

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 14 November 2017

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held on Tuesday, 14 November 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 for conflicts of interest for board members with any agenda items; none were raised. He announced that the 3rd and 5th agenda items had asked for extensions.

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

ALTERNATES PRESENT: Etan Hirsch

MEMBERS/ALTERNATES ABSENT: Gary Dubois

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

B. CONSIDERATION OF AGENDA ITEMS

1. **100 Gulf Street (MBP: 55/816/2)** LI. Melissa Marter, appellant. Sec. 9.2.1: Appeal the Decision of the Zoning Enforcement Officer regarding a Cease and Desist order dated July 11, 2017.

Ms. Marter, 100 Gulf Street, announced she was withdrawing the appeal, and that she would put the fence back into its previous position.

2. **37 Park Avenue (MBP: 16/148/15A) & 44 Naugatuck (R-5 & CDD-2)** R-5., Kevin Curseaden, attorney for 42 Naugatuck Properties, LLC; Vary Sec. 3.1.4.1 front-ym setback to 5' where 10' req, west side-ym to 4.3' where 10' req, Bldng Area from existing 75.1% to 80.4% where 45% req.; Lot Coverage from existing 93.2% to 93.9% where 65% req.; Sec. 4.1.4: front eave proj. to 4' where 8' perm, west side eave proj. to 3.3' where 8' perm, east side eave proj. to 0.3' where 4' perm to construct garage. *Hearing closed. Voting item.*

Attorney Curseaden, Carroll, Curseaden, and Moore, 26 Cherry St., confirmed for **Mr. Tuozzola's** that his office had mailed a new notification to abutters informing them that there would be a request to reopen the hearing. **Mr. Tuozzola** asked for a motion to reopen the hearing. **Mr. Soda** motioned, seconded by **Ms. Ferrante**; the motion passed unanimously.

Attorney Curseaden handed out materials to the board: a 200-ft radius abutter's map, an affidavit for the most recent mailing, and a DMV registration for the vehicle intended to be parked in the proposed garage. He reviewed these documents, noting how they addressed some concerns raised at the previous meeting. He noted that his client agreed to reduce the front yard setback request by moving the garage back. **Mr. Soda** expressed a concern by setting up a theoretical scenario where a subsequent tenant abused permission to park a commercial vehicle in a residential area. **Attorney Curseaden** said it was difficult to anticipate theoretical outcomes. He emphasized that the bifurcated zoning was the hardship, rather than the presence of the truck. He stressed that the vehicle weight was under the commercial vehicle threshold. He said the use often became entangled in the land-related hardship. He said there were several classic legal hardships present on the lot. He emphasized that he aimed to be honest with the board. He asked for a clarification about Mr. Soda's comments regarding the cost relative to storing the truck elsewhere.

DISCUSSION

Mr. Tuozzola opened the hearing with instructions, asking that comments be targeted to either providing or responding to only new information.

FAVOR

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Susan Patrick, owner of the property, said she acquired it from a tenant that had used the property illegally and had restored it to a proper use. She said there couldn't be a commercial business in that space. She said the reason she needed to garage the truck nearby was because of the nature of her ice cream business. **Mr. Soda** confirmed that the plan was to keep the space residential.

Paula Andrade, 43-45 Park Avenue, she said lives next to the ice cream business. She said Ms. Patrick cares about the neighborhood and the garage should be approved.

Heidi Lang, 42 Naugatuck/35 Park, said Ms. Patrick is a good neighbor with the interest of the neighborhood at heart. She said Walnut Beach is experiencing a renaissance, but still has a long way to go. She disagreed that the truck would be a problem in the neighborhood. She said the garage would free up street parking for customers to visit local shops.

Anthony Giannattasio, 58 Rosebrook Road, said it's best to have the truck out of sight, so he supports the project.

Marty Lippman, 77 East Broadway, said he is retired PE and felt the project was compliant with engineering standards.

Frank Smith, 232 Second Avenue, said he'd worked on the plan for the development of Walnut Beach, and this project was consistent with the plan. He reviewed the history of the area to show the garage represents an improvement.

Dana Marcus, 40 Park Ave, said it was important to remember that all the homeowners closest to the business are supportive and came to the meeting to say so.

OPPOSED

Joe Garbus, 60 Park Avenue, said he had worked hard to renovate the neighborhood. He expressed disapproval of the previous business at the site. He said he was concerned about traffic, noise, and garbage. He said he did not see a hardship. **Mr. Tuozzola** asked **Mr. Garbus** if he had considered the overall improvements to the area. **Mr. Soda** shared with Mr. Garbus that he (Mr. Soda) had just reconsidered his own opinion, given new information and invited Mr. Garbus to also consider this new information.

BOARD DISCUSSION

Mr. Tuozzola closed the hearing. **Mr. Vaccino** said that reopening the hearing added new information, and he appreciated this.

Mr. Soda motioned to **approve**. **Mr. Vaccino** seconded. **Mr. Soda** supported his motion by reason of hardship of the lot, exactly per the submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Hirsch, Soda, Vaccino, and Tuozzola** voting **with the motion**.

3. **117 Hawley Avenue (MBP: 60/742/9)** BD-1. Thomas B. Lynch, attorney, for Anthony Capodicci, owner; variance of sec. 3.8.4.1 lot depth of 78' where 80' required to establish legal nonconforming building lot for construction of residence.

Postponed.

4. **682 East Broadway (MBP: 22/460/1)** R-5. Thomas B. Lynch, attorney, for 682 East Broadway, LLC, owner; variance of sec. 4.1.4 projection East side from permitted 8' to 4'; South side from permitted 16' to 15'. Variance of sec. 6.2.1 expansion of nonconforming use to reconstruct a 2-family residence.

Attorney Lynch, Lynch, Trembicki, and Boynton, 63 Cherry St., addressed the board. He submitted a photograph of a similar property. He described the request and the nonconformities in the existing structure. He noted that there are a

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variety of two-family homes that remain in the area. He said the flood mitigation elevation plan was typical. He said that the paper street that corners the lot, called Allison Avenue, provides driveway access to the rear house. He said that subject to meeting any concerns by Public Works, the plan is to use the gravel drive on Allison for access. He said the square footage would be increased, but the new design centers the house on the lot. He allowed that the expansion of the size would expand the nonconformity. He said the house is currently a 2-family. **Mr. Soda** confirmed that the project would have to go before the Planning and Zoning Board. He asked if the street would have to be paved; **Attorney Lynch** said he doesn't think so, but that might change. He said his client didn't want to do architectural elevations prior to knowing if the variance could be granted, but would. **Mr. Tuozzola** and **Attorney Lynch** discussed the unusually good state of the unimproved road. **Mr. Soda** confirmed the deck wrapped around the house the house with stairs in the rear.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or 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. Hirsch** seconded. **Mr. Soda** supported his motion by reason of hardship of the narrowness of the lot, exactly per the submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Hirsch, Soda, Vaccino, and Tuozzola** voting **with the motion**.

5. **19 Reed Street (MBP: 44/412/17)** SFA-10. Patricia & Anthony Marciano, owners; variance of sec. 3.2.4.1 to permit the conversion of a one-family dwelling into a two-family dwelling on a lot having 8,748 sq.ft of area and a width of 70' where 10,000 sq.ft of area and 100' of width is required, and sec.3.2.4.2 to permit a side yard setback of 5.4' where 10' is required to construct an addition.

Postponed.

6. **108 Waterbury Avenue (MBP: 13/135/5)** R-5. Dianne A. Davenport, owner; variance of sec. 4.1.4 projection of 5.6' where 8' permitted to allow a platform having an air conditioning unit to remain.

Ms. Davenport, 108 Waterbury Avenue, addressed the board. She confirmed that to the best of her knowledge, the platform had to go in that area. She said she wanted to legalize it and that the most affected neighbors were at 110 Waterbury Avenue and they supported the project.

FAVOR

Ms. Greene noted receipt of a letter of support from Ms. Davenport's neighbors, the Ehris, at 110 Waterbury Avenue. Per **Mr. Hirsch's** request, she read it into the record.

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**. **Mr. Hirsch** seconded. **Mr. Soda** supported his motion by reason of hardship of the narrowness of the lot, exactly per the submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Hirsch, Soda, Vaccino, and Tuozzola** voting **with the motion**.

7. **69 Boylston Street (MBP: 41/303/22F)** R-10. Thomas Cairo, owner; variance of sec. 3.1.4.1 side yard of 8.2' where 10' required. Sec. 4.1.4 deck projection of 4.5' where 8' permitted to construct a 1-story addition and deck.

Mr. Cairo addressed the board. He said his mother-in-law would move in with them, necessitating the addition. He said the house was nonconforming as built and that the ramp would be conforming. **Mr. Tuozzola** confirmed that the deck

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was nonconforming when Mr. Cairo purchased it. **Mr. Soda** confirmed that there is a large retaining wall with a structure already there, preventing him from putting the addition elsewhere. **Ms. Ferrante** confirmed that the new deck would be larger.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or 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 original placement of the house, exactly per the submitted materials. The motion carried with **Ms. Ferrante** and **Messrs. Hirsch, Soda, Vaccino, and Tuozzola** voting **with the motion**.

C. OLD BUSINESS

12 Francis Street (R-7.5) Kevin Curseaden, Esq., attorney, for Antoinette Voll, owner; Sec. 9.2.1: Appeal the Decision of the Zoning Enforcement Officer dated 24 August 2015; Map 6, Block 84, Parcel 2:

Action on proposed settlement for VOLL, ANTOINETTE Et Al v. ZONING BOARD OF APPEALS FOR THE CITY OF MILFORD, Docket HHD-CV16-6070299-S. If settlement is approved there will be a C.G.S. Section 8-8(n) hearing for the court to decide on the proposed settlement on Tuesday, December 5, 2017 at 10 AM, at the Superior Court for the Judicial District of Hartford, Land Use Litigation Docket, 95 Washington Street, Hartford, Connecticut.

Mr. Harris said 12 Francis Street was a stipulated vote; that the City and the appellant had arrived at a stipulated agreement. He said the board would need to make a motion to agree to the stipulated agreement. **Ms. Ferrante** so moved, **Mr. Soda** seconded. The motion passed unanimously.

D. NEW BUSINESS-None

E. STAFF UPDATE-None

F. ACCEPTANCE OF MINUTES 10 October 2017: Approved.

G. ACCEPTANCE OF APPLICATIONS for 12 December 2017 hearing.

Adjournment was at 8:35PM.

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