said since the original motion failed to carry and there was no second to the second motion, then that is how it will stand.

3. **7 Waterbury Avenue** (Zone R-5) John Wicko, appellant, for William J. Sembiante, owner – request to vary Sec. 3.1.4.1 to allow 13.8' rear yard setback in lieu of 16' (to projection) for rear balconies. CAM received. Map 13, Block 135, Parcel 7.

John Wicko, 50 Broad Street, architect, said they were before the Board two months ago with a similar application that included a hot tub and deck as part of the variance request. Through the Board's suggestions and discussions with the owner, they have reconfigured the plans and have come up with a location for the hot tub that no longer requires a variance. They also increased the distance from the decks to the rear property line from 12.8' to 13.8'; an improvement of 1'. The hardships are the same, the width and the depth of the lot. This compromises the rear yard but does provide an open space off their second floor living area, for some natural light and ventilation. The only variance request is for the decks, which have been reduced by 1' from the previous meeting with the Board.

Chrmn. Katen asked the distance from the property line to which Mr. Wicko said the deck is 13.8' from the rear property line where the previous application was 12.8'.

OPPOSITION:

Paula Smith, 62 Hauser Street, said she is there on behalf of her mother, Irene Smith, who lives at 144 Broadway and whose property abuts the applicant. She read her statement into the record.

Dawn Carlson, 114 Shorefront, said that while she welcomed the change to the property, she opposed the variance. She said the area is already very congested and the recent fires on Laurel Avenue are reminders of what can happen when houses are too close to each other.

Dean Smith, 10 Smith Avenue, who lives directly behind the applicant, also objected to the variance because the area is already congested. He noted in that Laurel Avenue fire, two houses were completely destroyed and one heavily damaged. He hated to think what might happen if a fire should break out in this neighborhood.

REBUTTAL:

Mr. Wicko said the house itself conforms to all the zoning requirements. It is only the second and third floor open balconies, which require the variance. The lot is non-conforming with 3,985 sq. ft. where 5,000 sq. ft. is required. The width is 45.5' where 70' is required. The lot depth is 87' where 100' is required. The request is for the owners to have reasonable use of an outdoor space.

Chrmn. Katen asked for the hardship to which Mr. Wicko said the depth of the lot is less than what is required.

Mr. Haberman asked if the existing house was to be torn down and a new one built?

Mr. Wicko said the house is located in a flood zone. Since the existing house is in such disrepair and the foundation is non-existent, it would need to be torn down and rebuilt to conform to the current standards.

Mr. Haberman asked if the deck was necessary to gain entry to the home to which Mr. Wicko answered it was to provide natural light and a way out from the living area. Being located in a flood zone, the living area of the home is raised. With the balconies, they would be able to cook and enjoy the outside air without having to go up and down stairs.

Mr. Tuozzola asked what was the square footage of the current house and the proposed house.

William Sembiente, 7 Waterbury, answered the old house was almost 2,100 sq. ft. and the new house would be about 2,622 sq. ft. The old house was below flood stage and it didn't meet building code requirements. A teardown was a more economical way to go.

Mr. Haberman confirmed they were building on the same footprint, not increasing it.

Mr. Sembiente said they were actually moving the house back because the original house wasn't compliant with the zoning regulations. It currently is within ten feet of the road. They moved it back even further to align it with the existing houses on the street. As a result of pushing the house back and because of the hardship of the undersized depth of the lot, they need the 3.2' variance for the deck.

Ms. Seltzer asked if he would consider redoing the plans to exclude the 2nd and 3rd floor decks.

Mr. Sembiente said they would like to keep the decks.

Mr. Tuozzolo confirmed with Ms. Kuchta that all the other setback requirements for the house are being met.

Ms. Kuchta said everything meets the setback requirements and he is allowed a 4' projection into the rear yard setback. He is asking for an additional 3.8'.

Mr. Nichol confirmed this house was being demolished and the proposed house pushed back from the road to which Mr. Wicko said that was correct.

The hearing was closed.

DISCUSSION:

Ms. Seltzer said if the two decks were removed, she would consider it. Mr. Haberman reminded the Board they sent the applicant away the first time because of the size of the proposal. The applicant listened to what the Board had to say, made adjustments and are now back before the Board. Chrmn. Katen said it looks like a big house on a small lot. Mr. Haberman said it is the same size house that is there already. They are raising it up and asking for a 3' variance for a deck. The house itself meets all the zoning requirements. They actually pushed the house back to keep it inline with the other houses on the street. Chrmn. Katen said the variance is not for the house but for the projection of the decks.

Ms. Seltzer made a motion to deny with no second.

Mr. Haberman made a motion to approve with Mr. Nichol seconding. The hardship is the undersized lot. The applicant came before the Board two months ago and the Board denied the request. The applicant listened to the Board's suggestions and decreased the size of the decks. They are only asking for a 3' projection. The rest of the house meets all the zoning regulations. The motion failed to carry 3-2, with Messrs. Tuozzola, Haberman and Nichol voting in favor and Ms. Seltzer and Chrmn. Katen voting against.

4. **5 Sand Street** (Zone R-5) Arla Wiles, owner – request to vary Sec. 3.1.4.1 to allow 16' in lieu of 20' required for rear yard 7.6'x7.7' pantry addition; vary Sec. 4.1.4 to allow an 8' rear yard projection in lieu of 4' allowed for 4'x13' deck extension. CAM received. Map 6, Block 86, Parcel 11.

Arla Wiles, 5 Sand Street, submitted two letters of support and said she spoke with all the neighbors directly impacted and no one had any objections to the proposal.

Chrmn. Katen said there was one letter of opposition in the file and Ms. Seltzer asked Ms. Kuchta to read it into the record, which she did.

Ms. Wiles said a few years ago, Mr. Lucashuk tried to build a huge house on his property. Four of the neighbors got together to oppose it and he has had an ax to grind with her ever since. She added they would like to put a small, walk in pantry on the existing deck. To replace the space lost by the proposed pantry, they would like to add 4' of additional decking.

Chrmn. Katen asked what the hardship was to which Ms. Wiles said they are located in a flood zone and their lot size predates zoning.

Chrmn. Katen asked if a variance was granted for the existing deck.

Ms. Kuchta said the only variance request she could find was withdrawn.

Chrmn. Katen asked if this deck was built anyway, even though the application was withdrawn.

George Wiles, 5 Sand Street, said the builder built the deck. The withdrawn application was to do this exact same thing but they decided they weren't ready to do it at that time and withdrew the application. The pantry would be on top of the existing deck, with no expansion needed. He added the gentleman in opposition lives across the street and not an adjacent property owner. No adjacent property owners had any objections.

The hearing was closed.

DISCUSSION:

Mr. Tuozzola said the applicants have already been given a variance for the deck. He didn't see the hardship for the extension. This item is similar to the previously denied items on the agenda. Mr. Haberman didn't have a problem with the pantry, but did have a problem with the deck. He thought the Board should split the motion.

Mr. Haberman made a motion to split the motion: one for the pantry, one for the deck.

Mr. Tuozzola seconded the motion. The motion carried unanimously.

Mr. Haberman made a motion to approve the pantry with Mr. Tuozzola seconding. The hardship is the undersized lot. The pantry will not increase the non-conformity. The motion failed to carry 3-2 with Messrs. Haberman, Tuozzola, Nichol voting in favor and Ms. Seltzer and Chrmn. Katen voting against.

Mr. Haberman made a motion to deny the deck with Ms. Seltzer seconding. The reason for the denial is the deck will increase the existing non-conformity in the rear of the property. The motion carried unanimously with Ms. Seltzer, Messrs. Nichol, Tuozzola, Haberman and Chrmn. Katen voting.

5. **50 Greer Circle** (Zone R-7.5) Christina E. Ruenhorst, owner – request to vary Sec. 3.1.4.1 and Sec. 4.1.7 to allow existing 6' fence to remain 6.5' from property line in lieu of 20' required for front yard setback, and 11' in lieu of 20' in additional front yard setback. Map 76, Block 918, Parcel B-6.

Christina Ruenhorst, 50 Greer Circle, submitted paperwork to the Board members. She asked the Board to allow her to keep the two side fences as they have been there since 2001, with no complaints. The hardship is she has three front yards. There is a thin strip of land designated as the back yard, but it has no privacy. The front yard is more than four times the size of the backyard. The fences were erected in 2001, when the property was purchased. They do not obscure the vision of traffic coming around the circle. Her neighbor at 62 Greer Circle was granted a variance for his six foot, front yard stockade fence, which goes out to the City property. Her fences sit much further back. She has 52 signatures on a petition to allow the fence to remain. Fifteen neighbors have sent in letters of support. During her previous variance hearings, the fences were always shown on the plans, on her survey map and also viewed by the members of the Board during their drive-by review. No one ever mentioned they were out of compliance and she had no reason to think they were illegal. If she had, she would have requested it along with her other variance request. She believes her request is fair and reasonable in light of her very unusual hardship of three front yards. She needs her privacy to enjoy her property. She is just asking to legalize what has already been in existence. She described the items in the paperwork she had passed out earlier.

Jim Lancaster, 665 Gilman Street, Bridgeport, architect, said they are only asking to allow the fences to remain as they have been.

Ms. Seltzer said one of the fences is brand new to which Ms. Ruenhorst said yes, it was replaced when they replaced the other one so she could have a gate to enter.

Mr. Tuozzola asked if the rear fence is six feet high.

Ms. Ruenhorst said it is but the fence on the neighboring property of Frank Geer, is 8" higher.

Mr. Tuozzola asked if the existing fence ever received a variance to which Ms. Ruenhorst said she and her father put up the fence and didn't think it was considered a front yard.

FAVOR:

Cheryl Burke, 35 Greer Circle, said Christina has a lot of front yard. The fence is kept well back from the road, it doesn't look bad and it allows her to use her backyard. If Christina didn't have a fence that high, she could look out her front door and watch everything she was doing in her backyard. Ms. Burke said she and her husband are in favor of the application.

OPPOSED:

Frank Geer, 62 Greer Circle, submitted photos to the Board. He said one of the fences has been in existence since 2001. The new fence, that faces 63 Greer Circle, is a six foot stockade fence that goes 16' into his front yard. The fence that went from the side of his house into the front yard was 4' high. The front of his house is directly affected

by this fence. It gives a claustrophobic feel to his front yard. He doesn't think it is reasonable to continue her backyard into his front yard and doesn't think he should have to assume all the responsibility of her variances. Ms. Ruenhorst uses her backyard as her primary entertainment area. If that entertainment area is brought 16' closer, he will have to close three or four bedroom windows just to go to sleep. He asked the Board to deny the variance and its intrusion into his property, the look and feel of his home and the neighborhood.

Chrmn. Katen confirmed he had gotten a variance for his fence to which Mr. Geer said that was correct.

REBUTTAL:

Ms. Ruenhorst said she hasn't done any entertaining or even sitting out in her backyard in two years. That fence is in the exact same position that it has always been and it has always been 6' high all the way around. She has always been a considerate neighbor and willing to compromise on things. She just has a most unusual lot that can be seen from both sides.

The hearing was closed.

DISCUSSION:

Mr. Tuozzola said the fence is existing, and should be left the way it is. There are 52 neighbors in favor of the fence. Chrmn. Katen said the fence has been there for such a long time. The lot has a hardship in the fact that there are three front yards. The neighbor's fence has a variance. Mr. Haberman said there is only one section of fence that the neighbor has a problem with. The section of fence was replaced in exactly the same spot it has been in since 2001. Ms. Seltzer said she appreciated the before and after pictures.

Ms. Seltzer made a motion to approve with Mr. Tuozzola seconding. The hardship is the size of the lot and the three front yards. There is no change to the footprint of the fencing. The motion carried unanimously with Ms. Seltzer, Messrs. Tuozzola, Haberman, Nichol and Katen voting.

6. **49 Cornfield Road** (Zone R-12.5) Frank Giacobbe, agent, for Richard Guidetti, owner – request to vary Sec. 3.1.4.1 for two car garage with bedroom addition above; vary front yard setback to 20' in lieu of 30' required. Map 62, Block 928, Parcel 8H.

Frank Giacobbe, 117 Ocean Avenue, West Haven, submitted paperwork to the Board. He said they are proposing to build a two car garage with two rooms above. The hardship is the location of the house to the lot. There is a curve in the road that makes this addition require a variance. They would like to keep the addition in line with the existing house to keep the look of the house. The addition cannot be pushed further back because of the sewer line located there.

Mr. Haberman confirmed there was a two car garage there already and asked what the width of the house would be with this addition to which Mr. Giacobbe said it would be 75 feet.

Chrmn. Katen asked what they were going to do with the existing two car garage.

Mr. Giacobbe said they would be keeping one existing garage and closing off one of the other ones.

Ms. Seltzer said there was no key map on the survey giving the lot size, percentage of lot, building coverage, etc. She asked Ms. Kuchta if she could make sure that this information is on all the plans submitted in the future.

Chrmn. Katen confirmed that because of the shape of the lot, any extension to the house would require a variance to which Ms. Kuchta said that was correct. The lot coverage requirement was calculated and it did conform. While the information is not listed in a key map, it does not exceed the requirements.

Mr. Tuozzola said the only item in question is whether they will be approved to have a 20' setback instead of a 30' setback.

FAVOR:

Brad Sanchez, 6 Haystack Road, said he lives across the street and he approves the application.

The hearing was closed.

DISCUSSION:

Chrmn. Katen said the shape of the lot is the hardship. This is the only way they can extend the house. **Mr. Tuozzola** said it would still be 20' from the street. It is a corner lot and he didn't have a problem with it.

Mr. Tuozzola made a motion to approve with **Mr. Nichol** seconding. The reason for approval is they are making better use of the property. **Mr. Haberman** added the shape of the property and the placement of the house on the lot are the hardships. The motion carried 4-1 with Messrs. Haberman, Tuozzola, Nichol and Katen voting in favor and Ms. Seltzer voting against

7. 312 Wheelers Farms Road (aka 312-314 Wheelers Farms Road) cor. East Rutland Road (Zone RA) **Scott Farquharson**, agent, for **Stephen & Meg Povroznik**, owners – request to vary Sec. 3.1.4.1 to remove existing structure and construct new single family dwelling to vary setback to 34' from 50' required on East Rutland Road and vary setback to 17' from 50' required on Wheelers Farms Road. Map 86, Block 916, Parcel 6.

Ms. Seltzer informed the Board she sat on the Planning and Zoning Board with **Mr. Povroznik** and has worked with his wife, but didn't feel that either of those would affect her decision on the application.

Scott Farquharson, 69 Central Avenue, Wolcott, of Baybrook Remodelers, contractor for this project, said they are proposing to demolish the existing house and construct a new 60.7'x47.8, four bedroom home with garage. The existing home was built in 1921. The new home would be less non-conforming. There is a dry bed stream and wetlands that run through the property, dividing the lot. They would also be going before the

Inland Wetlands agency. The hardship is the setback requirement for the front and rear yards severely limits the ability to locate a new home on the lot. The topography is such that another location would create difficulties in positioning the home. The western side of the property is the only location feasible for a new septic system, which would be required. There are no sewer hookups this close to Wheelers Farms Road. In addition there is also a 30" Butternut tree, believed to be one of the oldest in Connecticut, located on the property. The owners do not wish it to be destroyed. They do not want to change the character of the property.

Mr. Haberman asked if the front of the house would remain on Wheelers Farms Road to which Mr. Farquharson said yes.

Mr. Haberman confirmed the house couldn't be pushed back because of the brook, the new septic system's location and the tree.

Mr. Farquharson said that was correct.

Chrmn. Katen asked about wetlands approval to which Mr. Farquharson said they are on the agenda for the October 6th Inland Wetlands hearing.

Ms. Seltzer felt the neighbors would be appreciative of the fact the applicants are not subdividing the property.

Stephen Povroznik, owner of 312 Wheelers Farms Road, said if there were sewers in the area, they would not be here this evening.

Ms. Seltzer spoke of a white, temporary garage type structure on the property.

Mr. Povroznik said it is a shelter for the workers and can be taken down, it is temporary.

Mr. Nichol asked why the house couldn't be shifted to the left to which Mr. Povroznik answered if there were sewers in the area, they could shift it over. A new septic field needs to be put in and needs to be a certain distance from the house.

Ms. Kuchta added he would need to be at least 50' from the wetlands line for Wetlands approval. The survey shows they are at a distance of 53'.

Mr. Povroznik said his hardships are the wetlands and not having sewers.

There being no one to speak in favor or opposition the hearing was closed.

DISCUSSION:

Chrmn. Katen said the hardship is in meeting the Inland Wetlands requirement from the brook and the fact there are no sewers in the area. It would still be 17' from Wheelers Farms Road and he didn't see a problem with it.

Ms. Seltzer made a motion to approve with Mr. Haberman seconding. The hardships are as stated. The motion carried unanimously with Ms. Seltzer, Messrs. Haberman, Tuozzola, Nichol and Katen voting.

8. **354 Woodmont Road** – (Zone ID) Reconsideration of variance granted to Side Step, Inc., on May 11, 2010. Map 91, Block 809, Parcel 6BC.

Ms. Kuchta explained it was determined this item did not have proper notice so the City Attorney is requesting the Zoning Board of Appeals declare the May 11, 2010 public hearing on this matter improper and void the action taken. The property is a

shopping center condominium. Each unit is individually owned and should have been noticed individually.

Mr. Haberman made a motion to rescind the approval of the variance given in May due to improper notice given. He added the applicant can reapply if they desire. Ms. Seltzer seconded the motion. The motion carried unanimously with Ms. Seltzer, Messrs. Nichol, Tuozzola, Haberman and Katen voting.

B. TABLED ITEMS

C. OLD BUSINESS

D. NEW BUSINESS

Mr. Tuozzola had questions regarding those storage containers dropped off in front of peoples' homes. He asked what the City's position on the length of time they could remain was to which Ms. Kuchta answered she could not find a time limit in the regulations. What she has been doing when people ask for a dumpster is she issues a letter telling them they have permission; they cannot put food or perishable items in it; the top must be closed and it can be kept for 60 to 90 days, depending on the situation. Chrmn. Katen said he was informed there was a three month time limit but also there was no one to enforce the time limit. It is the same with the a-frame signs that are all over Milford. Planning and Zoning should look into it. Ms. Kuchta said Emmeline Harrigan is looking into rewriting the sign regulations. The Board of Aldermen voted away an ordinance that allowed the Zoning Enforcement Officer to place a sticker on the illegal sign. Office procedure would be if the pod was there too long, she would take a picture of it for the file, issue a violation letter to the owner and the owner would remove the pod before it was turned over to the City Attorney's office. The end result is the same – the pod would be removed.

Ms. Seltzer said that while she appreciates the additional information being sent by the office in the packets for the meeting, she still feels she needs more information. She doesn't feel she is as informed as she could be when she visits the sites. It would help if there were a couple of extra sentences so she knows what she is driving up to see. Ms. Kuchta said she would work on giving more information in the description if she could without it seeming predisposed in any direction.

E. STAFF UPDATE

F. ACCEPTANCE OF MINUTES FROM AUGUST 10, 2010 HEARING

The minutes were accepted unanimously.

G. ACCEPTANCE OF APPLICATIONS FOR OCTOBER 12, 2010 HEARING

The meeting was adjourned at 7:55 p.m.

Attest:

Rose M. Elliott,
Clerk ZBA