

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 13 November 2018

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 13 November 2018, 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 asked for conflicts of interest for board members with any agenda items; none were raised.

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

ALTERNATES PRESENT: Michael Casey, Gary Dubois

MEMBERS/ALTERNATES ABSENT: Etan Hirsch, Christine Valiquette

STAFF PRESENT: Stephen Harris, Zoning Enforcement Officer; David Sulkis, City Planner, Meg Greene, Clerk

B. CONSIDERATION OF AGENDA ITEMS

1. **0 Rock Lane.** MBP 92/705/1K. LI, Joseph Kubik, Esq., for Joseph Arpino and Carol Arpino, owners; Sec 9.2.1. Appeal the Decision of the Zoning Enforcement Officer in a letter of violation dated 2 October 2018. **HELD OPEN**

Attorney Kubik addressed the board. He said discussions on behalf of his clients were underway with Mr. Harris to remove a pile of broken asphalt on the site. He said the goal was to begin processing the material before the end of the year. He asked for a postponement.

Mr. Harris said he did not object to leaving the hearing open.

Mr. Tuozzola said the hearing would be held open.

2. **162 Kings Highway.** MBP 60/740/1. BD, Oscar Parente, Esq., for Robert Harrington and Daryl DiPaulo, appellants, regarding lot of Anastasia Blake, owner; Sec 9.2.1. Appeal the Decision of the City Planner in a free split letter dated 18 September 2018; applicants became aware of the letter on 22 October 2018. **HELD OPEN**

Attorney Kim Coleman, 112 Broad Street, addressed the board. She said she had agreed to represent the applicants only a few days prior and wished she had had more time to research the appeal. She nonetheless said that based on her reading of the file, she felt that the ZBA does have jurisdiction, in contrast to assertions by the owner's attorney. She said her clients had contacted the City Planner regarding 162 Kings Highway several months ago and that her clients quoted Mr. Sulkis as saying the neighbors would be notified. She said the applicants had heard about the free split on October 22nd and filed their appeal on the 23rd. She said the owner's attorney advertised the action on September 18 but her clients were not notified directly. She said she had researched the BD zone and was concerned about whether the sidewalks were included with the required 25' lot width. She asked for more time to do research.

OPPOSED

David Yanik, 162 Beach Avenue, said he couldn't understand how 2 dwellings could fit on the property.

Robert Harrington, 160 Kings Highway, said he understood that the BD zone was unusual, but that he was concerned with traffic and that the structure would be on the lot line, resulting in trespass on his property.

RESPONSE BY CITY PLANNER

Mr. Sulkis addressed the board. He said he had met with the neighbors prior to the attorney for the owner of 162 Kings Highway providing evidence that the lot was eligible for a free split. He said that the application was originally to be submitted as a re-subdivision, which requires a public hearing and therefore notification. He said a free split does not

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 13 November 2018

require a public hearing or notification. He described the state-mandated requirements for a free split. He said the owner submitted surveys documenting 2 fully conforming lots and that the lots were conforming regardless of whether sidewalks were incorporated. He said a second problem with the appeal was that the ZBA lacked jurisdiction to hear it because the action had nothing to do with Zoning Regulations and because in approving the free split, he was acting in his capacity as Executive Secretary to the Planning and Zoning Board. He said the applicant can advertise to give public notice and that this starts the appeal period, noting that this had been done in this case. He said the notice published on September 18 started a timer that would allow an appeal to be filed in Superior Court within 15 days by October 3rd. He summed up by saying that constructive notice was given, the free split was legal, and that the ZBA was the wrong venue for an appeal; the Superior Court being the correct venue.

REBUTTAL

Attorney Coleman said she understood that the City Planner can issue the free split as the Planning and Zoning Executive Secretary, but she believed he had been incorrect about the sidewalk. She said Mr. Sulkis should have called Mr. Harrington to advise them about the free split.

BOARD DISCUSSION

Mr. Tuozzola disagreed that the board has jurisdiction and said that it would not have been normal practice for the City Planner to have called abutters personally.

Ms. Ferrante expressed support for giving Attorney Coleman more time. Other board members agreed. **Mr. Tuozzola** said he was convinced that the ZBA does not have jurisdiction, but agreed that more time could be given.

3. 733 East Broadway. MBP 22/474/17. R-5, Jeff Attolino, agent, for Bill Falk, owner; Vary Sec 3.1.4.1 west side-yd setback to 6.5' where 10' req.; 6.3.2 expansion of a nonconforming structure.

Ron D'Aurelio, architect, 69 Sassacus Drive, addressed the board. He described the request and the history of the project. He said the goal was to build a rectangular house that would be elevated to reduce the flood risk. He described the need to get 2 cars under the house in addition to the elevating piers, which drove the need for width. He reviewed other flood risk mitigation features and the ability of the design to provide off-street parking.

COMMENT

Olive Harbor, 9 Cooper Avenue, said she had supported her neighbors trying to improve their property, but wanted to know whether her narrow view of the water would be lost. **Ms. Ferrante** suggested that Ms. Harbor come to the dais and examine the survey with the help of Mr. D'Aurelio. **Ms. Harbor** was delighted to learn that her view would be preserved and expressed support for the plan.

BOARD DISCUSSION

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

C. OLD BUSINESS-None

D. NEW BUSINESS-Calendar approved unanimously.

E. STAFF UPDATE-None

F. ACCEPTANCE OF MINUTES 9 October 2018: Approved.

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 13 November 2018

G. ACCEPTANCE OF APPLICATIONS for 9 December 2018 hearing; continued items noted.

Adjournment was at 7:35 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