



TOWN OF OLD SAYBROOK
Zoning Board of Appeals

Phillip Broadhurst, Chairman
Robert J. McIntyre, Vice Chairman
Dorothy T. Alexander, Secretary
Adam Boyd
Kevin Danby

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Alternate Members
Catherine J. Purcell
Jacqueline Prast
Charles Gadon

MINUTES
REGULAR MEETING
December 12, 2018 at 7:00 p.m.

Town Hall, 1st Floor Conference Room
302 Main Street, Old Saybrook

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Town of Old Saybrook at its Regular **Meeting** that was held on **Wednesday, December 12, 2018 at 7:00 p.m.** at the Town Hall, First Floor Conference Room, 302 Main Street, heard and decided the following appeals:

I. CALL TO ORDER

Vice Chairman McIntyre called the meeting to order at 7:00 p.m.

II. ROLL CALL

Attendant Members

Robert McIntyre
Dorothy Alexander
Kevin Danby
Jacqueline Prast, Alternate, Seated
Charles Gadon, Alternate, Seated
Catherine Purcell, Alternate

Absent Members

Adam Boyd

Acting Recording Clerk

Catherine Purcell

Seated for this evenings meeting were Robert McIntyre, Dorothy Alexander, Kevin Danby, Charles Gadon and Jacqueline Prast

III. PUBLIC HEARINGS (Voting Session after each Public Hearing)

The following public hearings were conducted, as well as the decision-making sessions. The following actions were taken:

18/19-15C Frederick J. Marinelli & Mary Beth Marinelli seek a variance of Par 23.5.1 as amended by 68.1.2b4 (narrow street setback/40' required / 29.5' proposed) of the Zoning Regulations to permit the construction of a 3,442.8 s.f. house(including stairs and utility platform) and existing pool, pool house and patios at 21 Cedarwood Lane, Map 15/Lot 20, Residence AA-2 District, Coastal Area Management Zone.

R. McIntyre opened the public hearing.

Joe Wren, P.E., Indigo Land Design who presented on behalf of Frederick J and Mary Beth Marinelli noted that the subject property is located in the flood plain and it is currently non-FEMA flood compliant. The house must be raised so as to meet FEMA regulations. J Wren stated that this proposal does not add or increase non-conformities and he noted that the septic is code compliant. J Wren noted the coverage details on the site map and stated that a portion of the pool/shed is included in the percentage of coverage where applicable. All other setbacks are met with the exception of a small portion of the house.

J Wren stated that the hardship associated with this proposal relates to the fact that the structure predates the current zoning regulations.

R McIntyre asked if anyone wished to speak in favor or in opposition to this proposal and opened the hearing to public comments.

Barbara Jean and Dick Guenther, 19 Cedarwood Lane spoke in support of this application.

J. Wren read into the record a letter of support from M/M Matthew A. Hermann, 38 Cedarwood Lane.

There was no further comments from the audience and R McIntyre closed the public hearing and the Board began deliberations.

R. McIntyre stated that he has no issues with the proposal and associated plans.

K Danby stated that he has no issues with the proposal and associated plans.

C Gadon noted that if the building could be made smaller so as to work with the plan.

D Alexander noted that as per Attorney Cronin, if the structure was demolished in order to be brought into conformity and would further create a minimal nonconformity. D Alexander stated that he does not agree with the location of the proposed house.

K Danby stated that the proposed septic location is FEMA compliant and he noted that if the neighbors are in agreement with the plan he is in favor of supporting this application.

At this time, J Wren requested to reopen the public hearing. J Wren stated that if the location of the house were pushed back in order to be compliant it would need to be set back 25' placing it in the location of the pool. J Wren noted that many of the existing houses constructed within the same time period are 25' from the setback and most of the house subject to this proposal is situated 35' from the setback. J Wren noted that the Town amended the Zoning Regulations to narrow the street setbacks from 25' to 35'.

J Wren stated that this is the classic case of a hardship noting that the only infringement is for the corner where the unusual shaped cul-du-sac is less than 35' set back. J Wren stated that the applicant does not need to raise the existing house in order to comply with FEMA, however they wish to construct a new house to code and all Town and State regulations in process of this proposal. The loss of basement and larger footprint for the mechanicals present a hardship. J Wren noted that removing the proposed garage would not solve the issue of non-compliance.

The Public Hearing was re-opened.

F Marinelli stated that he and the engineer have worked diligently in order to make this plan work and a major portion of the house was moved back from the street line.

J Wren noted that this house is further back from the street than other existing houses.

R McIntyre closed the Public Hearing.

MOTION was made by K Danby, seconded by R McIntyre to **GRANT Application 18/19-15C Frederick J. Marinelli & Mary Beth Marinelli**; The new structure is FEMA compliant and does not affect the health, safety and general welfare of the neighborhood. The sanitary waste system is code compliant and the proposal is still under coverage. The hardship surrounds the odd shape lot and odd shaped cul du sac; the structure was compliant when originally constructed and as per this proposal, only a small portion of the house would be non-compliant. The homeowner is working to bring the house into code; **VOTING IN FAVOR:** R McIntyre, K Danby, J Prast; **ABSTAINING:** None. **OPPOSED:** D Alexander, C Gadon. **DENIED:** 3-0-2.

18/19-16C Joseph D. DiFrancesca, Jr., Trustee, et. al. seek a variance of Par 10.7.1 & 10.7.2 (nonconformity enlargement/change); Par 24.5.1 as amended by 68.1.2b4 (narrow street setback/37.5' required for Town Beach Rd./proposed 8.06' proposed) Par 24.5.1 as amended by 68.1.2b4 (narrow street setback/30" required for Seabreeze Rd./4.09' proposed); Par 24.5.3 (side yard setback/15' required/4.7' proposed) of the Zoning Regulations to permit the elevation of the existing structure to meet the Town Flood Ordinance requirements, reconstruction of enclosed porch including roof line changes and stair reconfiguration at 81 Town Beach Road, Map 2/Lot 11-2, Residence A District, Coastal Area Management Zone.

R. McIntyre opened the public hearing.

Presenting on behalf of this proposal were Attorney William Sweeney, with Tobin Carberry O'Malley Riley Selinger, New London, CT and Steve Cardell, Architect.

The house subject to this application is situated in a flood zone and the porch which is situated on piers, is non conforming and does not meet the narrow street setbacks on two roads. The porch is code-deficient in a number of ways and it does not meet the wind and load code.

W Sweeney submitted a letter from the Winthrop Group Civil Structural Engineers.

The roof will be changed from a hip roof to to a flat roof so as to reduce the bulk.

The proposed location of the stairs will be situated further away from the Town Beach Road. It was noted that the building code and zoning requirements present a hardship noting that this is not a self-made hardship however the hardship has been created because of the Town regulations create a zoning and building code conflict.

W Sweeney stated that the CAM site plan review has been submitted and there is no anticipated impact.

R McIntyre opened the hearing to public comment. No comments were made, the public hearing was closed and the Board began deliberations.

C Gahon stated that he is not comfortable with this proposal.

D Alexander stated that this proposal is unique and a good solution and a practical way to solve the associated issues and stated concerns.

K. Danby stated that to have the septic reserve on the same lot the proposal reflects good, long-term planning.

MOTION was made by K Danby, seconded by R McIntyre to **GRANT 18/19-16C Joseph D. DiFrancesca, Jr., Trustee, et. al.** as presented. The proposal makes the property more compliant, reduces non-conformities and is good long term planning. The hardship is the reductions non-conformities. The **Coastal Site Plan Review Application** is approved because it is consistent with all applicable coastal policies and includes all reasonable measures to mitigate adverse impacts; **VOTING IN FAVOR:** R McIntyre, D Alexander, K Danby, J Prast and C Gadon; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0.

J Wren requested to speak to the Board related to **Application #18/19-15C Frederick J. Marinelli & Mary Beth Marinelli** seek a variance of Par 23.5.1 as amended by 68.1.2b4 (narrow street setback/40' required / 29.5' proposed) of the Zoning Regulations to permit the construction of a 3,442.8 s.f. house(including stairs and utility platform) and existing pool, pool house and patios at 21 Cedarwood Lane, Map 15/Lot 20, Residence AA-2 District, Coastal Area Management Zone.

J Wren stated that his client could raise the existing structure without the benefit of variance, noting that it would not be up to code. J Wren questioned if he could come back before the Board with a change of plan for the garage and questioned if he would be able to do so without waiting for six months.

R McIntyre informed J Wren that the Board cannot provide legal advice.

K Danby stated that change of plan should be acceptable.

D Alexander stated that the revised proposal would not meet the criteria for variance.

J Wren noted that the applicant appeared before the Board in May 2018 for and was denied at that time. J Wren stated that it would be beneficial to have something built to current standards which would be safer then raising this structure which would not be code compliant. J Wren noted that this is a simple plan and questioned if a revised proposal would be approved.

K Danby stated that the Zoning Board of Appeals is charged with the commitment to serve the residents of Old Saybrook.

R McIntyre stated that the Board will discuss with the Board's legal counsel, the extent of their leeway insofar as decision-making.

IV. REGULAR MEETING

A. New Business:

There was no new business.

B. Minutes:

MOTION was made by R McIntyre, seconded by D Alexander to **APPROVE** the regular meeting minutes of November 14, 2018 as presented. **VOTING IN FAVOR:** R McIntyre, D Alexander, K Danby, J Prast and C Gadon; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0.

C. Correspondence & Announcements

There were no announcements and no correspondence.

D. Committee, Representative & Staff Reports

There were no committee, representative or staff reports.

MOTION was made by K Danby, seconded by R McIntyre to **ADJOURN** the December 12, 2018 meeting at 9:15 p.m to the next regularly scheduled meeting on **Wednesday, January 9, 2019 at 7:00 p.m., at the Old Saybrook Town Hall, 1st floor conference room, 302 Main Street at 7:00 p.m;** **VOTING IN FAVOR:** R McIntyre, D Alexander, K Danby, J Prast and C Gadon; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0.

Respectfully submitted from typed notes prepared by Catherine Purcell, Alternate and Acting Clerk by
Stella C. Beaudoin, Recording Clerk