



TOWN OF OLD SAYBROOK  
**Zoning Board of Appeals**

*Robert J. McIntyre, Vice Chairman*  
*Dorothy T. Alexander, Secretary*  
*Adam Boyd*  
*Kevin Danby*  
*Jacqueline Prast*

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**Alternate Members**  
*Catherine J. Purcell*  
*Charles Gadon*  
*Brenda Dyson*

**MINUTES**  
**REGULAR MEETING**  
**January 9, 2019 at 7:00 p.m.**  
Town Hall, 1<sup>st</sup> Floor Conference Room  
302 Main Street, Old Saybrook, CT

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, January 9, 2019 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 7:00 P. M.**

II. **ROLL CALL**

**Attendant Members**

Robert McIntyre  
Dorothy Alexander  
Kevin Danby  
Jacqueline Prast  
Charles Gadon, Alternate  
Catherine Purcell, Alternate, Seated for Adam Boyd  
Brenda Dyson, Alternate

**Absent Members**

Adam Boyd

**Staff and Representatives**

Christina Costa, Zoning Enforcement Officer  
Michael Cronin, Town Attorney  
Margaret Paccione, Recording Clerk

There were 25 people in the audience.

The Vice Chairman read aloud the Agenda items and stated that Application 18/19-19C Norman O. & Gail A. Lalonde has been postponed at the request of the applicant to the February 13, 2019 Meeting.

III. **PUBLIC HEARING** (Voting Session after each Public Hearing)

**18/19-17C Anne Nghiem** 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/40' required/ 20.2' proposed); Par 24.5.3 (side yard setback/15' required/3.5' proposed to North and 11' proposed to South); Par 24.5.4 (projection into setback/3' allowed/> 3' proposed); Par 24.6.2 (building structure coverage/20% allowed/40.5% proposed) of the Zoning Regulations to permit the construction of a

308 s.f. deck, stairs and landing, a wall to enclose patio, a 53 s.f. 2<sup>nd</sup> story deck, and 366 s.f. 2<sup>nd</sup> story addition at 11 Barnes Road, Map 14/Lot 84, Residence A District, Coastal Area Management Zone.

*Catherine Purcell will be seated for Adam Boyd.*

Attorney Terry Lomme appeared for the applicant and gave a description of the property and noted its “checkered” past. He stated that the applicants had made every effort to correct problems, as they were required by FEMA to lift the house. Prior to the lift the home had an attached patio and applicant is looking to have a deck on the water side of the house to replace the patio. Applicant is also asking for a partial addition to the street side of the house to turn existing loft area into a full room.

Lorri DeBattisto, PE, introduced herself to the group and offered to answer any questions. There was discussion about the location and purpose of a proposed second stairwell off the deck.

ZEO Chris Costa read letters from the following residents into the record:

1. Jill Cover and Nancy Flaschbart, Trustees of 13 Barnes Road, requesting this application be denied.
2. Anne Van Lent, 11 Barnes Road, in protest of the variance requested.
3. Katheryn Miranda, 14 Barnes Road, in protest of the variance requested.
4. Virginia Moreno, 7 Barnes Road, to oppose the variance.
5. Susan Piro, 23 Walker Avenue, in favor of the variance.
6. Annabel Resnisky, 5 Barnes Avenue, in favor of the request.
7. Valentino and Sandra Pattarini, 15 Barnes Road, in objection to the request.

Also read in to the record was a letter from Marci Balint, Sr. Coastal Planner, CT DEEP, Land Water Resources Division.

Attorney Lomme responded to the letters by submitting photos of the homes along Barnes Avenue which showed that virtually all homes had decks. Ms DeBattsito discussed the patio and protrusions and shared photo of existing house with neighbors’ homes for the Commissions review. She stated that FEMA is now encouraging homeowners to lift and the trend is becoming more and more homes lifted. D. Alexander asked her to tie in the 6 variances requested to each part of the project and she obliged. There was further discussion regarding the setback projection line, the deck, the concrete slab that the house had been originally set on, the walkway, retaining wall, and patio.

Attorney Michael Cronin noted that the Applicant should come in with a stationary plan and the Commission should not issue and approval until the State does.

The meeting was then opened for Public Comment.

Steven Flaxbart, Trustee for 13 Barnes Road introduced himself and stated that the deck comparisons along the Sound made by the applicant are not taking into consideration that this deck is 15 ft. high off the ground, that posts are pilings, which block the site lines for other homes with decks. Views are obstructed in various directions and the deck impedes the view of the Sound for all neighbors on the street.

Steve Pattarini, son of Valentino and Sandra Pattarini, 15 Barnes Road, reiterated what was written in his parents’ letter of opposition to the Commission, and stated that the deck was out of compliance as it is 6 ft. beyond what it should be.

Vice Chairman McIntyre closed the Public comment portion of the meeting and a continuance was requested.

Mrs. Nghiem spoke to the Commission and said that it was understood that things were not up to code and approved when they purchased the home, and that they have done everything that they could to bring up to code and make it a livable space for her and her growing family.

**MOTION** was made by K. Danby, seconded by D. Alexander to keep the public hearing open for all purposes for continue to the next regularly scheduled meeting on February 13, 2019 for **Application 18/19-17C Anne Nghiem VOTING IN FAVOR:** R. McIntyre, K. Danby, J. Prast and C. Purcell; **ABSTAINING:** None. **OPPOSED:** None **APPROVED:** 5-0-0.

**18/19-18 CF 15 North Main Street, LLC** seeks a variance of Par 63.3.1C (front yard landscaped area/shrubs & plantings required/shrubs, plantings & ornamental plaza proposed) of the Zoning Regulations to retain the front ornamental plaza and front walkway at 15 North Main Street, Map 40/Lot 6, Shopping Center Business B-2 District.

*C. Gadon was not seated but recused himself anyway at 8:30 P.M. C. Purcell was seated for the matter.*

Joe Wren presented for the Applicant and spoke at length to familiarize the Commission with the CT Cancer Center and to share what renovations had been done. He submitted several photographs of the site and stressed the importance of understanding the history of the project, and said the site will hold events and auctions to generate funds to run the foundation and for support of cancer patients and their families. He stated that because of landscape discrepancies a modification to the approved Special Exception was required; landscaping pavers were not approved under the Special Exception and the Applicant has not been able to obtain a Certificate of Occupancy for non-compliance with the approved plans. These pavers were not part of the original approved plan, and the Zoning Commission required that anything in excess of 5 ft. be removed. He stated his belief is there is an inconsistency in Zoning Regulations being that the existing “ornamental plaza” made of pavers should be treated as a landscaping and allowed to remain as constructed. The purpose of the “ornamental plaza” pavers is the “Buy a Brick” campaign, where donors can purchase a brick to be engraved with their name for fundraising purposes. Jane Ellis of the foundation was present, and stated fifty people had signed up for purchasing bricks.

Chris Costa gave the Commission a history of the application for Special Exception and explained the reason the C O had not been issued is because they did not build what was on the approved plan. Mr. Wren said he had never mentioned “ornamental plaza” to the Zoning Commission at any time at meetings because he hadn’t done the research yet, and asked for a variance for irregularity.

Attorney Cronin questioned the Board’s authority to modify, reverse, or overturn a decision of the Zoning Commission. He suggested to Mr. Wren that if he disagreed with interpretations and decision of the Zoning Commission, he could either go to court and appeal it or appeal it to this Commission if the decision was made by the Zoning Enforcement Officer. The Commission had no authority to reverse the conditions of a Special Exception as Mr. Wren was requesting. Mr. Wren questioned why this application has been accepted if the ZBA could not act on the variance. Mr. Wren was advised that the ZEO has no legal authority to not accept an application. The ZEO requested the file for the 2018 Special Exception application be entered into the record. The original approved 2016 plan, signed by Zoning Commission, Chairman Robert Friedmann, was shared with the Commission and the plan approved in the 2018 modification to the Special Exception, which

showed what was referred to as a pervious patio, which is something not having gaps between pavers. Mr. Wren discussed how the patio is an ornamental plaza and should be considered landscaping. The ZEO clarified that the Zoning Commission disagreed that the spaces between impervious pavers made a patio pervious, the patio is not landscaping and that the Google definition of ornamental plaza was never discussed at the Zoning Commission meetings. Attorney Cronin reiterated there was no authority to grant variance. John Ellis addressed the group and said that the pavers are for safety issues for when kids come to the door.

The lengthy discussion regarding the interpretation of pavers in the Regulations continued. The Commission said it needed time to review all documents before a decision could be made, and questioned how Mr. Wren got his definition after the Zoning Commission gave him conditions.

Attorney Cronin suggested that this be continued to next month, and will consult with Attorney Branse on the matter. ZEO stated there were multiple discrepancies and reasons for holding the CO, and Mr. Wren agreed that what was on the approved plan was not built.

The Vice Chairman asked if there was anyone in the Public to speak for or against.

Jane Ellis, Executive Director of the foundation addressed the Commission and shared her disappointment that with the wonderful thing they were building they have had nothing but fighting. She said they “enhanced” on the original plans and it was one of the most beautiful buildings in Old Saybrook, across the street from an eye sore. She does not understand why the Commission has no authority to give the variance on a few bricks.

John Ellis commented on the strict enforcement of Zoning regulations.

Fred Marinelli, 21 Cedarwood Lane, commented that it is a sad day when they have to rip these pavers up. He said that it is for a good cause and he now plans to purchase a brick.

**MOTION** was made by D. Alexander, **SECONDED** by K. Danby to continue the public hearing on appeal **18/19-18 CF 15 North Main Street, LLC.** to the next regularly scheduled meeting on February 13, 2019. **VOTING IN FAVOR:** R. McIntyre, K. Danby, D. Alexander, J. Prast and C. Purcell; **ABSTAINING:** None. **OPPOSED:** None **APPROVED:** 5-0-0.

*At 9:45 P.M. the Vice Chairman called for a 5-minute recess. The Meeting resumed at 9:50 P.M.*

**18/19-19C Norman O. & Gail A. Lalonde** seek a variance of Par. 10.7.1 & 10.7.2 (nonconformity enlargement/change) and Par 24.5.3 (side yard setback/15’ required/11.1’ proposed to South and 5’ proposed to North) of the Zoning Regulations to permit the construction of a 382 s.f. first floor addition, a 699 s.f. 2<sup>nd</sup> story addition and 724 s.f. garage at 47 Knollwood Drive, Map 4/Lot 134, Residence A District, Coastal Area Management Zone.

The ZEO provided the Board with a request from Attorney Cassella to continue the matter and not open the public hearing until the next regularly scheduled meeting of February 13<sup>th</sup>.

**MOTION** was made by D. Alexander, **SECONDED** by K. Danby to continue appeal **18/19-19C Norman O. & Gail A. Lalonde** to the next regularly scheduled meeting on February 13, 2019. **VOTING IN FAVOR:** R. McIntyre, K. Danby, D. Alexander, J. Prast and C. Purcell; **ABSTAINING:** None. **OPPOSED:** None **APPROVED:** 5-0-0.

**18/19-20 Pamela Pelczar** seeks a variance of Par. 10.7.1 & 10.7.2 (nonconformity enlargement/change); Par 22.5.1 (street line setback/35' required/3.4' proposed to covered landing, 17.6 proposed to stairwell and 8.4' to connecting dormer roofline) of the Zoning Regulations to permit the construction of a 208 s.f. 2<sup>nd</sup> floor dormer, stairwell and 21.9 s.f. covered landing at 140 Ingham Hill Road, Map 48/Lot 1, Residence AA-1 District.

R. McIntyre opened the Public Hearing. *C. Purcell recused herself and C. Gadon was seated.*

Attorney Sylvia Rutkowska, accompanied by Stephen Pelczar, the son of the applicant and acting designer and planner for the property, introduced herself to the Commission. She presented an illustration of the property and gave a brief description of the single family, one- and one-half story, year-round property and its history. The house was originally built in the 1800's with its front entrance landing on street line at the Right of Way. Stairs to access second floor are not conforming. Applicant hopes to resolve building and fire code violations with the addition to the second floor and new stairway. The new stairwell will be on left side of building in order to be building and fire code compliant. Additionally, the front entry will be pushed back and moved slightly to the left and away from street line. Three of the four storage sheds will be removed from the property, and the deck on the right side of the home will be removed as well. Mr. Pelczar shared that the stair options were limited and said the stairwell tower planned is as minimal as possible. His plan is keeping things simple for the home to be inhabitable for his elderly mother. Photographs of the condition of the home were shown to the Commission. They were satisfied with this presentation.

There was no one in the audience to speak for or against this application and the Vice Chairman closed the Public portion of the Hearing.

**MOTION** was made by K. Danby, seconded by D. Alexander to **APPROVE Application 18/19-20 Pamela Pelczar** as presented. The project reduces non-conformities by removing three of the four existing storage sheds, is in harmony with the intent of the Zoning regulations and the neighborhood and will permit an ADA compliant structure. **VOTING IN FAVOR:** K. Danby, D. Alexander, R. McIntyre, J. Prast, C. Gadon; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0.

*C. Purcell was reseated at 10:10 P.M.*

#### IV. DISCUSSION

A review of the proposed new application of **Frederick J. Marinelli and Mary Beth Marinelli** to determine whether or not, under the provisions of General Statutes Section 8-6(a)(3), that there is a substantial change in their request for a variance from their earlier appeal 18/19-15C that was denied on December 12, 2018. The Board will make a determination as to whether or not the proposed plan modification is or is not the same or substantially the same as the earlier application so that it may be heard by the Board within six months after the earlier decision by the Board. Denied Appeal 18/19-15C requested 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.**

Joe Wren appeared on behalf of the Applicants. He shared how the plan has now been modified since the denial last month and is requesting the matter be heard within less than six months. He

gave summary of the property and shared a plan of the neighborhood and the setbacks of the houses on the street. The Commission agreed that there had been substantive changes to the plan.

**MOTION** was made by K. Danby, **SECONDED** by D. Alexander to consider the changes to previously denied **Application 18/19-15C Frederick J. Marinelli & Mary Beth Marinelli** as substantive changes and to hear the application in less than six months.  
**VOTING IN FAVOR:** R McIntyre, K Danby, J Prast; **ABSTAINING:** None. **OPPOSED:** None.  
**MOTION CARRIED:** 5-0-0

V. **REGULAR MEETING**

A. **New Business**  
None.

B. **Minutes**

**MOTION** was made by R. McIntyre, seconded by D. Alexander to **APPROVE** the special meeting minutes of January 8, 2019 as presented. **VOTING IN FAVOR:** R. McIntyre, K. Danby, J. Prast and C. Purcell; **ABSTAINING:** None. **OPPOSED:** D. Alexander **APPROVED:** 4-0-0.

**MOTION** was made by R. McIntyre, seconded by D. Alexander to **APPROVE** the regular meeting minutes of December 12, 2018 as presented. **VOTING IN FAVOR:** R. McIntyre, K. Danby, J. Prast and C. Purcell; **ABSTAINING:** None. **OPPOSED:** D. Alexander **APPROVED:** 4-1-0.

C. **Correspondence & Announcements:**  
Nothing to report.

D. **Committee, Representative & Staff Reports**

The Commission and ZEO discussed the possibility of holding a second Special Meeting in February to accommodate application backup or overage in the event that all applications are not able to be heard at the next Regular Meeting on February 13, 2019. It was agreed that they would meet on February 27, 2019 if necessary. They also discussed a plan to track Alternates and keep records of who will be seated for each meeting.

**The Board confirmed that the monthly meeting time will be changed from 7:00 P.M. to 6:00 P.M for every meeting in 2019 effective February 13, 2019.** Meetings will remain in the first floor conference room. Amended meeting calendar was already filed with the Town Clerk. The Board decided to make a second motion on the approval of the calendar time change.

**MOTION** was made by K. Danby, seconded by D. Alexander to change the annual meeting calendar time for every meeting in 2019 to start at 6:00 P.M effective February 13, 2019. **VOTING IN FAVOR:** R. McIntyre, D. Alexander, K. Danby, J. Prast and C. Purcell; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0.

## E. Election of Officers

*Seated for this matter were the four regular members of the Board in attendance.*

### Chairman:

K. Danby nominated R. McIntyre to serve as Chairman. D. Alexander seconded the nomination.

*The floor was opened to other nominations. None were made.*

**MOTION** made by K. Danby to close nominations for Chairman and elect R. McIntyre as Chairman. **SECONDED** by D. Alexander. **VOTING IN FAVOR:** R. McIntyre, D. Alexander, K. Danby and J. Prast, **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 4-0-0

*R. McIntyre was elected Chairman.*

### Vice Chairman:

R. McIntyre nominated K. Danby to serve as Vice Chairman. J. Prast seconded the nomination.

*The floor was opened to other nominations. None were made.*

**MOTION** made by R. McIntyre to close nominations for Vice Chairman and elect K. Danby as Vice Chairman. **SECONDED** by J. Prast **VOTING IN FAVOR:** R. McIntyre, K. Danby and J. Prast. **ABSTAINING:** None. **OPPOSED:** D. Alexander. **APPROVED:** 3-0-1

*K. Danby was elected Vice Chairman.*

### Secretary:

R. McIntyre nominated D. Alexander to serve as Secretary. J. Prast seconded the nomination.

*The floor was opened to other nominations. None were made.*

**MOTION** made by R. McIntyre to close nominations for Secretary and elect D. Alexander as Secretary. **SECONDED** by J. Prast **VOTING IN FAVOR:** R. McIntyre, D. Alexander and J. Prast. **ABSTAINING:** None. **OPPOSED:** K. Danby. **APPROVED:** 3-0-1

*D. Alexander was elected Secretary.*

## VI. ADJOURNMENT

**MOTION** was made by R. McIntyre, seconded by C. Purcell to **ADJOURN** the January 9, 2019 meeting at 10:45 p.m. to the next regularly scheduled meeting on **Wednesday, February 13, 2019 at 6:00 p.m., at the Old Saybrook Town Hall, 1<sup>st</sup> floor conference room, 302 Main Street** **VOTING IN FAVOR:** R. McIntyre, D. Alexander, K. Danby, J. Prast and C. Purcell; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0.

Respectfully Submitted,

Margaret Paccione  
Recording Clerk

NEXT REGULAR MEETING  
**Wednesday, February 13,**  
**2019 at 6:00 P.M.**  
Town Hall, 1<sup>st</sup> Floor Conference Room  
302 Main Street  
Old Saybrook, CT