

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 8 December 2020

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was held remotely on Tuesday, 8 December 2020, beginning at 7:00 p.m. via ZOOM®, 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 7:11 pm due to technical difficulties. He reviewed guidelines for online public meetings. He asked **Mr. Casey** to vote for Mr. Soda on Item 1, who asked to recuse himself.

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

ALTERNATES PRESENT: Michael Casey, Gary Dubois, Etan Hirsch

MEMBERS/ALTERNATES ABSENT:

STAFF PRESENT: Stephen Harris, Zoning Enforcement Officer; Meg Greene, Clerk; Joseph Griffith, DPLU Director

B. CONSIDERATION OF AGENDA ITEMS

- 1) **17 Maddox Avenue** MBP 27/451/11, R-5, Max S. Case, Esq., for Robert McCloud and Evdoxia Picarazzi, appellants; property owner is AR Housing, LLC; Appeal the Decision of Zoning Enforcement Official, zoning permit dated September 23, 2020, signed on September 23, 2020, re: construction of a new 2-family, 2-story dwelling at 17 Maddox Avenue, with zoning permit attached to application dated 10/6/2020. **TABLED**

Recording was not in effect until approximately 45 minutes into the meeting, necessitating a vote to hold a Special Meeting on 12/17/2020 that would create a record of the proceedings. These minutes document the recorded portion of the meeting starting at approximately 7:55pm; the recording started partway through Attorney Curseaden's comments after Attorney Case had completed his presentation and Chairman Tuozzola opened the hearing for public comment.

Kevin Curseaden, Esq., 3 Lafayette St, said the zoning permit for 17 Maddox was an "as of right" issuance, because plans show a structure that is FEMA-compliant, building compliant, and zoning compliant. He noted that setback variances had previously been denied and that the owner had submitted revised plans that did not require variances. He said if DPLU had not issued a permit, a lawsuit by the owner would have resulted in a writ of mandamus to compel its issuance. Attorney Curseaden noted that his submitted memorandum documents DPLU Director Joe Griffith's authorization to enforce zoning decisions. He said it is customary for applicants to discuss interpretation of the zoning regulations with Mr. Griffith or Mr. Harris. He said the interpretation of what constitutes preexisting nonconformities in this instance is consistent with past practice in the Planning and Zoning Office.

Mr. Harris interrupted Attorney Curseaden to advise that recording of the meeting had not been in effect. Discussion ensued between Chairman Tuozzola, Attorney Case, Mr. McCloud, Ms. Picarazzi, Mr. Harris, and members of the board as to what alternatives existed for creating a record. Votes were taken to table to January, then to reopen the hearing, and finally to hold a Special Meeting to recreate a record of the application's presentation.

Mr. Tuozzola noted prior to the vote that **Mr. Soda** had asked for recusal from this item and that **Mr. Casey** would vote in his place.

The votes were as follows:

Mr. Wolfe motioned to **table and hold open until the January 12, 2021 meeting** based on the lack of recorded audio. **Ms. Ferrante** seconded. The motion carried with **Mss. Ferrante** and **Valiquette**, and **Messrs. Casey, Wolfe** and **Tuozzola** voting **with the motion**.

Mr. Wolfe motioned to **reopen** based on the applicants' displeasure with tabling for a month. **Ms. Ferrante** seconded. The motion carried with **Mss. Ferrante** and **Valiquette**, and **Messrs. Casey, Wolfe** and **Tuozzola** voting **with the motion**.

Mr. Wolfe motioned to **table until a special meeting can be held on Thursday, 12/17/2020 at 7:00pm**. **Ms. Ferrante** seconded. The motion carried with **Mss. Ferrante** and **Valiquette**, and **Messrs. Casey, Wolfe** and **Tuozzola** voting **with the motion**.

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- 2) **8 Lawrence Avenue** MBP 28/578/4, R-5, Bryant Chatfield, agent, for Phil and Debe Lalonde, owners; Vary Sec. 3.1.4.1 building area to 52.9% where 45% is maximum permitted, lot coverage to 77% where 65% is maximum permitted, rear-yard setback to 12.5' where 20' required.

Mr. Chatfield, 35 Vervill Rd, Avon, addressed the board. He said the owners wished to move the master bedroom suite from the 3rd floor to the 1st floor and that a garage would add off-street parking. He said a mother-in-law experiencing disability would join the household.

Mr. Tuozzola asked if anyone wished to speak in favor of or in opposition to the application

OPPOSED

Gordon Parmalee, 101 Long Island View Rd, said he felt it would have a negative influence on parking.

DISCUSSION

Ms. Ferrante discussed the size of the garage with the applicant, asking why it could not be shortened to eliminate the rear lot request, saying the house is already very large. She suggested alternative of a one car garage. **Mr. Soda** agreed with Ms. Ferrante that a redesign was desirable.

Hearing no further comment, **Mr. Tuozzola** closed the hearing and asked for a motion.

Ms. Ferrante motioned to **deny** based on submitted materials. **Mr. Soda** seconded. The motion carried with **Mss. Ferrante** and **Valiquette**, and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

- 3) **0 Concord Avenue** MBP 24/207/10, R-7.5, Richard Gustafson, agent, for Pete Giannettino, owner; Vary sec. 3.1.4.1 rear-yard setback to 22.3' where 25' req. to construct a new single-family house.

Mr. Gustafson, 786 Derby Ave, addressed the board. He said the owners wished to build a retirement home with a ground-floor workshop. He said the owners, themselves seniors, planned to take care of elderly parents there as well.

FAVOR

Anita Stabler Hussey, 20 Concord Ave, spoke in support of the application.

DISCUSSION

Mr. Wolfe said the orientation of the house was good.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in opposition to the application; hearing none, closed the hearing and asked for a motion.

Mr. Wolfe motioned to **approve** based on submitted materials. **Ms. Ferrante** seconded. The motion carried with **Mss. Ferrante** and **Valiquette**, and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

- 4) **47 Cherry Street** MBP 66/817/16, RO, Thomas Lynch, Esq. for MD Acquisitions, owner; Vary sec. 3.1.4.1(2) to allow mixed use building with 59% residential-use square footage where maximum permitted is 50%.

Attorney Lynch addressed the board. He introduced Mark and Dena Liebermann, owners of the real estate office at the site, saying the application was a straightforward variance request to replace an office use with 2 apartments. He said his clients originally planned to develop the rear of the property with an addition, but the lot is very narrow. He said the current use of 2nd floor is as an office, even though a kitchen is there. He said the property management business will seek additional office space elsewhere and turn the second floor back into apartment space it once was. It will include a second bed and bath on the 3rd floor. He displayed a per floor comparison of space.

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DISCUSSION

Ms. Ferrante, Mr. Soda, and Attorney Lynch discussed whether usable space was being reduced by roofline and it was confirmed that entire 2nd and 3rd floor will be one apartment. **Ms. Lieberman** described loss of usable square footage due to a stairway, chimney, and the pitch of the gables, saying measurements are accurate, and the 3rd floor is restricted.

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

Mr. Soda motioned to **approve** based on submitted materials. **Mr. Wolfe** seconded. The motion carried with **Mss. Ferrante and Valiquette**, and **Messrs. Soda, Wolfe and Tuozzola** voting **with the motion**.

- 5) **59 Hillside Avenue** MBP 49/724/2, R-5, Thomas Lynch, Esq. for Nicholas Aquilina, owner; Vary sec. 3.1.4.1 side-yard setback to 6.3' where 10' req.; 4.1.4 southside projection to 2.5' where 8' permitted for 1st floor walkway with rails.

Attorney Lynch addressed the board. He said the applicant was a contract purchaser, described a prior variance request that went to court, and emphasized that previous issues resulting in an appeal to the courts were not involved in this request. He said the house that formerly stood on the site was nonconforming, that current submitted plans are aesthetically pleasing and similar in scale to nearby homes rebuilt after Storms Irene and Sandy. He described the narrowness of the lot and the need for zoning relief. He noted features that are FEMA compliant. He said Planning and Zoning Board approval would also be required for Coastal Area Management review. He said he reviewed posted neighborhood objections and stated that most had to do with lost water views, however, he reminded the board that views are not a reason to refuse a variance. He said the submitted plans reduce or eliminate prior nonconformities.

DISCUSSION

Mr. Tuozzola noted that the footprint is now smaller, and the easterly setback is reduced due to centering the house more on the lot. He also confirmed that the detached garage in the front-yard setback would be eliminated. **Mr. Soda** asked for the width of the proposed walkway, confirmed that it was 4' and that it accessed house.

OPPOSED

Paul Drost, 64 Hillside Ave, said he doesn't think a hardship exists and that the project will detract from the neighborhood.

Wendy Drost, 64 Hillside Ave said she agrees.

Denise Worozilcak, 46 Hillside Ave, said she agreed with previous comments and that the project will disrupt nearby park activity.

It was noted that 8 more opposition letters were received via email.

REBUTTAL

Attorney Lynch said the variances requested were reasonable and the house is only 24' wide with more centering on the lot. He said the park to the west of the lot is open space which ensures the house won't encroach on another residence. He said prior variance requests for the house were accepted by the ZBA and the only problematic variance that went to court was the height. **Mr. Soda** said he has personally built a 20'-wide house, so he thought the width might be reduced. **Ms. Ferrante** said the lot is narrow, but the board has also approved 20'-wide houses. **Mr. Tuozzola** stressed that the board was trying to be fair to all. **Mr. Soda** suggested reducing the width of the house to 22' and making the side walkway 40" wide instead of 48".

BOARD DISCUSSION

Mr. Tuozzola closed the hearing and asked for a motion.

Mr. Soda motioned to **deny without prejudice**. **Ms. Ferrante** seconded. The motion carried with **Mss. Ferrante and Valiquette**, and **Messrs. Soda, Wolfe and Tuozzola** voting **with the motion**.

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- C. NEW BUSINESS**-None.
- D. OLD BUSINESS**-None.
- E. STAFF UPDATE**-Calendar for 2021: Approved unanimously.
- F. ACCEPTANCE OF MINUTES** 10 November 2020: Approved unanimously.
- G. ACCEPTANCE OF APPLICATIONS** for 12 January 2021 hearing, none so far.

Adjournment was at 9:18 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