

Zoning Board of Appeals Minutes Sept 12, 2018

MINUTES

Town of Old Saybrook
Zoning Board of Appeals

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, September 12, 2018 at 7:00 p.m.** at the Town Hall, First Floor Conference Room, 302 Main Street, heard and decided the following appeals:

Seated for this evenings meeting were the following members: Philip Broadhurst, Chairman, Robert McIntyre, Vice Chairman, Dorothy Alexander, Secretary, Kevin Danby, Adam Boyd, Catherine Purcell

Present: Chris Costa, Zoning Enforcement Office; Meryl Moskowitz, Recording Clerk

Approximately 25 people were present in the audience.

The Chairman introduced the Board members who were seated for this evenings meeting. The five regular members (Broadhurst, McIntyre, Alexander, Danby, Boyd) and one alternate (Purcell) were seated.

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

PUBLIC HEARINGS

CONTINUED PUBLIC HEARINGS (Voting Session after each Public Hearing)

17/18-39 Peter Budwitz, Trustee
Withdrawn

18/19-02 John Kanaras, seeks a variance of Par. 10.7.1/10.7.2 (non-conformity enlargement/change); Par. 24.5.1/68.1.2B4 (narrow street setback/30' required/13.7' proposed); and Par 24.5.3 (other line setback/15' required/11.5' proposed) of the Zoning Regulations to permit the construction of a 75 s.f. landing, 25 s.f. steps and overhang at 16 South Cove Road-1, Map 4/Lot 287, Residence A Zoning District, Coastal Area Management Zone.

Members seated: P. Broadhurst, D. Alexander, A. Boyd, K. Danby, C. Purcell, Alternate seated for R. McIntyre

Anna Kanaras reported that she met with Town Building Inspector Tom Makowicki, who advised that a minimum for the landing is 36". She is asking for 1 ft less than originally proposed, therefore 1 ft less intrusion into the setback. She re-stated the main issue is safety. The proposed setback to the landing was 13.7 ft, and is revised to 14.7 ft.

The Chairman opened the floor to public comment. There was none.

The public hearing closed at 7:18pm.

A **MOTION** was made by D. Alexander and seconded by C. Purcell to **GRANT** Application **18/19-02 John Kanaras** to build a new landing and overhang outside the front door that will extend somewhat into the setback, the hardship being the safety concern. No discussion and a vote was taken. In favor: P. Broadhurst, D. Alexander, A. Boyd, C. Purcell, K. Danby. Opposed: None. Abstaining: None. The motion passed unanimously, 5-0-0.

18/19-03C David & Jennifer Arcesi, seek a variance of Par. 10.7.1/10.7.2 (non-conformity enlargement/change); Par 24.5.3 (other line setback/15' required/8.2' to south and 6.2' to north proposed); Par 24.6.1 (maximum gross floor area/40% allowed/45.2% proposed); and Par 24.6.2 (building structure coverage/20% allowed/ 37.4% proposed) of the Zoning Regulations to permit the construction of a 1,242 s.f. second story addition at 21 West Shore Drive, Map 1/Lot 102, Residence A Zoning District, Coastal Area Management Zone.

Members seated: P. Broadhurst, D. Alexander, A. Boyd, K. Danby, C. Purcell, Alternate seated for R. McIntyre

Attorney Ed Cassella, representing the applicant, submitted revised plans dated 9/12/2018. Also present were applicants David and Jennifer Arcesi and architect Craig Laliberte. Building coverage reduced from 37.4% to 35.2% (originally proposed at 35.6%) and gross floor area (g.f.a.) was proposed at 43.2% has been reduced to 41.7% (compared to original proposal heard on August 8, 2018). E. Cassella submitted comps of neighboring properties stating a 3,000 sq. ft. home is in line with other homes in the area.

Architect Craig Laliberte reviewed plans, noting several designs were considered to reduce g.f.a and keep costs within the 50% flood rule, while conforming to characteristics of neighborhood homes. The main changes are placement of storage in attic with stairway access, removal of dramatic ceiling, and slight increase in roof pitch.

E. Cassella read the statement of hardship into the record, that being the implementation of Residence A district regulations on the small, narrow, non-conforming lot.

Chairman Philip Broadhurst expressed that g.f.a is limited to 40%, existing is 28.4% and requested is 41.7% which creates a non-conformity where one does not exist, and proposed building structure coverage, limited to 20% is almost doubled, proposed at 35.2%.

Letters of support were received from Robert Rowson, dated September 4, 2018 and from Sean & Jenna McCarron, 15 Gates Road, both letters were read into the record. A statement of support was received from Bea Kozloski dated Sept 4, 2018. A letter was received from Ray & Brenda Dyson of 13 Uncas Road, dated September 12, 2018 stating their observations, and asking the Commission to be consistent with their decisions.

The Chairman opened the floor to public comment. Speaking in favor: Kurt Van Wart, 29 Bellaire Drive and Richard Pare, 25 West Shore Drive.

Speaking against: Frances Wilcox, 19 West Shore Drive. She provided two historic photos which staff photographed and submitted into the record.

The public hearing closed at 8:06 pm.

P. Broadhurst expressed concern with lot coverage, which already exceeds 20% allowed and with the increase of the g.f.a, which creates a non-conformity where one doesn't exist, with

considerable amount of the addition within the side yard setback. He stated that desiring a larger building does not create or support a hardship. Also, removal and reduction of the eaves does not reduce coverage.

Kevin Danby stated that a strict interpretation of the Zoning regulations denies the applicant the same benefits enjoyed by other property owners in the neighborhood.

A **Motion** was made by K. Danby, seconded by A. Boyd to **APPROVE** Application **18/19-03C David & Jennifer Arcesi**. A strict interpretation of Zoning regulations would deny property owners the same use benefits as a majority of their neighbors; in some respects proposed improvements will result in slightly more conformity, it is in harmony with the neighborhood. No discussion and a vote was taken. In favor: K. Danby, A. Boyd. Opposed: P. Broadhurst, D. Alexander, C. Purcell. Abstaining: None. The motion was **DENIED**, 2-3-0.

PUBLIC HEARING (Voting Session after each Public Hearing)

18/19-01 Joanne Glanz, seeks a variance of Par. 10.7.1/10.7.2 (non-conformity enlargement/change); Par. 24.5.1(street line setback/25' required/8.9' proposed to building and 0' proposed to stairs); Par 24.5.3 (other line setback/15' required/3.5' to east and 8' to west proposed); and Par. 24.6.2 (building structure coverage/20% allowed/ 38% proposed) of the Zoning Regulations to permit the construction of a 55 sf. addition, a 85 s.f. deck, 2 sets of stairs, and a 85 s.f. front porch at 6 Beach Road West, Map 12/Lot 31, Residence A District, Coastal Area Management Zone.

All regular members were seated.

Peter DeMallie, President, Design Professionals, representing the applicant, Joanne Glanz, explained the house was damaged by Hurricane Sandy in the fall of 2012, and qualifies for Superstorm Sandy Disaster Relief Funds; the house is being restored per local, state and FEMA regulations. The proposal is to elevate the existing structure to the 500 year flood elevation, with overall reduction in lot coverage, with other improvements as well. The building coverage was 1,630 s. f. and reduces to 1,485 s.f.; g.f.a. was 1,659 s.f. increases to 1,667 s.f.

The ZEO explained that the bathroom and porch structures were in poor shape and would not withstand the house lift. If they could have been elevated, the ZEO could have approved the application administratively. The applicant reduced non-conformities with respect to coverage and setback with the hope that the ZBA would look more favorably on approving reconstructed sections of the house.

The Chairman opened the floor to public comment. There was none.

The public hearing closed at 8:41pm.

A **Motion** was made by P. Broadhurst, seconded by D. Alexander to **GRANT** Application **18/19-01 Joanne Glanz**. The changes to rehabilitate this house are all required by local, state, and FEMA regulations, the variances requested are what is required by state and local regulations, no changes were made that weren't required as a result of those regulations; the hardship is compliance with state, local and FEMA regulations. No discussion and a vote was taken. In favor: P. Broadhurst, R. McIntyre, D. Alexander, K. Danby, A. Boyd. Opposed: None. Abstaining: None. The motion passed unanimously, 5-0-0.

18/19-04 Edward Vanderhoef, seeks a variance of Par.68.1.1.B.9 (tidal wetlands setback/50' required/30' proposed); Par 58.2 (Riparian Buffer Area Setback/100' required/30' proposed) & Par. 58.6 (Structure Setback Gateway Conservation Zone/100' required/30' proposed) of the Zoning Regulations to permit

the construction of a 140 s.f. shed at 65 Willard Avenue, Map 24/Lot 1-1), Residence A District, Coastal Area Management Zone.

Owner/applicant Edward Vanderhoef proposes to place a manufactured shed, 10'x14', at back of house. Shed will match the existing house and will be used to store garden equipment, tools, etc. The shed will be located above the 100 year flood level, between the causeway and house. E. Vanderhoef states there are six other homes nearby with sheds that are within the 50 ft buffer, and states the shed cannot be placed elsewhere due to topography. The hardship is there is no vacant location to place a shed that is not within the limits of the required setbacks.

The Chairman opened the floor to public comment.

No members of the public spoke in favor of the application.

Speaking against: Emanuel DiNoia, 2 Sheffield Cove Road; Pat Gillian, 62 Willard Avenue; John 56 Willard Avenue; Al Bundonis 47 Willard Avenue; Lou Vinciguerra, 4 Mulberry Street; Lori Holbrook, 4 Sheffield Cove Road. The proposed location of the shed was disputed by neighbors who stated the proposed location is at front of the house.

Letters in opposition to the application were received from: Karel and Ashley Malinowski, 40 Willard Avenue; and Emanuel DiNoia, 2 Sheffield Cove Road.

P. Broadhurst read a letter from the CT River Gateway Commission, finding the proposed location will not create any significant adverse visual impacts.

The public hearing closed at 9:16pm.

Discussion among members followed, about location and necessity for a variance no matter where the shed is located.

A **Motion** was made by P. Broadhurst, seconded by A. Boyd to **DENY** Application **18/19-04 Edward Vanderhoef**. The desire to have a shed on a piece of property where a variance is required to place the shed is not sufficient reason for granting of the requested variances. No discussion and a vote was taken. In favor: P. Broadhurst, R. McIntyre, D. Alexander, K. Danby, A. Boyd. Opposed: None. Abstaining: None. The motion passed unanimously, 5-0-0.

18/19-05 Bobi Molchan, seeks a variance of Par 10.8.2 & 10.8.3 (non-conforming lot size/12,500 s.f. required/6,868 s.f. of upland proposed); Par 24.5.3 (other line setback/15' required/3.8' to north and 8.8' to the south proposed); Par. 24.6.2 (building structure coverage/20% allowed/ 23% proposed); and Par 68.1.2B9 (tidal wetland setback/50' required/46' proposed) of the Zoning Regulations to allow the construction of a 2,603 s.f. residence with front and rear balconies at 41 Indianola Dr., Map 2/Lot 62, Residence A District, Coastal Area Management Zone.

Attorney John Bennett, representing the applicant, explained the proposal is to demolish the existing five bedroom home and build a two bedroom home. Existing detached garage remains. The house will be somewhat more conforming as it will be moved three feet back from the wetlands. Building coverage is proposed to increase to 23% where 20% is allowed, from 1,184 s.f. to 1,577 s.f. Gross floor area is proposed to increase from 28.2% to 37.9%.

Five photographs were submitted into the record.

Per J. Bennett, the rear deck with balcony is proposed, replacing the ground level deck, and will be out of view of abutting properties. There is a proposed staircase 10x22 ft., and is a necessary form of egress.

The hardship is bringing the house closer to conformity, the small lot size of 40 ft wide, and 50% of the area being wetlands, as well as the impact of Residence A Zoning District regulations on the lot.

Discussion followed. P Broadhurst noted a history of adding more and more coverage to this property. In 2007 a variance was granted for additional storage; four years ago a variance was granted for a garage, now applicant wishes to tear down building. He is concerned with increasing non-conformities, and creating a non-conformity where one did not exist.

J. Bennett cited several court decisions, including that of Verillo (2015) and believes there is justification for the non-conformity and that the house would be consistent with the neighborhood.

The Chairman opened the floor to public comment.

No members of the public spoke in favor of the application.

Speaking against: Richard Epifanio, 43 Indianola Drive; Shawn Burke, 27 Wildwood Road.

Speaking neither for nor against: M. Satmary, 6 Fox Lane

The following letters were received stating no objections: Buchas Family, 39 Indianola Drive; Thomas Johnson, 190 Plum Bank Road

J. Bennett requested a continuance to the next regularly scheduled meeting of the Zoning Board of Appeals.

A **Motion** was made by P. Broadhurst and seconded by K. Danby to continue the public hearing to the next regular meeting of the Zoning Board of Appeals on October 10, 2018. No discussion and a vote was taken. In favor: P. Broadhurst, R. McIntyre, D. Alexander, K. Danby, A. Boyd. Opposed: None. Abstaining: None. The motion passed unanimously, 5-0-0.

18/19-08 Thomas & Kathleen Davies, Trustees, seek a variance of Par 24.5.1 (street line setback/ 25' required/14.9' to porch, 18.9' to porch and 20.2' to house proposed) of the Zoning Regulations to allow for the construction of a 3,184 s.f. house at 89 and 93 Nehantic Trail, Map 19/Lot 328, Residence A District, Coastal Area Management Zone.

Attorney Ed Cassella, representing the applicants, explained the proposal is to tear down the existing house and replace with a 3,184 s.f. home. Front yard setback variance is the only one requested to include a portion of the house and two porches into the front yard setback. The house is to be rebuilt on the combined parcels of 89 and 93 Nehantic Trail.

Submitted into the record were photographs, an aerial map with grading plan, and architectural floor plan.

With the merging of lots 89 and 93 certain non-conformities will be reduced or eliminated associated with lot size and setbacks from the existing house.

The Chairman opened the floor to public comment.

In favor were Mark and Kathleen Caldarella, 98 Nehantic Trail. P. Broadhurst read into the record their

letter dated Sept 4, 2018; Pat Setembrino, 45 Sea Lane.

No members of the public spoke in opposition of the application.

The public hearing closed at 10:32pm.

Discussion among members regarding keeping existing garage, and need for first floor footprint to accommodate three bedrooms.

A **Motion** was made by K. Danby, seconded by R. McIntyre to **GRANT 18/19-08 Thomas & Kathleen Davies, Trustees**. The hardship is the topography of the lot, the proposed improvements are in harmony with the neighborhood and won't affect the quality of life or public safety of the area. No discussion and a vote was taken. In favor: P. Broadhurst, R. McIntyre, D. Alexander, K. Danby, A. Boyd. Opposed: None. Abstaining: None. The motion passed unanimously, 5-0-0.

REGULAR MEETING

New Business

Possible 6pm start at October meeting was discussed to allow time for all applications to be heard.

Minutes: A **Motion** was made by P. Broadhurst, seconded by D. Alexander, to approve the August 8, 2018 Regular Meeting minutes of the Zoning Board of Appeals, as presented. No discussion and a vote was taken: In favor: P. Broadhurst, R. McIntyre, D. Alexander, K. Danby, A. Boyd. Opposed: None. Abstaining: None. The motion passed unanimously, 5-0-0

Adjournment: A **Motion** was made by P. Broadhurst, seconded by R. McIntyre to adjourn the September 12, 2018 Meeting of the Zoning Board of Appeals. No discussion and a vote was taken: In favor: P. Broadhurst, R. McIntyre, D. Alexander, K. Danby, A. Boyd. Opposed: None. Abstaining: None. The motion passed unanimously, 5-0-0. The meeting was adjourned at 10:39 p.m.

Phillip Broadhurst, Chairman

**THE NEXT MEETING OF THE ZONING BOARD OF APPEALS IS
WEDNESDAY, October 10, 2018 AT 7:00 P.M.
FIRST FLOOR CONFERENCE ROOM**